

APRIL 5, 2005

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April 5, 2005 LB 709

PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Good morning, everyone, and welcome to the George W. Norris Legislative Chamber for the fifty-sixth day of the Ninety-Ninth Legislative Session. I would ask that you all rise for the prayer this morning, being delivered by Pastor Murry Johnston of Eagle United and Havelock United Methodist Churches in Eagle, Nebraska, Senator Heidemann's district.

PASTOR JOHNSTON: (Prayer offered.)

PRESIDENT SHEEHY: Thank you, Pastor Johnston. We will now call to order the Nebraska Unicameral, fifty-sixth day of the Ninety-Ninth Legislature, First Session. I would ask that all senators record your presence by roll call. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: Thank you. Any corrections for the Journal.

CLERK: I have no corrections, Mr. President.

PRESIDENT SHEEHY: Do you currently have any messages, reports, or announcements on the desk?

CLERK: Mr. President, at this time I have neither messages, reports, nor announcements to report.

PRESIDENT SHEEHY: Thank you. We'll now move to General File. Currently under discussion is LB 709. Senator Erdman, would you like to give a report?

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. Members of the Legislature, LB 709, which is before you, is a work product of the Health Committee. We have worked with interested parties and individuals to come up, both, with amendments in the committee amendment, as well as amendments that will follow which further clarify the process in which we, as a state, will have a comprehensive discussion on our Medicaid system to benefit all of Nebraskans.

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PRESIDENT SHEEHY: Thank you, Senator Erdman. Senator Jensen, would you like to brief us on AM0772? (Legislative Journal page 850.)

SENATOR JENSEN: Thank you. The amendment is a new white copy of the bill and, as we proceed forward, we do have an amendment then of Senator Beutler's, I believe, still on this amendment to the original bill, LB 709. And as we're discussing that, we'll move forward from there. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Jensen. Senator Beutler, would you like to continue discussion on AM1027? (Legislative Journal page 1056.)

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, I think you'll recall that this amendment had to do with adding, supplementing the existing findings in the bill with another supplemental list of findings for the purpose of giving the overall tone of the study a sense of proportion and a more positive tone, recognizing everything that Medicaid has, in fact, done for our society. And, with that, I think we can go back to the discussion.

PRESIDENT SHEEHY: Thank you, Senator Beutler. Further discussion on AM1027? Senator Beutler, there are no other senators wishing to speak. You're recognized to close.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, this amendment I think was endorsed by Senator Erdman and Senator Jensen, so I think there's no controversy with the amendment itself. I'm sure we will have further discussion on the overall bill. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Beutler. The question before the body, shall AM1027 be adopted? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of Senator Beutler's amendment to the committee amendments.

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PRESIDENT SHEEHY: AM1027 is adopted. Mr. Clerk, next item.

CLERK: Mr. President, Senator Beutler would move to amend the committee amendments with AM1028. (Legislative Journal page 1057.)

PRESIDENT SHEEHY: Senator Beutler, you're recognized to open.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, I will withdraw this amendment eventually here, because Senator Erdman, in response to myself and I think other senators in all probability, has, by virtue of a subsequent amendment, expanded the involvement, basically, of people in this particular study, and he's done this in a better way than my amendment suggests. So we'll move on to his amendment presently. But I wanted to take a little time to outline areas I think we should discuss a little more in terms of this whole study, and I think people should give additional thought to what might want to be included in this study or whether there shouldn't be a subsequent study, maybe a two-part study, because I think there are a lot of things, a lot of factors, that have gone into making the Medicaid problem the problem that it is today, and nobody denies that it's a fiscal problem. Many factors have gone into it that this Legislature I don't think is properly addressing, or at least we could be addressing and we are not. And it seems to me that we should be addressing these things as we approach at the same time the possibility of restructuring or reoriented...reorienting elements of the Medicaid programs to make them more efficient and more defensible. Here are the things, and I'm just going to list them in the brief time that I have at the moment, but I think they bear further discussion. Here are the things, a number of the things, that I think have a significant impact in creating and perpetuating the Medicaid problem. First of all, there's the problem of health-care coverage, the problem of insurance. We know now that approximately 40 percent of Nebraskans are not covered by their employers' health-care plans, and that that number continues to increase. What is this Legislature doing about that? It seems like in so many ways we continue to wait for the federal government to act, and yet they do nothing and the problems continue to fester and to exacerbate our fiscal

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problems. Now, I don't know what the correct answer is. I put in a request for a study before the Insurance...Banking and Insurance Committee, but they either wanted to do it in a different way or they didn't think the timing was appropriate for a study. The study was directed directly at this problem of employer health-care coverage for employees, and I would hope that members of the Banking and Insurance Committee would engage in a conversation on what they think the state can do with this problem. I mean, just as we cannot wait to resolve the fiscal side of this because it's getting too close to us, catastrophe is getting too close to us, I don't think we can wait for this federal government to act with regard to some of the problems that are causing our Medicaid fiscal problem. In fact, the federal government, with regard to Medicaid, has simply made things worse in the last couple years with the prescription bill, and they're threatening to make it even worse by cutting back on federal funding of Medicaid. So I think we need to talk about health-care coverage and what we can do, and obviously related to that is the separate problem of health-care costs, not as it's associated with more individuals or more eligibility, more people being on the program, but as it's associated with simply the rising costs of healthcare which affects Medicaid consumers and other consumers equally. In fact, as you've heard in the debate yesterday, Medicaid is doing better in that regard than is the general consumer in society. What can we do to address those health-care costs? What more can we do? Are these two things that I just talked about going to be a part of the study or not? I think it's important that they be a...that they be a part of the study. I think another part of the study should have to do with a separate point, and that is just examining what part of the economic cycle we're in. We know that there are some continuing problems, but we also know that the problems are cyclical, in the sense of when economic times are worse we obviously get more people on welfare programs of one type or another, on Medicaid programs, and we should have some examination built into that study as to the effect of simply the cyclical nature and which part of the cycle we're in now and what's likely to happen in the future. Third, minimum wage: The minimum wage continues to deteriorate. Its purchasing power today is less than it was in 1973. Its purchasing power today is less than it was in 1973. And the

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whole deterioration of the minimum wage causes the deterioration of the lower part of the wage scale; and when the lower part of the wage scale deteriorates, more and more people can't afford the insurance that their employers can't afford to give them. So we build one problem on another, and one government policy after another is exacerbating this problem. Why aren't we doing anything about the minimum wage? Because we want to wait for the federal government again? Are we going to wait for the federal government while the whole lower half of our society deteriorates in a serious manner? Maybe we need to have, as part of this study, a study of the effect of the minimum wage on low-income workers' ability to fund health insurance so they don't need Medicaid. Another item is the whole business of increased business incentives. Before 1990, we were paying \$120 million a year less for business incentives, which meant we had more money for K-12 education, we had more money for university education and the state colleges and the community colleges. Now we're going into another competitive round of that cycle and increasing that \$120 million a year to maybe \$150 million or \$160 million a year. That takes more revenue out of the revenue streams, means that much less money for education, for everything else, and including it prevents us from keeping up with the Medicaid problem. And what is the solution to that? I mean, we need to talk about this a little bit. How many of these cycles do we go through before we're completely busted and have nothing to spend for anything except business incentives? Where does it stop? I mean that's what somebody needs to explain to me. Where does it stop? And I tell you, the power to make it stop is in the United States Congress and they sit on their thumbs and do nothing as we spin out of control with one business incentive after another. Where is free enterprise? Where's that Adam Smith attitude that said businesses exist on the basis of business factors and economic factors, and not on the basis of which government pays them the more? Adam Smith would be appalled today if he saw the level at which government determines where business locates and what happens...

PRESIDENT SHEEHY: One minute.

SENATOR BEUTLER: ...with business. And no one can tell you...I

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hope a half a dozen of you will ask our most ambitious proponents of business incentives, when does it end? It didn't end with the last cycle. Now we're going to give \$20 million to \$30 million more out of our budget. We're not going to increase taxes so it has to come from someplace else. Is this the last round? No. I say no because the system has not stopped. Other states will continue to raise their business incentives. We'll be in another cycle of decline, forced to give out more business incentives until the courts or until the federal Congress steps in and says, no, we're not using state business incentives in this manner anymore. We're going back to the rational basis of free enterprise and Adam Smith and letting businesses locate where they should locate on the basis of the true economic factors...

PRESIDENT SHEEHY: Time.

SENATOR BEUTLER: ...related to the cost of production. Thank you.

PRESIDENT SHEEHY: Senator Byars, you're recognized on AM1028.

SENATOR BYARS: Thank you, Lieutenant Governor. Senator Beutler, members of the Legislature, I think you're right on in the dialogue, in continuing from the dialogue that we had yesterday. How do we truly do a study to reform Medicaid when it's not only Medicaid that is the problem? We cannot do this in a vacuum. All of the circumstances, all of the issues that you brought forward, Senator Beutler, are absolutely right on. We have to look at economic cycles. We have to look at the responsibility of business and what can they afford. What can we do to partner with them to make insurance available? Let's talk about who is uninsured in the state of Nebraska and why. And understand many of those people that are uninsured are still not eligible for Medicaid, but many of those individuals become the indigent and they show up at the emergency room of your local hospital, your local hospital, and your local hospital has the obligation, indeed the law tells them they will provide services to those individuals at no cost. It's important to understand. The family practice physician in your smaller communities or your larger communities, your dentists, your

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health-care professionals providing treatment for individuals with mental illness, they're not being reimbursed at a level of cost. They have to eat this, and we're asking...we're, in effect, saying, is this what we're...is this where we're going to go? How do we...if we have a plan to look at reforming Medicaid, what do you do to reform other than truly look at those who are uninsured, those who are on Medicaid, and cut? What do you accomplish by having a plan if you aren't going to cut? I think we have everything in place right now, other than looking at what we can do for long-term health insurance and talk about what can we do to incentivize the small businessman to provide insurance, what can we do? Who are our uninsured? Most of our uninsured are in working families, most of them, 86 percent. At least one person in the family works full time or part time. Many of them, 61 percent, have family members who work full time all year. Because Medicare provides health insurance for most people over 65, the uninsured are almost entirely under the age of 65. The largest number of these uninsured are those between 30 and 49, but the rate of "uninsurance" is highest for young adults age 19 to 29. The uninsured are disproportionately people of color, although whites are the largest group of uninsured nationwide. I want to put a face on this just a little bit to talk some about who is it that we're talking about. Kevin: Kevin qualified for Medicaid under an optional home and community-based waiver program and he receives services, such as occupational and speech therapy. Kevin is an eight-year-old with autism. He receives Medicaid through an optional Katie Beckett home and community-based service waiver. These are some of the things that we can, as a state, if we choose to, eliminate and not provide services. He receives speech therapy, occupational therapy. It continues to teach him a broad range of skills--how to dress, how to make his bed, how to respond to other kids who might act...

PRESIDENT SHEEHY: One minute.

SENATOR BYARS: ...strangely around him. Mildred: Mildred is 68 years old and was working as a waitress before she was forced to retire due to extensive health problems--fibrosis of the lungs, rheumatoid arthritis, high blood pressure, cataracts.

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Margaret, an 80-year-old widow, has multiple chronic conditions, diabetic, and chronic heart failure; Jenna (phonetic), an outgoing 21-year-old with cerebral palsy. These are the people we're talking about who are receiving services, ladies and gentlemen. These are the people that we have to be mindful of. These are the people that need...we need to look much further than just at Medicaid. We need to have as part of this all of the things that Senator Beutler is proposing also. We need to look at how we provide health insurance to the individuals in this state. We need to look at how business and the insurance industry and we as state policymakers cooperate to build a system that truly,...

PRESIDENT SHEEHY: Time.

SENATOR BYARS: ...truly serves these individuals. Thank you, Lieutenant Governor.

PRESIDENT SHEEHY: Senator Louden, followed by Senator Chambers.

SENATOR LOUDEN: Thank you, Lieutenant Governor and members of the body. As I listened to the debate yesterday and taken my machine and thumbed through some of the amendments, read over some of the fiscal notes and that sort of thing, I looked this over and I wonder. I thought this was a medical reform act that we were supposed to try to develop a plan for the state, and when I look over some of the amendments, why, I think you're developing the plan from here on the floor. So I'm wondering if we're getting a little bit far out. If we're trying to set up some type of a system so that there will be a study and plans made out, since this act only runs until January 1 of 2006, the rate we're going we won't get anything done before that date. So I'm kind of wondering if we're getting away from what the whole goal of the LB 709 was about. And I was wondering, may I ask Senator Beutler questions?

PRESIDENT SHEEHY: Senator Beutler, would you yield?

SENATOR BEUTLER: Of course.

SENATOR LOUDEN: Senator Beutler, as the amendments that you've

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put on, are you advocating that they should be included in the plans for these people to study and develop the plan, or do you wish that those are already in the plan that they develop before they start? Or what is the motive, I guess, for your amendments?

SENATOR BEUTLER: Senator, there are four or five motives for my amendments. One is to have a good broad-based discussion of what we're doing here. Two is to ascertain how the body feels, to some extent, about some of the ideas that are then discussed. Three, my feeling on looking at Senator Erdman's bill, as it came out of committee, was twofold: one, that it was simply an inside study that didn't involve a broad base of the people involved in studies, and traditionally we always do that. We've found that to be, yes, a more cumbersome way of doing it, but also a way of avoiding mistakes and a way of seeing that all different possible ideas are considered. So, as you know, in his original amendment, he only has a couple of people that can then kind of decide who they're going to talk to at what point in time.

SENATOR LOUDEN: Well, did...

SENATOR BEUTLER: Now that's all right if you want to...I'm sorry, Senator. I'm taking too much time.

SENATOR LOUDEN: Well, what I'm wondering is if we're getting...you know, setting too wide of parameters for those that are appointed to study this thing or if we should give them more of a guidance and let it go at that. I understand where you're coming from, having the Business...or having the Insurance Committee look into something like that, because I know there are plans in other states out there and you call it either play or pay or something when you have your health insurance, and whether Nebraska would...should adopt something like that in the future and, of course, something like that could probably be considered in this study. But I question whether we should make...we should tighten up the area that these...that this study has to be worked on; and if that's the case, then perhaps we'll be missing something. So, with that, I'll return the rest of my time to the Chair. Thank you.

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PRESIDENT SHEEHY: Thank you, Senator Louden. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, the first thing I want to do is take this opportunity to correct the record based on two points that I made yesterday. The first, I had said that the Governor is a Catholic. He is not, and for that I applaud his good judgment. The second, I had said that he is injecting his religion into state business by lowering the flag to half-staff. He did give that order, but it was pursuant to a directive from the President, you-all's President of the United States, George Bush, who is a panderer. He directed that flags be lowered. The Governor, in compliance with the President's directive, lowered the flags. So there would not be any point in my offering a resolution that I was working on to drop into the hopper in order to discuss what this state's reaction is going to be when the leaders of various religious organizations croak. I will not offer that resolution. The Governor probably felt compelled to go along with what the President ordered, and I will not fault the Governor for having done that, so this is a wash. He did what the President said, but he's not a Catholic. So I don't feel that I lost entirely. And before any of you all who are Catholics get upset, your church needs to stay out of politics. You know the Vatican has representation at the U.N. You know America sends an ambassador to the Vatican. The Vatican is just another political organization to me. Priests, archbishops get involved in government. They get involved in campaigns. They injected themselves in former Senator Jennie Robak's campaign, spoke against her, did what they could to get her defeated. There might even be churches that provide sustenance for senators who carry out the church's will. They have several lobbyists out here. And you mean to tell me that I'm going to be intimidated and not mention the political, the heavy political role that the Catholic Church plays throughout this country and in this Legislature? Why, perish the thought. But I did have to correct those two items that I mentioned because I want to be sure that any time I make a declaration which is erroneous or even partially so, I should correct it in the same forum where that original misstatement, incorrect statement, or however way you want to characterize it, was made. Those

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statements that I'm addressing now were made in the context of the discussion on this bill, so I felt at the first opportunity this morning I should correct that because, who knows, maybe I'll be taken away from here before I had that opportunity and I would joining whoever is up there. But since I wouldn't be able to communicate from there and let you all know that I made an error, I thought I'd better correct that while I'm still...I haven't shuffled off this mortal coil yet. I'm still entwined in this mortal coil, so I wanted to discharge my responsibility in that regard. What everybody needs to understand is that a political body, such as a Legislature, is a rough and tumble environment. Some people have very tender ears and they cannot bear to hear the things that are being said, so they can excuse themselves. Some have very delicate, tender, sensitive skins. They need to either toughen their...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...toughen their hide or, again, not get involved in the activities and the festivities. But on this floor, nobody will dictate to me what it is that I shall say or what I shall talk about. And I'll emphasize again, as I'm going to do over and over, as long as you all inject religion into this Legislative Chamber every morning by having a preacher or a religious person of some stripe or variety up there, then whenever I see the need to make my comments about religion and religious matters, I intend to do it. The next time I'm recognized to speak, I have some comments more directly on point with reference to the bill. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. We'll have Senator Byars, followed by Senators Wehrbein, Beutler, and Chambers. Senator Byars.

SENATOR BYARS: Thank you, Lieutenant Governor. You know, as this issue is totally critical, and I think we constantly keep coming back to what is happening in Congress, what has happened in Congress, what will happen in Congress, and will anything happen in Congress, and I think there is a tremendous amount of frustration on members of the body on nothing will happen. That's good and bad. You know, if nothing happens, then we

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don't see the billions of dollars worth of cuts that have been proposed, which would truly, truly put not only the huge amounts of pressures on how we deal with serving the people we have the obligation to serve in Nebraska, but all over this country. And I hope all of you have been mindful, if you haven't gotten from other sources, the dramatic impact that the proposed cuts in Medicaid in Congress would have on our state. Mike Calvert from the Legislative Fiscal Office has been very good in sharing with all of us, as members of the body, the impact that those cuts will have, and I hope you're all paying attention because it goes much broader than just Medicaid and health-care services, but goes into education and goes into others, criminal, juvenile services, things that we haven't even talked about. But I wish that I could be totally confident that Congress would do nothing. What if they do? And what if we make a plan to remodel our system, which in my mind means we're going to make cuts, which I'm not in favor of or I wouldn't be talking on this study in the first place, what do we do? How many of you have taken the time to call personally our...members of our congressional delegation and talked to them about the effect that these cuts would have on the people of our state, the tremendous effect it would have on our budget? Senator Pederson, the Appropriations Committee, I am assuming they've looked at these issues and said, wow, we're wrestling with huge needs right now that we aren't even going to be able to come close to fulfilling, and we look at what possibly could happen in Congress. We have both of our U.S. Senators who have signed on to a Bipartisan Commission on Medicaid, introduced by Gordon Smith, Republican from Oregon, and Jeff Bingaman, Democrat from New Mexico, and several others that have signed on also, to establish a Bipartisan Commission on Medicaid on the federal level. Your national conference on state legislators (sic) is doing the same thing to try to do side-by-sides to recommend to Congress what happens, and not looking just locally. Do I understand that we could be faced with huge needs? Yes. We already are. But I can't help but think that this doesn't...this study doesn't have to be done right now. Until we get more appropriate information, and if we do, please, I hope others are thinking about this also, intellectually, how do we do it in a vacuum? How do we do it strictly talking about the poor, the elderly and the disabled, and we don't talk about

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the rest of the uninsured in the state, we don't talk about employer involvement, we don't talk about the insurance industry involvement? How do we do that? We can't. We can't do it in a vacuum. And I implore you...

PRESIDENT SHEEHY: One minute.

SENATOR BYARS: ...I feel bad standing up being opposed to doing a study, that I feel bad about that. Senator Erdman is really I think has...I think truly wants to do the right thing, but I'm scared to death in trying to do the right thing we're going to do the wrong thing, and I'm not sure how much control we have over it, if any at all. Thank you very much, Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Byars. Senator Wehrbein.

SENATOR WEHRBEIN: Thank you, Mr. President, members of the body. I probably am going to ramble a little bit because I have mixed thoughts on this, just as Senator Byars does. I do applaud Senator Erdman for bringing this forward and I think the discussion on this, this morning, is important. I am concerned. I've long been, I guess, somewhat cynical that there really is no good answers on Medicaid, Medicare, or our health insurance problems as we head forward, except for an understanding with...among us, and that includes all citizens of this state and the citizens of this country. We've got more healthcare than we can afford to pay for, and until we come to the point that we understand that and are going to make some adjustments, and I honestly don't know what those are, we're going to simply spin our wheels as we talk about it. One of my real frustrations in long-term nursing...in the nursing homes and in hospitals is that the private pays that are continuing to pay their own way, so to speak, are simply subsidizing those that can't afford to. So we hold the line on provider rates, we reduce the costs that we reimburse, and so the private pays, whether in a nursing home or whether in a hospital, pay more. And so we in government, as we reduce those rates or however it's done, we simply have the privates subsidizing those that can't afford to, so we really haven't solved the problem. And Senator Byars has made reference to that. That's my concern.

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As we go forward, I don't know that this will do any help. There's been a lot of...there's been a lot of studies. We're doing one. There's one...NCSL was referred to. The feds have ignored the issue. The issue...the reason we can't come to solutions is there really is none. Until we decide to reduce our appetite for healthcare or reduce it to the fact that we can pay for it, or make more people responsible for their own costs, which is very difficult, we're not going to have a good answer. I don't know that insurance companies are the answer. I really don't blame insurance companies, unless they're gouging people unnecessarily to profit their bottom line, which in most cases I do not think they are. The one hope that I would like...I'd like to ask Senator Byars a question, if I may, Mr. President.

PRESIDENT SHEEHY: Senator Byars, would you yield?

SENATOR BYARS: Yes, I will.

SENATOR WEHRBEIN: If I was...I was listening to Senator Stuhr and she made comments about surrounding states having much reduce...have not had the increases that Nebraska has. I'm putting you on the spot a little bit, but do you have any explanation for that, because that struck me as surprising, thinking that we have been fairly conservative in our approach to Medicaid costs? How other states apparently have controlled theirs more or whatever, do you have any comments on that?

SENATOR BYARS: I sure do, Senator Wehrbein, and I was going to speak to that next, and I will. There obviously are a lot of factors that can affect that. Now, number one, I'm trying to find out from NCSL this morning where those numbers came from, because they don't jibe with what our department is telling us. Our department is telling us we're looking at a 12.5 percent increase over time, versus NCSL saying we had a 20-some percent increase. But one factor that will very clearly affect this is that you look at the United States, and I don't know without applying it to those states, those peer states around us, but in the United States, 57.2 percent of employers, private employers, offer health insurance. In Nebraska, the percentage of private employers offering health insurance is 43.6 percent. There's a 14 percent difference right there that's going to dramatically

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affect the number of people who are uninsured and who are going to become eligible for Medicaid. There is one instance right there that can affect that, and there are a number of others where you can...you have an influence. Population, we look at our population being 1,700,000, versus some of...

PRESIDENT SHEEHY: One minute.

SENATOR BYARS: Thank you.

SENATOR WEHRBEIN: Thank you, Senator Byars. That does start. I just want to say in closing I'm on both sides of the issue of demanding business have health insurance. I do think some businesses probably should be and could be affording health insurance, but, by and large, when you're in business for yourself, it's a difficult row to hoe. Now only is it difficult to make ends meet in terms of learning the business and having that, but in most cases there's enormous risk. And so I don't automatically, at least, blame small businesses particularly for not having health insurance when they're barely making it themselves. I think most of us in agriculture probably provide it to our family members in the business, and maybe, and maybe not, provide it to our employees. But to put a huge burden on business, particularly small business,...

PRESIDENT SHEEHY: Time.

SENATOR WEHRBEIN: ...to provide health insurance is not an automatic with me. Thank you.

PRESIDENT SHEEHY: Thank you, Senator. Senator Beutler, followed by Senator Chambers, Senators Erdman, Janssen, and Byars. Senator Beutler.

SENATOR BEUTLER: I just wanted to go through quickly the other factors or causes of the problem that I didn't get a chance to speak of last time, and I hope I can mention the other four or five now just so that we've kind of laid out there, at least to the extent of my awareness of causes, the things that we should also be talking about. I think what scares Senator Byars is that this study, the way it's framed, the things that will be

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studied are the efficiencies and the costs of various programs, and it's a study that purports not to look at causes but to look at simply the internal mechanics of cutting programs or reallocating programs. To some extent, that may be a matter of squeezing out some efficiencies. And the other alternative, though, is cutting the programs. Well, that doesn't deal with all of these factors that cause the programs. Nor does it deal with the alternative of raising taxes. Now, God forbid we should say that, but you know as part of the economic competition that we've been involved in, the state income tax, which in 1997 was higher than it is today, was never restored, even in the tough times of the last economic cycle, and it was never restored because it was seen as noncompetitive. Well,...but that was a certain amount of money that's now no longer available for the state budget and has to be considered as such. I think it was \$70 million or \$80 million. We have yet to resolve and we need the federal government, once again, to resolve the Internet sales problem. You know, just by doing nothing with our tax system, by doing nothing at all, our tax base erodes, in greater and greater numbers every day, because more and more people are relying upon catalog sales and Internet sales from which we get no sales tax whatsoever. Just by solving that problem, the qualifier in Senator Erdman's study, which says...which says that the current levels of spending for Medicaid are unsustainable, could be changed, could well be changed to may be unsustainable. They certainly will be much more sustainable if we simply had the sales tax we're losing to Internet and catalog sales. But again, the federal government will not act. Trade agreements: You know, one of the big items that affects our state budget are our state revenues from our different industrial sectors. Our largest industrial sector is agriculture. Strong arguments can be made for world trade and globalization, but it's going to hurt some industries and it's going to benefit other industries. And if it hurts industries that are large in our state, it's going to be no matter to the federal government. They're going to enter into these agreements and, by golly, they're going ahead with them right now. They're entering into agreements that affect agriculture with Australia and with the South American countries, and they're going to be forced to reduce subsidies shortly. It's going to be a continuing process. You know, there should have

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been a sense of panic that went out through the state when it was announced a short time ago that agricultural imports exceeded agricultural exports for the first time in our history. Well, I mean, you can be a free trader, but you better be cautious, and I am a free trader; but you better be cautious about how it works, how it affects the state economy as opposed to the national economy, and how fast, at what speed, we enter into these agreements...

PRESIDENT SHEEHY: One minute.

SENATOR BEUTLER: ...that affect our economy because, by golly, this all comes back to Medicaid and what we can afford to do at the state government level because the revenues coming in from your one major industry and the related...ag-related industries is obviously crucial to our budget here. Change in bankruptcy laws: You know, the credit card companies really got a great deal, didn't they? Not only are we squeezing poor people in a number of different ways, but now we squeeze them through the bankruptcy laws. The biggest cause of bankruptcy is a catastrophic medical event, but now we're making it harder for people to clear their debts through bankruptcy and that, too, is going to add to the pressure that people have and add to our Medicaid payrolls. They're going to be forced to pay bankruptcy debts, whereas before they could have cleared those debts and started over again. Well,...

PRESIDENT SHEEHY: Time.

SENATOR BEUTLER: ...you may see that as right or wrong or whatever, but it's going to exacerbate this problem, too.

PRESIDENT SHEEHY: Senator Chambers, followed by Senator Erdman.

SENATOR CHAMBERS: Mr. President, friends all, I agree with everything that Senator Beutler stated. One of the things lacking in this and other legislatures is a broad or panoramic vision or view of what it is the society is about and the impact of the laws that we enact. The types of issues Senator Beutler is talking about are the kind which are generally ignored, not only by the general public but by legislators, teachers,

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doctors, lawyers, counselors, the ones who generally are deemed to be the leaders of a society. When all of these gigantic issues pass by unnoticed and unattended to by the supposed leaders of society, you know the ordinary run-of-the-mill, garden-variety person trying to make it from morning to evening, from one end of the month to the back end of the month, without too many catastrophic occurrences, you know they're not going to attend to these things, but they become aware that bad things are happening in their lives. Prices of everything will rise. They have less money for this, less money for that. Bill collectors are becoming more insistent and, as Senator Beutler touched on, this change in the bankruptcy laws is one of the most unconscionable, reprehensible things to occur. This is where the church should have spoken, and when I say the church now I don't mean just the Catholic Church. I mean all of these religions. Because every one of them has members who are strapped financially and they should be informed enough, the leaders of these churches, to see the damage that is going to be done to their members and ultimately to themselves, because the less money that their members have, the less they're going to be able to ante up into the church's pot. But you cannot go to your mailbox for too many days in a row without getting some kind of message from a credit card outfit importuning you to get one of their cards. I get them all the time. I cut them up and write to these companies and tell them, don't send me any more promotional material of any kind. So the credit card companies will make it as alluring as possible to get people, who are living in debt anyway, to think of this plastic as free money, a way to get everything you need, without emphasizing that you're going to have to pay for these things at some future date. So after helping to create the problem, the credit card industry was able to come into Congress and, with their political muscle, persuade them to do with the bankruptcy laws that which ought to be a sin if churches still teach that anything is sinful. By making it virtually impossible for people to shed this consumer debt, they are putting millstones around the necks of the heads of families and others who have not yet started families for a period of time which nobody can calculate the ending to. I have a credit card and I have used it, but I use mine prudently. I don't allow amounts to continue staying on that card that I'm giving them that high rate of interest on...

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PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...and I will never pay the minimum amount that they offer, because it takes you about 30 years on the average to pay that off and you pay back several times over the amount of money that you had been lent at the exorbitant, usurious rates which, by the way, is a violation of Christ's and the Bible's principles. So that's why I don't pay attention when you have people up there praying and talking up here about religion. When it comes to money and business, everything goes out the window. The Bible condemns usury. You all didn't know that? Well, it does. You don't read the Bible and you don't care anyway. You say, well, it's in the way. This is in the Bible? (Paper tearing) Bad scripture (paper tearing) and you throw that aside. Then you wonder why kids don't pay attention to you when you tell them, don't be fornicating. They say, fornicating is more fun for me than usury is for you; you get your usury and let me fornicate. Then you wring your hands and condemn the younger generation.

PRESIDENT SHEEHY: Time.

SENATOR CHAMBERS: Thank you, Mr. President.

PRESIDENT SHEEHY: Next, we have Senator Erdman, followed by Senators Janssen, Byars, Jensen, and Chambers. Senator Erdman.

SENATOR ERDMAN: Mr. Lieutenant Governor, I would yield my time to Senator Beutler.

PRESIDENT SHEEHY: Senator Beutler.

SENATOR BEUTLER: Senator Erdman, thank you for the accommodation. I got through all my points and I'm about to withdraw the amendment. The only one that I didn't mention that was on my list was this problem of asset-dumping by people that are getting older. They give away their assets to their kids and then they use Medicaid to survive in the nursing homes. That is not a small problem. I think that's a large problem. But it's been discussed with great articulateness by Senator

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Jensen and Senator Wehrbein and Senator Engel and Senator Don Pederson. That's another problem that we seem to need to deal with somehow at the state level. But, you know, mentioning all these problems and mentioning and facing this possible cutting of Medicaid, the thing that galls me most is simply this: that back in the early 1990s, under the first President Bush and Senator Clinton, we all went along with, and I went along with because I thought it was the right thing to do, getting rid of all of these people on welfare who were not willing to work, who found a way not to work, and we largely did that. I don't think there are very many people on welfare today that are not out there working if their circumstances allow it. At least anecdotally I would say that the complaints I get about people freeloading off welfare are incredibly lower today than they were back in the early 1990s when we made the change, before we made the change. But here's what's sad about the situation. We've gotten rid of most all of those freeloaders and now everybody on welfare, everybody who's using government programs, the people who are using Medicaid are, by and large, working people. They're, by and large, working people. And I thought that when we got to this time that our commitment to society, that the commitment of the wealthiest country in the world in all of history would be to give the working person a wage by which they could maintain their dignity, maintain their...a decent standard of living, and that our welfare programs became insurance programs for working people who are willing to do their part whenever they could. But, no, we start changing everything. They start working. We talk about family values, and then they have to work a job and a half. Then they don't have time for their kids. Then their kids are doing bad things and we wonder, well, how did we get here? Well, we got here because we didn't properly value family values. But I think we don't have a very broad vision of what family values are if we're allowing to happen the economic cycles that we're creating and allowing to go on. One of the best family values we could have is an adequate financial base for families. That would do more to restore family values than almost anything. I'm just disappointed that we reduce social programs to working people, and then we abandon working people. And, with that, Mr. Lieutenant Governor, I'd withdraw the amendment.

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PRESIDENT SHEEHY: AM1028 to AM0772 is withdrawn. Next item, Mr. Clerk.

CLERK: Mr. President, Senator Erdman would move to amend with AM1049. (Legislative Journal page 1091.)

PRESIDENT SHEEHY: Senator Erdman, you're recognized to open.

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. Members of the Legislature, AM1049 is before you as a result of discussions that have been ongoing after the advancement of LB 709, and specifically with conversations with Senator Beutler, which I have greatly appreciated. The goal of AM1049 is to further clarify the process and to ensure discussion, specifically from groups who would be affected or who could help us direct the decisions that could be made in regards to reforming a plan of Medicaid for the state of Nebraska. Section 6 is inserted into the committee amendment which would create the Medicaid Reform Advisory Council. The council would consist of five individuals who are appointed by the Governor, and five individuals who are appointed by the Chairperson of the Health and Human Services Committee of the Legislature. The council shall consist of individuals from each of the following classes: health-care providers, that's the first class; the second class is health-care consumers and consumer advocates; the third class would be business representatives; the fourth class, insurers; and the fifth class would be elected officials. The language that is there is similar to what is found on a national level as far as the classes of individuals that would be requested to be a part of a discussion on this same issue. The council shall meet monthly with the persons who are designated under Section 6 of the committee amendment. These are the designees of the Governor and the Chairperson of the Health Committee who will be responsible for directing the work plan. Those individuals will meet with this council. The council will review the monthly reports that are outlined in the committee amendment and, prior to those committee...to those reports becoming public, any comments or the minutes, excuse me, of those meetings with this council shall be included. Let me reiterate that. The minutes of the meeting of the advisory council shall be included in the monthly report that is submitted. And why is that important?

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That is important because we have health-care providers, we have advocates or actual consumers, we have business representatives, we have insurers, and we have elected officials who will review the plan on a month-by-month basis to review the progress and to make comments on whether or not they feel the plan is going in an appropriate direction. I think that's reasonable, I think that is appropriate, and I think that is the type of measured step and input that we expect and we would demand of this process to ensure that it is properly and fairly reviewed. Those individuals would be compensated for their expenses; however, they would not receive compensation, obviously, for serving on a member of the task force...or the council. The reports would then also...at a future date, working with Senator Beutler, we will have an amendment that would clarify this further. The final report would also then have the opportunity to be reviewed by this entity and submitted prior to the deadline in the bill, and I think that's also important to ensure the consistency of the process. We're going to ask a group of individuals--maybe they're hospitals, maybe they are doctors, maybe it's an advocate, or maybe it's an actual consumer, maybe it's one of these businesses that we're talking about this morning, an insurer, or elected official, a county official, city official, maybe even a state official that would serve on this board or this advisory council--they would then also then have the opportunity to comment on any potential final plan. Discussing this in the Health Committee we came up with an idea that would require the Health Committee to have a public hearing, which is a different mechanism than public meetings or disclosures. It's a formal process that we're all aware of, to ensure that buy-in and to ensure that discussion. This, I believe, gets us even closer to the intent of what the Health Committee discussed, and so I'm pleased to bring that to you. The other change that is...the other two changes that are in the amendment before you is on line 27 of the committee amendment...excuse me, page 2, line 27 of the committee amendment. The word "shall" will be replaced with "may," as will be the word "shall" on line...on line 4 or, excuse me, page 4, line 20, of the committee amendment. So that "shall" in line 20, page 4, will be replaced with "may." And here's why. We have asked a group of individuals to be a part of this process, and when I say a group, it's all 1.7 million

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Nebraskans, hopefully, but specifically we've asked an advisory council, we've asked the members of the Legislature through the Health Committee and through other means to be a part of this discussion. Because remember, those reports that are going to be compiled on a monthly basis will be submitted to the Health Committee and, if I'm not mistaken, there are individuals who are speaking this morning who are a member of...who currently serve on that committee. They will be intimately involved in this process. However, there may be things that come out of that that it may not be timely for legislation to be introduced, and so the opportunity would be available to the committee and the Chairperson or the Governor to determine the appropriate time and place for that legislation to be introduced. So amendment AM1049 is an attempt to further clarify a vision that is held by myself and Senator Jensen and Senator Beutler to try to move this process in a direction that ensures the type of comment and ability for individuals to be a part of this process. That is the amendment. The interesting part about the discussion this morning is that it seems like there is a vacuum, and the vacuum is, is that information only is going one way. People aren't seem...don't seem to be listening to the discussion. Yesterday afternoon I thought we had a fantastic level of debate about what was involved in this process, what was envisioned. If individuals would like to stand on the floor of the Legislature and oppose change for the sake of opposing change, that's their prerogative. If individuals in the Legislature here this morning would like to see other things be studied, fantastic as well. This process is designed to address a known situation that happens in the future. This is designed to ensure that we have the appropriate responses in compliance and in coordination with what's going on outside. But here's the interesting part. Our friends in Washington aren't going to come back to Nebraska and say, well, we're looking at some issues in Medicaid, as Senator Byars has pointed out this morning, and we're going to require that all businesses in Nebraska get to this national average. They're not going to do that. They're flat out not going to do that. Regardless of what happens in this ten-page congressional study, this bipartisan study that I've got a copy of, that I've read, that I've looked at, there are still going to be decisions that we as Nebraskans are going to have to make regardless of whether it

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happens with this study, regardless of whether it happens with this budget, regardless of whether it happens while we're still here. It is irresponsible for us to sit here today and say, well, you know what, I'm sympathetic to this, but let's not do this now. When do we do it? When do we do it, and when do we have the opportunity to put people in a position who have the experience necessary, as a member of this Legislature, to direct the discussion? Yesterday afternoon we heard comments that the amendment before us, the committee amendment, required the Legislature to come back and take action. So did the green copy, so did the green copy. And so this morning I'm partially correcting the record, but I'm also trying to direct the discussion. There was never an intent in the green copy of the bill, there was never an intent in the committee amendment, and there is not an intent in any amendment that I will support on this body that would somehow subvert or divert from the process that we must go through, and that is this legislative body, to make changes to this plan. It's always been a part of this process, and to assume or to make judgments otherwise I think is shortsighted and unfair. This process has always been required to come back through this body. In fact, that process is also found in other bills that we have addressed in the Health Committee that have come out onto this floor, and without those amendments that were adopted to those bills, they would have subverted this process. So let's get back to where we're at. AM1049 addresses the fact that there are individuals who feel that this process isn't as open as it could be. We're accommodating that. Senator Beutler brought forth an idea that we discussed, and I think this is a measured step forward that is logical to take. It ensures that those individuals that have been speaking on the floor who may have representation in other areas, who have individuals contacting them from these organizations, would be able to say, look, you're going to have a seat on this commission, this council, and you're going to have direct buy-in.

PRESIDENT SHEEHY: One minute.

SENATOR ERDMAN: And as a member of the Health Committee, I'm going to have direct buy-in. And as a member of the Legislature, you're going to have direct opportunity to discuss

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this. There is nothing that I have seen that would speak to the contrary in statute or in proposed legislation. That's my goal and that is, hopefully, what you will see and that is, hopefully, that we can discuss. Is this the appropriate path? Senator Beutler and myself think this is a major step. This is better than what's in the original bill or what's in the committee amendments, and we would...I would encourage, and Senator Beutler can speak for himself if this is the level of discussion in accordance with our agreements or our understandings, but I think this is a responsible move for us to make to ensure that opportunity for citizens to be a part of this process. Thank you, Mr. Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Erdman. (Visitors introduced.) We have Senators Janssen, Byars, and Jensen. Senator Janssen.

SENATOR JANSSEN: Thank you, Mr. Lieutenant Governor, members of the Legislature. Thank you, Senator Erdman, for bringing this bill to us to have this discussion. It's very, very important, you know, and I like to look back on what our health-care situation was, let's say, 60 years ago. As a young man at that time, I remember going to what we called the nursing homes at that...in that era. In the city of Fremont, there were two or three old homes, huge homes. That is where the care centers were at. There were probably about three or four beds in each room in those old homes. There were two nurses that actually run those old care centers, if you want to call them that, and they were people with hardly any family and no means of support, along with what we called the poor farm. Every county had what we called a poor farm. That's where people went to live who had no means of support or no medical insurance. As a matter of fact, I don't think there was such a thing as insurance for a care center insurance or something like that. And the average age, longevity, was about 60 years old at that time. When someone passed away and were about 60, they thought, well, you know, poor old Pete, he lived a good long life. What is it now? I'm not sure, but I know it isn't 60. Thank goodness for medical science. You know, about eight years ago I had a heart bypass and I probably wouldn't be here if we didn't have that, but there is an expense to that, along with all medical

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procedures. We ask for things and, thank goodness, they're here--antibiotics, heart medicine that each of us take, and that leads you to something else. But the prescriptions, the pharmaceutical costs, they're astronomical. I heard an ad on the radio this morning coming down here about a drug outlet in the city of Omaha, I think it was on 135th and Center or something like that, that was called Canadian Drugs. Now I don't know whether this is on the up and up or not, but they were talking about one of the medications that I take. It was about 80 percent less than what I pay for mine. Now why is that in a country like ours that we can let those pharmaceuticals run at such a rampant price? I don't understand that. Now, if this is a Canadian drug company, the Canadians aren't subsidizing that. I know there are a lot of people that go to Canada for drugs that live in Minnesota, but somebody in Nebraska, you're not going to run to Canada to get your pharmaceuticals. Now there is a store in Omaha, Nebraska. Why is that? And I heard talk this morning about health insurance on businesses. In my small business, that is one of our largest expenses, is health insurance, and let me tell you it's not one of the best plans in the world because we couldn't afford one any better than that.

PRESIDENT SHEEHY: One minute.

SENATOR JANSSEN: I don't know whether this particular bill is the right one. I hear Senator Byars say that we don't need this study. I'm going to continue to listen but, by George, let me tell you something. It's time we're talking about it. It's time we're starting to get something going on the state level, and I think that the feds should get off of their duffs and get something started also. It's time, or we're going to be broke, just the whole country is going to be broke taking care of people. Thank goodness we've got them. Thank goodness it's here. Thank you for your time.

PRESIDENT SHEEHY: Thank you, Senator Janssen. We have Senator Byars, followed by Senator Jensen and Senator Chambers. Senator Byars.

SENATOR BYARS: Thank you, Lieutenant Governor. Appreciate all of the dialogue and certainly I want to make clear that I think

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basically the amendment that Senator Erdman is offering here is one that I certainly can support. I think adding more people instead of less...understand, we started with two and now we're up to ten, plus we're actually going to whatever, if this does move forward in statute, we come back to this Legislature to make the final decision, which I had insisted on and I think is extremely important. I want to make sure, Senator Erdman, I'm not saying that Congress has anything to do directly with the amount of insurance that our employers makes available to our workers. I'm not saying that. I'm saying we can't operate in a vacuum without looking at that issue and saying it has to be part of our whole study. And I just don't think we want to lose sight of that fact. There have been some questions relative to the numbers that NCSL came out with relative to what the Department of Health and Human Services presented to the Health Committee. All of us were somewhat, where'd this happen, how did this happen? What happened was the skewing of the whole Medicaid reimbursement dollars by the FMAP dollars that Congress allocated to us. Senator Nelson was very actively involved in assisting the administration and getting that bump, if you will, in Medicaid dollars to the states. Without that, that obviously kicks up, by a substantial amount, the amount of dollars now that the state will be obligated to assume once again, and this is where there is a difference. But if you look and in that study, you start analyzing those states who would be our peers and who are around us. You look at reimbursement rates and part, of this goes back to Senator Wehrbein's question also, what is it that contributes to ours...our state possibly having a higher increase? If you look at the state of Nebraska and just compare our...the amount of money that we receive as far as match is concerned, we receive approximately, and this isn't SCHIP, but if you just take the basic original Medicaid, we received approximately 59.9 percent. That was in 2004. In 2005 that will be reduced to 59.6. You compare it to Missouri, which is approximately 2 percent higher; they receive 61.5 percent. You go to Kansas; they receive 60.8 percent. You go to Iowa; they receive 63.9 percent. And if you include SCHIP, then you go to Oklahoma, 70.2 percent; South Dakota, 65.7 percent. If you look at what the federal government is reimbursing these states relative to what Nebraska is being reimbursed, this does have an effect on us, and what the federal government does, does

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have an effect. One thing I want to make clear, lest people think that for some reason I'm sitting here and bashing the business community and the small employer in this...in this state. I'm not. My whole birth was spent in running and owning small businesses and family-related businesses. And I certainly understand the issues that are affected, that they're affected by, and I have always been strongly supportive of whatever we can do to assist those businesses. That's what I'm not...I'm not doing that, but we have to point out the circumstances, what's really happening as far as their participation. It would not be a full and complete debate if we did not do this. Are there reasons? Maybe yes, but does that point out the need...

PRESIDENT SHEEHY: One minute.

SENATOR BYARS: ...for us to look at that need, why is it that this is happening and where. We should be going there with public policy rather than just looking at Medicaid, which again I say we can't accomplish anything in Medicaid reform unless we cut, cut, cut the most vulnerable populations, unless we bring everybody else into it. Now, I am...I'm not sure exactly how the people will be. The Governor is going to appoint five people, the...Senator Jensen is going to appoint five people, and I want to have a little more dialogue on that and I know I'm out of time, but I'd like to talk about that a little bit more.

PRESIDENT SHEEHY: Thank you, Senator Byars. We have Senator Jensen, followed by Senator Chambers and Senator Erdman. Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President. Members of the Legislature, I think we do occasionally need to get back to the bill itself and the purpose for the bill, and the purpose was to establish a process, to look at a process. You know, if any other segment of our government was growing at double digit, we would certainly look at the reason why. This is as simple as that. We want to look at the reason why. There's one thing that even in the committee and even on the floor I don't believe that you have heard Senator Erdman or myself, either one, talk about cuts. We've really shied away from that, and on purpose, because this bill is about alternatives, about alternatives as

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to what is causing the increase in Medicaid cost. What causes a person to go on Medicaid? Lack of insurance? Certainly that's one of them. Maybe it's advantageous for a person to divest themselves of all their assets so that they can go on Medicaid so they're not putting out their own dollars. That's one of them. But there's a lot more that are out there that I think we need to look at. The bill looks at those causes of why a person goes on Medicaid, and is there something that we as a state can do to prevent that from happening; not build walls, but to perhaps build either incentives or to build other stopgaps that will not necessitate going on to Medicaid on the first place. Then it's to ensure the future sustainability of the Medicaid program. We've got people on there. Senator Byars mentioned some of those individuals with autism, some of those with disabilities, mental illness, that certainly cannot survive without Medicaid, and we need to ensure that that is there for them in the future. And then we need to establish priorities. I'll be out of the Legislature long before it happens, but one of my goals was to...the whole Health and Human Services System needs to establish priorities, and to list those and where should our emphasis be, where should the dollars be spent. You know, 36 percent of the state dollars are in Health and Human Services and, yet, we don't have a clear priority system of to how those are to be established. Then there's another thing, and you know the minute you talk about personal responsibility you have some people look at you and label you as either from one party or another party or whatever that is. But I can't forget attending a conference and an individual was talking about the health predictors of each individual citizen. He said that there are...10 percent of the health predictors are in access--do you have access to healthcare; 20 percent comes from environment--the air you breathe, the water you drink. And, boy, if you look back at the great advances in health, it's not because we have now a heart transplant or that we have better dialysis and so on and so forth. The greatest achievement that we've made in this country since 1900 is good water, good water. And in all of our Third World countries, that's the greatest predictor of health, is water. So environment. Twenty percent is genetics. You deal with the cards that were dealt to you. If your parents had a heart condition, there's probably a pretty good chance you're going to have that. So 10 percent access,

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20 percent environment, 20 percent genetics, 50 percent personal,...

PRESIDENT SHEEHY: One minute.

SENATOR JENSEN: ...personal choices of lifestyle--smoking, alcohol, eating the right foods. I'd like to have the time to dialogue with Senator Chambers, who in 35 years I don't know, Senator Chambers, if you ever had a health policy until going on Medicare. Am I right?

PRESIDENT SHEEHY: Senator Chambers, would you yield?

SENATOR CHAMBERS: During my early years, because I had younger children, I had a modest program then, but other than that no healthcare for myself.

SENATOR JENSEN: But you have adopted a lifestyle that also gives you good health. Would you say that?

SENATOR CHAMBERS: A lifestyle took hold of me that keeps me in relatively good health.

SENATOR JENSEN: Well, and I applaud you for that, but if each individual citizen would do that, my goodness, what a difference we'd make. We'd see a dramatic decrease in health-care costs, not only in Medicaid but all of personal healthcare. Health insurance costs would drop dramatically if everyone would take care of their own body and ensure that. You know, one thing, if I would have known I was going to live this long,...

PRESIDENT SHEEHY: Time.

SENATOR JENSEN: ...I even would have taken better care of my health, and I think many of us can say that. But...

PRESIDENT SHEEHY: Time.

SENATOR JENSEN: ...that used to be a joke; it's not anymore. So...

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PRESIDENT SHEEHY: Thank you, Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President.

PRESIDENT SHEEHY: Senator Chambers.

SENATOR CHAMBERS: Mr. President, because sometimes I digress, I want to say at the outset that Senator Erdman's amendment is a giant step in the right direction, and I support it. It gives us a basis for additional work which may be needed, without having to deal with all of the kinds of things that are found in the green copy of the bill. I, however, cannot lay aside the green copy, because it states and gives the mind-set of those who originated the idea. An expression the old people had when I was much younger was that a drunk man speaks his sober thoughts. In other words, when John Barleycorn loosened the strings of the tongue and the mind, what was usually restrained or repressed would come tumbling out. So I'm keeping in mind, even as we adopt amendments which I think improve the bill by giving some direction and guidance to this study, what was in the green copy. I still think additional amendments need to be adopted, but I'm troubled, as I have been throughout this discussion, by the fact that those who are in favor of business giveaways are not willing to assure the body that we're not going to add another \$30 million to the current \$140 million that business groups suck out of the state every year, every year, and they're coming back for more. Well, what somebody might say is, well, when we're talking about business matters I wear that hat; when we talk about Medicaid reform I wear a different hat; if we talk about inadequate wages I wear a third hat. I say to that kind of an approach wear as many hats as you choose, but the same head is under every one of those hats, and the same mind is in the head which is in every one of those hats. We have to find a way as a Legislature to meld all of these issues and items when we're talking about something that LB 709 is going to address. I think that Senator Erdman has shown himself to be very "statespersonlike," willing to recognize realities and adapt to them to the extent that he feels that he can in good conscience. Senator Jensen, white-haired gentleman that he is...and I read an article about the fact that white or gray hair goes a longer way with older

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men than with women, it's not a symbol of authority, intelligence or anything with them, so of all of the women who are CEOs in any of the Fortune 500 companies, not one has gray hair, not one. Many of the men who are CEOs routinely wear gray hair. But anyway, that's just an aside. But the distinguished Chairperson, gray hair and all, of the Health and Human Services Committee mentioned that neither he nor Senator Erdman has talked about cuts. Well, both of them are too savvy for that. Malcolm X was talking and there were black people afraid of Islam, and he told his fellow Muslims that when you're dealing with people who fear what you have to offer, you must present it in a way that does not frighten them before they hear what you have to say. So you would not have a container of liquid which you wanted a person to consume to which you would attach a sticker with the skull and crossbones on it,...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...because skull and crossbones means poison or toxic. So Senator Jensen, nor Senator Erdman, would put the skull and crossbones on this bill by talking about cuts, but those of us who have experience in how government works and how these types of efforts wind up reaching a certain destination are very much concerned about cuts, and HHSS has such a reputation. So I'm going to continue making my points and I have an amendment or two that I will offer, too. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. We have Senator Erdman, followed by Johnson, Don Pederson, Burling, Byars, and Chambers. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. Members of the Legislature, I'm going to speak a little bit, I guess, on the process here. The green copy of the bill actually has more guidance in it than what LB 724, as far as the actual drafting of the proposal. Now, if you'll think back, LB 724 was a plan that we used to begin the process of reforming behavioral health so, based on that logic, we began down this path and said let's consider what we learned, let's consider what that process looked like. If you go back and look at LB 724, there was no

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process that was outlined whatsoever. It said these are the areas we should look at; the Chairperson of the committee is going to introduce a bill next year. So when you look at what's in the green copy, I was working under the impression, and I think that Chairman of the committee was as well, what did we learn in that process and how do we improve upon that? If you'll also remember back under the LB 724 proposal, there were meetings held throughout the state. Now, we have learned from different areas of the state that there may have been a better job of having meetings with certain individuals in their communities than maybe what there was or what was perceived, but I think those are processes that we learn from. And with the current leadership in the Health Committee and with the current membership of the Health Committee that was here in place at that time, it was logical then to say we are going to use a similar format. And through discussions within the committee, with the Chairman and others, that's where we came to. Then it became evident that that wasn't a universally accepted or universally understood process, and so it would be in our best interests to kind of outline what those ideas would look like. If you remember back when we went through the process of behavioral health reform, at least from my area, I know that we had individuals that came to western Nebraska, that sat down with providers in round-table discussions, they sat down with consumers in round-table discussions, they sat down with elected officials and discussed this is what we're thinking about doing, what are your thoughts, how can we adopt or modify our plan to meet what your concerns are and still take the best ideas that you have and implement those? That's what happened under LB 724. None of that was written in statute, none whatsoever, because the goal wasn't to say, well, we can just introduce a bill. The goal was to get the input of the people who would be affected. AM1049 is before you under those similar processes. We want the elected officials in this state to be a part of this discussion. We want them to be at the table at the point of plan or proposed report is submitted so that they can say we have concerns about this area; we would like to see this looked at, or whatever their minutes of their meeting may be within the discussion. You also have the advocates on this council who would be a part of this discussion. It's amazing to me, and maybe it shouldn't surprise me, but I guess it's amazing to me

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that we have individuals who would read the bill and they would say, well, based on the experience and the leadership of Senator Jensen in reforming behavioral health, he's going to have two people in a room, holed up somewhere, to do this. Do you have proof that that's ever happened? No. Will it happen? Absolutely not, and we're here today to ensure that that doesn't happen to alleviate the concerns of those who may think that. So Senator Chambers can look at the green copy appropriately. Maybe he didn't have the experience of what happened there, or maybe he didn't think it went as well, and so I think it's appropriate for us to step forward and say this may be the process that would have made more sense to be outlined so that people know what the process was. The green copy of LB 709, contrary to what you've heard on the floor, was not two people going to write a proposal and submit it to us or the Chairman of the committee and have legislation introduced. You want a recipe for failure? That's it. Do you want to just sit and discuss something? That would have been it. Do you want to put forth meaningful proposals that encompass a vast area that affects the costs...

PRESIDENT SHEEHY: One minute.

SENATOR ERDMAN: ...of the system and potentially see improvements? Include people in that discussion, flat out. That was the intent. The intent is further clarified in this amendment. It's further clarified in the committee amendment. To say that this is now 12 people is again irresponsible because there are public meetings. There are public meetings as we had in LB 724 where we're going to go out to the communities, we're going to go out and find the people who don't have the ability to come to Lincoln and to have these discussions. And why would we do that? Because there's some ploy to do something that's not written in the bill? No. Because we all have a vested interest in making sure that we're meeting needs of the citizens of the state of Nebraska and to ensure that they understand what is needed and that we understand their needs. That's the intent. So again, to say that this is 12 people--irresponsible. This is a discussion that must be held statewide with all interested parties, and there is continual process to clarify that, either with this amendment, with the committee

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amendment,...

PRESIDENT SHEEHY: Time.

SENATOR ERDMAN: ...or within the discussion here on the floor. Thank you, Mr. Lieutenant Governor.

PRESIDENT SHEEHY: Senator Johnson. We'll move to Senator Don Pederson.

SENATOR D. PEDERSON: Thank you, Mr. Lieutenant Governor. Members of the Legislature, this has actually been one of the more enlightening discussions, I think, that we've had on this floor because, as we started out in this discussion, we have a problem in Nebraska, and I think the charts that were submitted initially by Senator Erdman, which were prepared by the Revenue Department, show that there is a dramatic increase in Medicaid and in...actually, in school aid. And if you look at that chart, you will see that if we have...we currently have a \$6 billion budget, approximately. In the year 2025, we would have approximately an \$8 billion budget if things go as they have been going. You will see that Medicaid would take almost half of that. The other almost half of that would go for school aid. There would be less than a half a billion dollars for everything else to run this entire state. So it's eminently important that we take up this matter of Medicaid. I know that whenever you start studying a matter there's always the fear that something that will hurt people will take place, but I think it's not very enlightened for you not to look at it and see what is happening, what we can do, if anything, to change the course of things. I've been disturbed by the fact that President Bush is worried that Medicare will have a problem in the year 2042, but going by the charts that we have here, we have a much more imminent problem involving Medicaid. And so I think we need to start looking at where we are and what we are doing. There was a statement that was made by Senator Byars yesterday that I was concerned about, and so I went back to look at our records. The Fiscal Office of the Legislature has come up with the Medicaid history for the last 20 years, and we started out in the year 1985-1986. We had a 6.9 percent increase in Medicaid. In '95-96, it was up to 15.3 percent.

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Now this year it's 17.2 percent. It is growing that dramatically and I think it's something that we need to be concerned about. I know that some states have done some pretty dramatic things. I was just in Missouri and I know that they passed the Governor's proposal which had to do with making some drastic changes in their Medicaid program. I think that it did not show, to me, from what I read, that they had actually had a study of what to do. It just seemed like it was a reaction to a problem and I think it could have some draconian results on their population. But be that as it may, everybody is concerned about this, and the only way that you can approach a concern is to study it and find out, (A) what's going on; (B) what, if anything, can you do to correct the situation. I applaud Senator Erdman for bringing this matter to us and I think that it appears that there is a broadening of a group of people that are going to study this, which will mean that we will have a broader approach. And whenever you start to study things, people are afraid that it's going to affect them adversely, and it doesn't have to happen that way, but you do have to study the issue. And the only reason that I wanted to make this mention of the percentage was because the percentage that...of the growth of Medicaid currently, because I heard a much lower figure from that yesterday. And I think that the reason that we had a short bit of improvement in Medicaid happened to be the year ago our United States Senator, Ben Nelson,...

PRESIDENT SHEEHY: One minute.

SENATOR D. PEDERSON: ...was able to transfer monies into the Medicaid program, approximately \$100 million of federal funds, and that helped our situation greatly for a short period of time. So I do believe that this is a matter that we can't continue to ignore. We need to study it and I think as broad as the committee can be, it should be used to study this program and hopefully come back with something that we can work with. I have a lot of confidence in our Health and Human Services Committee, particularly Senator Jensen and Senator Erdman, and I think that they legitimately want to study this issue and come out with something that will be beneficial to the state. Thank you.

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PRESIDENT SHEEHY: Thank you, Senator Pederson. (Visitors introduced.) We have Senators Burling, Byars, Chambers, and Johnson. Senator Burling.

SENATOR BURLING: Thank you, Mr. Lieutenant Governor and members of the body. We have had excellent discussion. I've appreciated all of it. Everyone makes good points on this issue and it just points up to the fact the complexity of it and the difficulty that we're facing. As I study the figures and project them forward, I see a very sobering picture. My first reaction is to, well, just, you know, turn my back and maybe it will go away, and let the young folks like Senator Erdman deal with it, but I decided that's not very responsible. As state policymakers, we can't afford to turn our back on this issue. We are obligated to direct prudently the use of our citizens' tax dollars. And I agree that we need to look at all areas of our budget, not just the Medicaid area, but this is the fastest growing portion of our budget at this time, so I think that's why we need to look at it now. I do support AM1049 and the underlying bill. I do believe we have abuse and fraud in the system. Some recipients of Medicaid falsely declare their income levels or purposely keep their income at a certain level so they could be eligible for Medicaid. Medical science, as been...as has been stated, allows us to live longer. Wonderful what the things...what they can do. Average life expectancy is rising at a fairly rapid pace. Are we, as a society and as a Legislature, going to react responsibly, or turn our backs and hope that it goes away? My experience is that something like this does not get better if left alone to itself. I applaud Senator Erdman for bringing this bill. I appreciate the discussion, and I believe that we can, through this study, give direction to a better future for Medicaid in this state. I believe the time is now and AM0772 is the best vehicle I've seen so far to accomplish that. Thank you very much.

PRESIDENT SHEEHY: Thank you, Senator Burling. (Visitors introduced.) Senator Byars.

SENATOR BYARS: Thank you, Mr. Speaker. I am going to vote yes on AM1049. I'm going to do it because I think it's better than what we have. And, as I've said before, I applaud Senator

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Erdman for moving in that direction. Senator Beutler then will offer an amendment which will expand that and, if it's the will of the body, I will support that because it involves more people, and I think the more that we have involved and actually listen to the better off we are. And I think if everybody remembers back to our debates on mental health that Senator Jensen brought to us last year with my support, support of the committee, we also started out with smaller numbers and came to larger numbers and came to more responsibility as far as the Behavioral Health Commission is...was...their involvement and the size of that group. And it, I think, has turned out to be very, very successful. We still have not accomplished everything we want and it's going to take a long time before we do. And I'm worried about what happens to behavioral health in this state with whatever we do. I'm not opposed to a plan. I've said that before. I say it again. I say it consistently. I'm just extremely concerned that we aren't going deep enough. Senator Jensen has talked repeatedly about the need for the plan, he's absolutely right, but every time he speaks about that plan he goes outside of it and talks about the other issues that come to bear on Medicaid, that aren't included. Now, maybe Senator Erdman is right, I hope so, in the fact that the committee and the people responsible for bringing ideas back to this Legislature will reach outside of this and come back with a report that does include all of those things and how should we do those different, and introduce legislation accompanying Medicaid reform that will deal with those issues. If that happens, then I applaud it. I think it needs to be done. You know, we have a committee that's had task forces sitting out there right now that's dealing with this whole issue of the uninsured and dealing with many of the things that we're asking to be done in this study. We're already doing it, and they're going to be coming back with a report in May. Now again, we...oftentimes we start duplicating things and if we're talking about duplication and increased costs and what have you, maybe we need to look at what is already being done. We in this Legislature passed legislation last year to look at an area that's a substantial part of our Medicaid spending, and that's in the area of disabilities and what services do people with disabilities need. Are we basically forcing some people to receive more services than they need, and denying people who

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need services from getting any? We need to manage that. Then how many of those people are getting first dollars from General Funds rather than having Medicaid match because we haven't put...allowed them to get Medicaid and we're using General Fund dollars to support that? I just think it's so important that we look at that. And I think we've had an example here of how we work with these numbers, and what numbers do we have that are appropriate and what aren't. I have a lot of confidence in our Legislative Fiscal Office and depend on them a lot. The numbers that I quoted from yesterday were directly given to us by Dick Nelson from the Health and Human Services Department relative to Medicaid increases, and those percentages were ones that I rely on. Now I've gotten two different sets of numbers. Now I'm dealing with three sets of numbers since we've started this debate because there are other influences on this that weren't plugged in. But some were plugged in; some weren't. And so let's keep that in mind and keep that open as far as our dialogue is concerned. I'm not going to put my light back on. I think I've said about everything I can possibly...

PRESIDENT SHEEHY: One minute.

SENATOR BYARS: ...say relative to this. I'm not opposed to a study. I'm opposed to a study in a vacuum. I am in favor of increased membership. I am supportive of Senator Erdman's creativity and moving forward in that direction, Senator Jensen's leadership. I want to make that clear. I never ever get personal in this body, but I get very passionate in supporting the people who don't have anyone in here to support them, and that's the poor, the disabled, and the elderly. They're all extremely vulnerable and I won't allow anything to happen, with every breath of my body, that's going to affect them negatively. So I'm not going to put my light on again. I ask you all to think through this. We have a study. We have a study. It will come back to this...to this body for legislative action next year, while I'm still here,...

PRESIDENT SHEEHY: Time.

SENATOR BYARS: ...and I can have an input in that process.

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PRESIDENT SHEEHY: Thank you, Senator Byars. Senator Chambers.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, my good friend whom I deeply respect, Senator Byars, may have spoken prematurely when he said he would not turn his light on again. There was once a teacher standing before the class, and the class had not been paying attention. The teacher said, for the rest of this period I'm not going to utter another sound; sat down and jumped up saying, ouch. Somebody had put a pin or a tack on the seat. So we cannot always predict what might happen that would cause us to speak, so I hope if you see a reason to speak you will not be bound by what you just said. Senator Erdman said that with the adoption of his amendment, five more people appointed by the Governor, five more by the committee, and those two that will be there, because the Governor designates one who is to be responsible to the Governor, the committee will appoint one who is to be responsible to the committee, making 12; he said it would be more than just 12 people. We have to look at the numbers set out in the bill. We have at least entities identified and enumerated. Twelve is the number I see. Senator Erdman and the 12 apostles, that's what I see. When Senator Burling was speaking, he made fleeting reference, fleeting about like the flutter of a butterfly's wing, to other issues that may have a bearing on the increase in Medicaid costs. Senator Byars correctly again underscored the fact that Senator Jensen has made reference repeatedly to other factors that have a direct bearing on the increase in the cost of Medicaid. Senator Byars, optimistic that he is, not wanting to be personal as I'm willing to get personal when necessary, said that he hopes the committee will reach out and study these other issues on their own. What the committee is entitled to do is look at what the Legislature put into the law that gives them guidance and direction, and if the Legislature did not think these issues were important enough, after having discussed them, why should the committee, who has a daunting task anyway, undertake to go beyond what is contained in the statute? So I'm going to try to get into this bill some of the very important matters that I think ought to be considered, and I will not leave it up to the committee members. Now, when Senator Erdman talked about the green copy, it did mention two people. And in the committee amendment, on page 2,

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starting in line 8, the Governor and the Chairperson of the Health and Human Services Committee of the Legislature shall each designate one person who shall be responsible to the Governor and the committee for the development of a Medicaid reform plan. Where is responsibility for this plan reposed by the law? The law reposes responsibility in the two people, one designated by the Governor, one designated by the committee. I'm not as trustful as Senator Erdman. When we are crafting legislation, we are able to state what it is that we mean. The way I read the language that exists in the committee amendment is that the committee and the Governor will each have a person who will give a report, and those two people are responsible for the development of the plan. Although you have the qualifying language, "develop in consultation with the Governor, the committee, the Policy Cabinet," and so forth, "in consultation" just means that you talk to them. It doesn't mean you have take anything that they offer. Maybe these two individuals will, but the way the language of the law reads the responsibility is not on the committee. The responsibility is on these two people. And if Senator Erdman can read language that...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...nullifies or changes the validity or correctness of what I'm saying, I would like him to point that out to me, but I do not see it. There's nothing in this language that says anything that results from the consultation with the Governor, the committee, or whoever else has to be a part of the plan. "To consult with" doesn't mean you're bound to accept what the other party presents, so I want that clear. And with all the good work Senator Erdman is doing, I don't want him to become so carried away with the compliments that are being bestowed that some of us who are skeptical--let me speak for myself--very skeptical, very distrustful are going to have that swept away without assurances in the statute. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Johnson.

SENATOR JOHNSON: Lieutenant Governor, members of the committee,

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I've come around slowly on this as to what we need to do, and even yet today I'm still not quite sure what that is. But about three weeks ago Senator Hagel met with several senators, and the one thing that he said is this: There's lots of discussion going on about Social Security reform and not much about Medicaid and Medicare reform. And he said that the Social Security problem is minute compared to where the trouble is that we're getting in with Medicare. One of the things that as we've been talking here over the last day or two, let me tell you where a few of us were at in the Health and Human Services Committee. We were reluctant to vote this to the floor as the bill originally existed. An amendment was then made to broaden the scope so that more people would become involved in this study; that we wouldn't just appoint a few people and let them do the study, because the danger of that is that you have a predetermination that follows the views of those people that are appointed. So the broader the group you get, the better off we are. Our amendment passed and the bill was advanced to the floor. I think what Senator Erdman has done now with AM1049 is a better step than what our amendment was coming out of committee. This broadens the bill to where it is far more acceptable to me. I think what Senator Chambers, Senator Byars and a few others have been alluding to here, I think perhaps we need some more discussion on this as far as exactly how the law is written, how it comes back to the Legislature and so on, but I definitely think that we're moving in the right direction. One of the things that I personally feel is that in all our planning regarding Medicaid, with the people that are involved, I think that they have to take partial ownership in their decision-making. There has to be a good carrot provided to these people and also a whip, and this applies not just to Medicaid, because there are abuses throughout the system. Poor and rich abuse the system. I think probably the biggest reason why we should advance this amendment and this bill is that never again in the foreseeable future will we have the institutional history that is present in this body at this time. We have people here now...

PRESIDENT SHEEHY: One minute.

SENATOR JOHNSON: ...that know what has happened in the past and

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hopefully will use that to guide them in the future. That will disappear after next year. So I think that's probably the most commanding reason that we have for looking into this problem and studying it diligently at this time. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Johnson. Any further discussion from the floor? Senator Erdman, you're recognized to close.

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. Members of the Legislature, I appreciate the discussion this morning and the comments. AM1049 is before you in an effort to further clarify the appropriate levels of formal discussion that should be a part of this process. Senator Chambers is correct. The legal authority for drafting is in the two individuals named, but I believe that I'm also correct in saying that they're not going to be irresponsible with that authority and assume that it's up to them to do this. So there is nothing that further outlines that beyond the 12 people that are named in statute. The reality is that those 12 people aren't going to be speaking on their behalf. That's the purpose of this process. The Legislature is composed of 49 members. The results of the bills that are before us are not only based on the opinions of the 49 of us who are currently serving. We have hearings. We have a formal process. We also have informal processes in which we gather information, and it is in consultation with the citizens of the state of Nebraska. There are members in my district who would love to have Senator Chambers agree with their position, but they submit their proposal to him and he takes it with a grain of salt and decides whether he agrees with them or not. That's his desire in this position. This position is a little different. There are legal authorities or legal responsibilities, granted, but those individuals, if they're going to be worth their salt, are going to have to be able to make...they're going to be required to have these discussions. And if something makes sense and they don't include it, they're going to have to have a good reason why they didn't. And this is going to be an ongoing process. AM1049 before you further clarifies that to ensure that there is another level of discussion that should be held in addition to the public meetings, in addition to the district meetings. Now we have the

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opportunity for an advisory council to give direct input, which will be a part of the process and part of the actual documentation about what it is that we're proceeding with as far as the planning under LB 709. I would encourage your adoption of AM1049, and look forward to the future discussions. Thank you, Mr. Lieutenant Governor.

PRESIDENT SHEEHY: Thank you, Senator Erdman. You've heard the closing on AM1049. The question before the body is, shall AM1049 be adopted to AM0772? All those in favor vote yea; opposed, nay. Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: AM1049 is adopted. (Visitors introduced.)
Next item, Mr. Clerk.

CLERK: Mr. President, Senator Beutler would move to amend the committee amendments with FA142.

PRESIDENT SHEEHY: Senator Beutler, you're recognized to open on amendment FA142.

SENATOR BEUTLER: Mr. Lieutenant Governor, members of the Legislature, I have two amendments that are next on the proposed amendments list, and I've had a good discussion with Senator Erdman. He continues to be open to suggestions, and in those two amendments are three or four ideas, two...a couple of which are acceptable to him. So what we're going to do is I will withdraw the two amendments and on Select File he will be agreeable to one amendment that will contain a couple of those ideas that we've already agreed upon. And I would...well, Senator, I don't know if you want any time particularly on it. With that, Mr. Clerk, I'll simply withdraw FA142 and also FA143.

PRESIDENT SHEEHY: FA142 and FA143 are withdrawn. Next item, Mr. Clerk.

CLERK: Mr. President, the next amendment I have is by Senator Byars, AM1004. (Legislative Journal page 1092.)

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PRESIDENT SHEEHY: Senator Byars, you're recognized to open on AM1004.

SENATOR BYARS: Thank you, Mr. Lieutenant Governor. This is an amendment that I would like to take up. I think throughout the conversation, the dialogue relative to this issue on the floor certainly shouldn't be anything that would be offensive in any way, but clarifies in the language and addresses some of the fears that I've talked about. I have given this amendment to Senator Erdman a couple of days ago and he's been very busy and hasn't had time, I'm sure, to react to the amendment, so I would like to hear what his opinion is. On page 1, line 23, and this is an amendment to the standing committee amendments to AM0772, on page 1, line 23, after "spending," insert "without shifting the cost of providing medical services to county government or to the providers of care." I think those of us who have stood up and who have talked relative to what the federal government has...the impact it has had on us with mandates and with cost shifts and if we go forward and if Congress does make changes, obviously it seems to be the feeling of this body that we want to do independent study. So I think this is unoffensive. I think it makes a policy statement on the part of this body that we are not going to take the same type of avenues that the feds have done with us, having some serious effects from time to time, and just very clearly says we will not be cost-shifters of providing medical services and push it down to county government or the providers of care. And I would yield the balance of my time to Senator Erdman.

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Senator Erdman, about eight minutes.

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. If Senator Byars would yield to a couple questions.

SENATOR CUDABACK: Senator Byars, would you yield, please?

SENATOR BYARS: Yes, I will.

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SENATOR ERDMAN: Your intent is to ensure that as this process goes forward that the proposal or the plan, whatever comes out of this, would not do anything without shifting the costs of providing medical services to county government or to the providers of care.

SENATOR BYARS: That is correct.

SENATOR ERDMAN: So there would be no...and I agree in philosophy with what's here. My question is, is it appropriate at this point to put into statute or to put as a part of this procedure that this...and I'm opposed to this as well, just so you're aware...that this is not something that would be looked at, considering the fact that we have the proper checks and balances within an advisory council who includes elected officials and providers and the consumers. That would be a part of this formal process. If you would like to comment.

SENATOR CUDABACK: Senator Byars.

SENATOR BYARS: Yes, I certainly would, Senator Erdman. This is absolutely my intent because I have watched as we have made changes in this body over the years. There has not been the aforethought given to what happens when we do make changes in any of the funding programs that we have responsibility for in this state, and I think it needs to be part of the intent in public policy of this body that we're not going to make decisions on the backs of other people who are already more vulnerable, and those are the people who provide services, and those are the other government entities that are already squealing, just like we have been. And I think we need some intent language to tell them, and this isn't to try to harm the study in any way. This is to put intent language in that say, no, public policy that we dictate, that we have control of, is not going to be part of this of cost-shifting to those that can least afford it.

SENATOR ERDMAN: Thank you, Senator Byars. Members of the Legislature, (laugh) my concern is this. I'm in full support with what Senator Byars proposes, and here's my thought. If the

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intent or if the perceived reality is that that was going to be the way we were going to solve our problem, similar to the way that Congress may solve their problem, then we haven't solved anything, and so that's not my intent to go down there. My concern is that we begin to put stuff into a study that limits us, good or bad, from doing anything, and limits us from being able to look at the entire picture. I don't want to shift it to the counties who are currently having financial shortfalls just like the state of Nebraska is, and depending upon how rural your county and the loss of state aid that we have made a decision as a body, that has affected them greatly. So it's not my goal to shift whatsoever. And as far as the providers of care, we flat out have to have providers. If we do not have providers, then there's no way that we can provide the necessary services that are available. I'm in agreement with Senator Byars' philosophy here. I'm a little hesitant at this time, I guess, to accept the amendment, but I look forward to discussing it with Senator Byars. Thank you.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Byars, did you wish to continue with your opening, or did you wish to...

SENATOR BYARS: I would yield the balance of my time to Senator Jensen, if he would have any comments.

SENATOR CUDABACK: Senator Jensen, did you wish to use any of Senator Byars' time?

SENATOR JENSEN: Thank you, Senator Byars. You know, you look at the amendment and I don't think we're going to be doing any cost-shifting. I certainly don't anticipate that. You know, whether this should be...I do feel that with the amendment that Senator Erdman just passed and then also what Senator Byars has got forward...brought forward, I would rather see this maybe on Select, seeing how we work through the rest of today, and then see what we end up with as a bill, whether this is absolutely necessary. With that, I think I'm going to stop right there, return the rest of the time back to Senator Byars, and I'll see if I can read a little more into the amendment as it's presented.

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PRESIDENT SHEEHY PRESIDING

PRESIDENT SHEEHY: Senator Byars, you have about 3 minutes, 30 seconds.

SENATOR BYARS: Thank you, Mr. Lieutenant Governor. Senator Chambers, I would yield the balance of my time to you, if you would like to comment.

PRESIDENT SHEEHY: Senator Chambers.

SENATOR CHAMBERS: Mr. President, how long is his opening?
(Laughter) How much time is left?

PRESIDENT SHEEHY: Three, fifteen.

SENATOR CHAMBERS: After...okay. It seemed like this has been going on an awfully long time, but anyway, I will take the time. I'm going to support Senator Byars' amendment. My reasoning is simply stated. Direction and guidance are being offered to the committee. Senator Byars wants to tell the committee that if you study all aspects of this problem and any other things you think ought to be looked at, do not consider it a viable alternative to suggest that the costs be shifted to the counties or the providers. If this language is put into the statute, it will not impose a penalty if somebody on that committee which is doing this studying would make the suggestion that counties ought to come in and help bear some of the cost. Counties are delegated certain powers, duties and responsibilities by the state. They do not originate simply by virtue of their existence any powers or authorities or prerogatives. What they do is delegated to them by the state, and what is delegated must be public or state business. So perhaps, in conducting a comprehensive study of Medicaid and the increased costs, looking at what the counties may offer could perhaps be a legitimate topic for discussion. I have my light on so I will stop at this point because I might get right in the middle of what I really want to say and my time would run out. Thank you, Mr. President.

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PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Byars, you have approximately one minute.

SENATOR BYARS: I'm going to look around. I don't know who could use that last minute. Lieutenant Governor, I just want to say thank you. Senator Erdman and I have had some dialogue off of the mike. I'm going to continue to think that this is an amendment that is good. Is it all-encompassing and are there some, you know, some of those devil-in-the-details type things? I think if we're establishing trust and I think that's what we've been asked to do with LB 709 in its entirety--trust me, trust me; we're going to come up with something, trust me. Well, I think that if we say, okay, trust me, let's have a little intent language that says, trust me, we're not going to transfer, we're not going to cost-shift in what we do in this study to providers of services and to county government. So I say, trust me.

PRESIDENT SHEEHY: Thank you, Senator Byars. Senator Chambers, followed by Senator Erdman.

SENATOR CHAMBERS: Thank you, Mr. President and friends all. When I look at language in the committee amendment which has been adopted, beginning in line 18 on page 1, I want to read: "The purpose of the Medicaid Reform Act is to provide for reform of the medical assistance program established in Section 68-1018, also known as Medicaid, and a substantive recodification of statutes relating to such program, including, but not limited to," and here's where we come to the active ingredient language, "the enactment of policies to control the growth of Medicaid spending," and Senator Byars wants to add, "without shifting the cost of providing medical services to county government or to the providers of care." The study can look at all of these things, but Senator Beutler's amendment...I meant Senator Byars' amendment goes to the part of the bill that talks about enacting policies. I think Senator Byars' concern is properly placed in the bill where his amendment is suggesting that it be placed. We're not just talking about the study. At this point, we're talking about the enactment of policies. Are we going to say that a purpose of the recodification, which would include the enactment of policies, should include shifting

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the cost of providing medical service to county government or to the providers of care? Is that to be a policy that is enacted pursuant to the direction of the Legislature? We all know that nothing is law unless the Legislature enacts a bill which declares it to be law. So even if a policy was suggested by this committee that there should be this shift, the Legislature need not accept that, if we get around to enacting legislation. But, by the same token, we could have left the green copy of LB 709 exactly as it was, untouched, without any of these additional people advocating for different points of view and interests added. We could have left all of them out. And whatever was brought back to us pursuant to what was produced under the language in the green copy, we could have rejected it, all of it. What we've been trying to do with this discussion and amendments is to provide direction and to give an idea of what the Legislature is likely to approve of, what the Legislature is less likely to approve of. If we were to take a poll right today, I don't know how many senators would say that there should absolutely be no responsibility on the counties or the providers to absorb any of the additional cost of Medicaid, but that's not what we're required to do here today and that's not what Senator Byars is asking us to do. This is an additional bit of direction and guidance. There are so many items and factors bearing on the increased cost of Medicaid,...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...which have not been reduced to amendments to have those factors included in the study, that I think it behooves Senator Byars and anybody else who has a concern to put it in the form of an amendment and offer it and try to get it attached to this bill. If a study comes back, if findings are made, if recommendations are offered, all of that will probably have a bearing on what the Legislature will present next year, if anything, and something will probably be presented next year. I'm going to support Senator Beutler's...Senator Byars' amendment. Excuse me, Senator Byars and Senator Beutler. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Erdman.

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SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. If Senator Byars would yield, I'd have a question for him.

PRESIDENT SHEEHY: Senator Byars, would you yield?

SENATOR BYARS: Yes, I will.

SENATOR ERDMAN: Senator Byars, I guess clarification of our conversation, when we're talking about "without shifting the cost of providing medical services to county government or to the providers of care," there could be an argument made that a copay situation, where we would either be allowed to offer a copay under a certain service, or the federal government would allow us to do that under our plan, that could be deemed or maybe even viewed by some in the provider community as a shift of the cost of actually administering that program. Is that your...I mean, is that how specific we're going with your intent here, or could you give me an answer to that?

SENATOR BYARS: No, I'm not going that specific. I want intent language that it is the intent of this committee to come with a plan that does not make major shifts to the provider community and to other forms of government. When it comes typically to copays, copays go to the individuals that are receiving services. This does not talk about those individuals, although they would be affected if there were cost shifts to the providers. There will be ultimate, tremendous impacts in costs in private insurance if we add costs to the providers. There would be increases in property taxes if we shifted to county government and this...I want to make it very clear that public policy, that the intent and public policy of this body is not to do that.

SENATOR ERDMAN: Senator Byars, your answer is complete, but it didn't answer the question. Administration of that copay would be the costs that would be viewed by the provider as a shift to them. If they aren't accepting copays for any of the services they're providing now, they would have to have a way to administer that part of their service. And so, while it would be a cost to the individual recipient or consumer, the cost as far as administering the amount that was paid and how that was

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remitted and how that was all taken care of would be something that the argument could be made that is a cost to the provider. Is that not correct?

SENATOR BYARS: There could be additional costs to the provider.

SENATOR ERDMAN: And under your amendment then, that would not be allowed?

SENATOR BYARS: I like that idea. I think you probably should, too, but I think, as I said earlier, the devil is in the details. I want a concept here, no different than what you're asking for in your concept, Senator Erdman, and I think it would be certainly within your scope of thinking broadly, as you've asked all of us to do on this legislation, that this would be an appropriate amendment and you could think broadly enough to include it.

SENATOR ERDMAN: And a final question for Senator Byars. You...and Senator Chambers did point this out. The section that you're amending deals with the purpose of the act, and you continually speak of you want to have intent language in the bill. The intent language is Section 4. The purpose of the act is Section 3. Are you...is your true intent to have...is your true goal to have it in the intent section of what the Legislature intends to accomplish, or is your goal to have it in the section that outlines the basic tenets of the study?

SENATOR BYARS: No, it is my intention to have it in the intent language.

SENATOR ERDMAN: So your amendment then would need to be amending Section 4, which would be page 2, as opposed to page 1, if I'm hearing your answer correctly.

SENATOR BYARS: I have to reread it, Senator Erdman. I can't immediately answer that question.

SENATOR ERDMAN: And while you're reading, let me again...we don't solve the problem if we shift it...

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PRESIDENT SHEEHY: One minute.

SENATOR ERDMAN: ...to the county. We don't solve the problem if we turn to a provider and say, now you cover this cost. But there may be an appropriate level of discussion as far as what may be beneficial for the state ultimately in accomplishing some of the things that Senator Johnson pointed out. But if you've had a chance to review that, I'd yield you the time, Senator Byars.

SENATOR BYARS: Thank you, Senator Erdman. No, I think it is appropriately placed, because in Section 3 it clearly begins with and deals with "the purpose of...is to." And I think placing it between the Chambers amendment, mitigating the growth of Medicaid spending and then, without shifting costs, providing medical services to county government or providers of care to ensure further sustainability. I think it's appropriately placed.

SENATOR ERDMAN: Thank you, Senator Byars. Our time is up.

PRESIDENT SHEEHY: Senator Chambers, you're recognized on AM1004.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, if Senator Erdman felt that amending an intent portion of the bill would be in a more appropriate location, it would probably be to Senator Beutler's amendment, which offers findings, if that was Senator Byars' intent. But he has made it clear, by "he" I mean Senator Byars, as I listened to him, that he wants the language exactly where he placed it; that when you're talking about the formulation of policy, the policy should not include a shift of the costs to the county or the care providers. Courts, in looking at legislation, have said repeatedly that if language is unambiguous, if it's clear, if looking at the language and construing it according to what the words of the language mean in ordinary conversation or parlance, there will be no need to interpret or construe the language. If, on the other hand, there is a question or some ambiguity, meaning the language could be saying "A," it could be saying "B," there could be an overlap, the court will look at the

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overall thrust of the legislation. It will then interpret any language which is a part of that provision to make it constitutional or to give it effect. So if other language in the provision does not serve that purpose, the court will then look at the legislative history. The legislative history consists of the debate of that issue, and that debate is going forward now. What Senator Erdman could ask for from Senator Byars is an elaboration in his amendment of what he is not trying to include in the idea of costs that are not to be shifted. Does he mean any cost associated with the delivering of medical services pursuant to Medicaid? Or does he mean what Senator Byars seems to be suggesting, that these increased costs that are going to be studied by this committee and the recommendations for addressing those costs? If that's all that Senator Byars means, maybe nothing else needs to be added to his amendment. But Senator Erdman did raise some questions and, because of those, I have a query I would like to make of Senator Byars.

PRESIDENT SHEEHY: Senator Byars, would you yield?

SENATOR BYARS: Yes, I will.

SENATOR CHAMBERS: Senator Byars, for the sake of the record, in your amendment that we're discussing, precisely what costs are you referring to and which ones are you not intending to include?

SENATOR BYARS: There would be such a huge laundry list, Senator, I'm not sure I could cover all of them, but let's think in terms of...

SENATOR CHAMBERS: Well, which cost are you talking about not shifting? That might be easier.

SENATOR BYARS: Costs of not shifting. When we have optional Medicaid services available in this state, we as public policymakers make the decision on what services we wish to fund and what services we do not wish to fund. If we come back to this Legislature and develop a plan that says we're not going to...

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PRESIDENT SHEEHY: One minute.

SENATOR BYARS: ...provide personal care assistance for individuals to be able to stay in their own homes, that shifts then to county government in the case of the regions, where they have county government participating in paying part of the cost.

SENATOR CHAMBERS: So, since we have a short time, let me ask a question before my time runs out this time around. Are you talking about costs currently borne by the counties which would no longer be allowed to be borne?

SENATOR BYARS: No.

SENATOR CHAMBERS: Okay. And I will end my questioning at this point. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you. Senator Chambers.

SENATOR CHAMBERS: Thank you, Mr. President. And, Senator Byars, I would like to push this just a bit further, because I'm in support of your amendment as I understand it, but with Senator Erdman's questions, I want to be sure that my understanding is what you intend by your amendment. I'm not necessarily suggesting, in fact I'm not suggesting at all, that you give a laundry list in an amendment or in the statute of what costs are not to be shifted, which ones are, and so forth. We're talking in broad terms here because we're talking about policy. The part of the bill that you're amending relates to policy, and policies are stated in broad general terms. But there should be an understanding of the direction that policy is going and that's the kind of question that I'm putting to you, so you won't have to go into a laundry list. What this bill is talking about is finding a way to prevent, without doing it in an unjust, inequitable manner, unnecessary increases in the cost of Medicaid and the delivery of services. That's what the study is supposed to be directing its attention to. Your amendment read in that context would mean that the increased costs of Medicaid that we've all been discussing are the costs or the types of costs you're talking about in your amendment.

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SENATOR BYARS: Right.

SENATOR CHAMBERS: Is that true?

SENATOR BYARS: That is correct.

SENATOR CHAMBERS: Thank you, Senator Byars. And that's the understanding I had when I read the amendment, when I talked to Senator Byars. But in view of Senator Erdman's questions on the record, I want to make it clear that I still support his amendment. I've elicited from Senator Byars his intent, and that intent includes my understanding and my meaning and, therefore, it's no problem for me to support his amendment. It's not going to take away any prerogatives of that committee in terms of what it studies. But what is not being put on the table as a viable way to address increased Medicaid costs would be a shifting of those increased costs to the counties or to the care providers. That's all I would have at this time. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Erdman. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. Members of the Legislature, trying to discuss with Senator Byars a possible way to further clarify or to get a better understanding of his amendment and trying to work that out off the floor to further clarify this. I'm in support of his philosophy. He knows my philosophy as well. As I look back at what we have done in the Legislature, I have opposed the attempts that have been made to shift costs to county government in other areas, and I think that that is appropriate. I want to make sure that when we're doing this that we're not overlooking something, and an example again goes back to the copays. In the event that an individual wouldn't have the ability to make that copay, that's a cost that somebody will have to pay and it potentially could go back to the provider. And I...that's the best example that I have to come up with, and so I apologize that I continue to use that, but I want to make sure that we're solving a problem without eliminating opportunities. It's not an opportunity in my mind

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to shift the costs to somebody else. This is a problem that the state of Nebraska has. This is an agreement that we have with the federal government to provide services to the citizens of the state. Now, Senator Chambers has pointed out in the past that we have certain authorities over different entities and we can decide what's appropriate and what's not appropriate. My position, my philosophy, it's not appropriate for us to say the state has got a problem, now it's your problem. That's not my goal. That's not my intent. But there may be opportunities to improve the system that we have. That might be in partnership. And if we have a prohibition, if the providers would be willing to accept an opportunity like that, a copay or something like that, I don't want to preclude us from that opportunity. And so I want to make sure that as we go through this discussion, if there are legitimate concerns, and Senator Chambers has pointed those out and others will as well, that we go through in a measured step. And we have looked at these and Senator Beutler and I have discussed these. Senator Byars and I have discussed his amendments. We're not yet in agreement, but I do think that there is an opportunity to clarify it, but my concern is that the way that it is now it may not fully capsulate the true intent of what I'm hearing Senator Byars saying and what others are hearing, and back and forth. So I'm going to be...if we do go to a vote here fairly soon, I will probably just wait and see what the body chooses to do, but I would...I will continue to try to discuss this issue with Senator Byars. Thank you.

PRESIDENT SHEEHY: Thank you, Senator Erdman. Further discussion from the floor? Senator Byars, you're recognized to close on AM1004.

SENATOR BYARS: Thank you, Mr. Lieutenant Governor. I think Senator Erdman and I will continue to have open dialogue. I think it is important that we, as a matter of personal policy, do adopt this amendment. I have another amendment that will follow this afternoon that I think also puts in some public policy intent. I will certainly work...as we adopt these amendments, I will certainly work with Senator Erdman if there are word changes that won't change intent. I'll work with him on language between now and Select File to try to find something that is palatable to both of us. But it's extremely important

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to me that we establish for the record that the public policy of this body is not to do cost-shifting to local governments and to providers of services, which we've...a whole long conversation. But I think it's very important that we send that policy, that intent of that policy, and I ask for your adoption of the amendment.

PRESIDENT SHEEHY: Thank you, Senator Byars. You've heard the closing on AM1004. The question shall...before the body, shall AM1004 be adopted to committee amendment, AM0772? All those in favor vote yea; opposed, nay. Have all voted who wish?

SENATOR BYARS: Mr. Chair, it's...I have nothing to say.

PRESIDENT SHEEHY: Please record, Mr. Clerk.

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

PRESIDENT SHEEHY: AM1004 is adopted. Next item, Mr. Clerk.

CLERK: Mr. President, Senator Chambers would move to amend with AM1071. (Legislative Journal page 1110.)

PRESIDENT SHEEHY: Senator Chambers, you're recognized to open on AM1071.

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is not the most opportune time to bring an amendment such as this. There is no question but what it has some ramifications that various individuals won't like, but in order that the record has a clear statement of what this amendment is that I'm talking about, I'm going to just read it. Insert the following new section: "Notwithstanding any other provision of law," and that's to get away from all of this secrecy and so forth, but let me just read it without commentary: "Notwithstanding any other provision of law, the Director of Health and Human Services and the Tax Commissioner shall annually prepare a medical assistance beneficiary employer report. For purposes of this section, medical assistance beneficiary means a person who receives medical assistance or

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medical benefits under Chapter 68." This one digression: Chapter 68 deals with public assistance. Continuing: "The report shall provide the following information for each business which has signed an agreement to receive tax incentives under the Employment and Investment Growth Act, the Employment Expansion and Investment Incentive Act, including the Enterprise Zone Act, the Invest Nebraska Act, or the Rural Economic Opportunities Act: (1) The name and address of the business; (2) The number of medical assistance beneficiaries who are employees of the business; (3) The number of medical assistance beneficiaries who are spouses or dependents of employees of the business; (4) Whether the business offers health benefits to its employees; and (5) The cost to the state of providing medical assistance benefits for the employees and enrolled dependents. The report shall not include the names of any individual medical assistance beneficiaries and shall be subject to privacy standards pursuant to the Health Insurance Portability and Accountability Act of 1996. The report shall be submitted annually on February 1 to the Health and Human Services Committee of the Legislature and the Revenue Committee of the Legislature." Now, as I stated, Chapter 68 deals with public assistance. There was something else that I wanted to mention. You can look at the names of these various acts under which agreements can be reached for giveaways and other benefits to business. Oh, as far as the privacy, Health Insurance Portability and Accountability Act of 1996, that is popularly referred to as HIPAA, and the privacy requirements are stringent. Violation of those privacy standards carry substantial penalties. This information will be the basis for a report prepared jointly by the Director of Health and Human Services and the Tax Commissioner, or they can prepare their own and there can be two. But in any case, there will be nothing in those reports that will identify any specific beneficiary by name. This amendment goes to some of those other issues that have been discussed which have a direct bearing on the increased cost of Medicaid. Let's say that a business provides insurance for an employee but tells that employee, your spouse and your children will not be covered. And if the employee says, well, with my salary, even though my insurance...I meant my medical care is provided for, I cannot, on my salary, afford to provide private insurance coverage for my spouse and my children. And

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the employer might say, well, that's what Medicaid is for. That is not a worthwhile beneficial approach. There could be an individual working for a company who has relatives who are beneficiaries, and you can read the listing in the amendment. This is not asking any of these companies to tell to what extent they're plundering the public till. It might be possible, even under that thick cloak of secrecy which these businesses have managed to get the Legislature to grant to them. The names of the companies receiving these companies might be available to the public. I don't know. If some of you have read Harry Potter, in at least one of the books it talks about an invisibility cloak. Once anybody gets under that cloak, that person is invisible to everybody else. Well, the Legislature has granted an invisibility cloak to conceal much of what is going on with these gougers of the public and plunderers of the public till. This amendment goes directly to the cost of Medicaid. If businesses are creating new jobs and they're hiring people and those people are not given insurance coverage, the fact that those people are not covered but may need Medicaid because they cannot afford to provide their own insurance coverage, is something that would contribute directly to the increased cost of Medicaid. Senator Jensen has talked about this. Senator Burling, as I said, gave a butterfly's wing fluttering reference to it. Senator Byars has talked about it in detail. Senator Beutler has talked about it. Senator Erdman has requested that those of us who have proposals that we think ought to be added should present them in the form of amendments. And if you look at this amendment, you will see that it fits squarely within the realm of what LB 709 is discussing. Up to this point, I have had no intention to try to prevent this bill from moving forward and the study from being undertaken. But if I detect an inclination on the part of the body to say we look at some other things but we're not going to touch this holy area where business, through its practices, may have a direct impact on the cost of Medicaid, it's going to change my view and perception of what LB 709 is really about. I know that there are some things the "Repelican" Party has an interest in doing. I know that when they talk about doing it on a national level, they have people in various states, various party positions. There might be web sites where the position of the party is made clear. Somebody else may look at that and, without any

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reference to what the party wants, decide that it's a legitimate, worthwhile avenue and may undertake to do something along those lines. But if I have been told or if I have understood correctly what I think I have been told, this study is to be comprehensive. Senator Byars is not alone in not wanting this to be done in a vacuum. There is a famous scholar, some people call him a philosopher, some might even call him a physicist, a scientist,...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...but a paraphrase of one of his most favorite comments, and people can't even give the name of the one who said it, nature abhors a vacuum. Senator Byars abhors the placing of this study in a vacuum, and so do I, so I'm trying to prevent that vacuum-like environment from occurring. I read the amendment so that the record makes it clear what is under discussion. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. The floor is now open for discussion on AM1071. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, if I hear no opposition, I will presume that there is no opposition to the amendment. I really don't think there should be. We're not asking for any financial disclosures to be made by any of these companies, so I will not continue to belabor the issue because, having read the amendment, given what I feel is the rationale, and clearly enough given so that there is no misunderstanding of what is before us, I will let that be what I have to say at this point. Thank you, Mr. President.

PRESIDENT SHEEHY: Thank you, Senator Chambers. Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. If Senator Chambers would yield to a question.

PRESIDENT SHEEHY: Senator Chambers.

SENATOR CHAMBERS: Yes, I will.

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SENATOR ERDMAN: Senator Chambers, the amendment that's before us requires reporting, both by the Department of Health and Human Services, I believe, and the Department of Revenue. Is that accurate?

SENATOR CHAMBERS: Tax Commissioner.

SENATOR ERDMAN: I'm sorry. Tax Commissioner, yeah.

SENATOR CHAMBERS: Maybe it's the same thing. I just want to state what is in the amendment, since I read it into the record.

SENATOR ERDMAN: Do we know...just...this is a, I guess, technical question. Do we know if this...if the cost of this...I mean, is this information readily available? It's just a matter of putting the information from two different entities into one report, or do you...have you researched any of that to know?

SENATOR CHAMBERS: No, I haven't researched it, but I don't believe it would be too difficult for them to get the information. And if we adopt the amendment, they'll be on notice and they can let us know of any difficulty. And I will tell you this, Senator Erdman. If it would pose an impractical problem, then I would not be opposed to taking this amendment off. This is not designed to cripple the bill, but I believe this information is readily available, and I don't mean by that that they just go to one person and say, tell me all of this in 15 minutes. I mean by doing the kind of work that is done by any agency when we say they are to give us information to be used for legislative purposes. So the mere fact that it could be somewhat difficult or take a little time would not equate to what I mean by the term "impractical."

SENATOR ERDMAN: Sure. I understand that. My only concern is that we would adopt an amendment that we would then have questions with, and my preference to you would be to work on this issue and then decide whether or not we should go forward with it, and I would be willing to work with you to do that, whether it's at a later date, today, or whether it's, if the bill would move forward, on Select File. My concern is adopting

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something and then coming back later to take it out. I would prefer that we would adopt something that we knew going into it that it was properly done and that we were within our ability to ask for it within the existing structure, because, if not, then we begin to add to the cost of LB 709, which at this point has no cost and no A bill. And so my concern is that we don't put things into the bill, that could potentially lead to the cost of the bill, not related to the actual effort of studying. But I do believe that your concern is a legitimate one, and I think Senator Synowiecki also has one coming up as well. My concern ultimately though is that we're going to put something into the bill that then we'll have to come back and fix later, and I'd rather do it right the first time if we have that luxury at our disposal. And you can feel free to comment on that, Senator Chambers.

SENATOR CHAMBERS: Thank you. Senator Erdman, this amendment begins in line 2 with the following language: "Notwithstanding any other provision of law," so that would get away from any secrecy notions and the protection of individual recipients' privacy is acknowledged, and the HIPAA Act is invoked to ensure that that cloak of privacy is there. The purpose is not to identify any recipient, but only to look at numbers and the costs that might accrue to the state because of the elements mentioned in this bill that may not be covered by the businesses involved. And I do think that the only way we're going to get any handle on this issue is to adopt the amendment. Now here's what I'd be willing to do. If you're willing to leave this bill on General File until we get through finding out everything you want to find out, I will have no objection to that. But I'm not willing to just let the bill go and do everything on Select File, because some people have talked to me about issues they have that they're not even going to raise until we get there. And if it becomes, at Select File,...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...a discussion of numerous ideas, I think they should all be discussed. But if I have a chance to get mine in, I want to get it in. Then we can have whoever is concerned about this talk to the Tax Commissioner, find out who

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at HHS would be assigned to compile this information and see what they're going to say about costs. And they will know that I'm the one who's bringing this amendment so they're not, if they mess with me and fluff up that cost, it might be enough to persuade the body not to adopt the amendment. But by...on my oath, now I don't believe in...I'm just saying that for effect, I will punish them when their agency comes before us by way of the budget. If they lie, I will punish them royally, and the budget will not move without my punishing language as a part of it. Thank you, Mr. President.

PRESIDENT SHEEHY: Time. Senator Howard, then Senator Erdman.

SENATOR HOWARD: Mr. President and my learned colleagues, I put my light on in hopes that I may provide some information. There was a question raised as to whether the data would be available through Health and Human Services, and I believe it is. I believe it's in the N-FOCUS system, and this information is provided when someone comes in to apply for any of our assistance programs. So it shouldn't be a costly or a complicated method of compiling the information to be able to provide that. And I applaud Senator Chambers in that I really believe he's getting to a root cause of much of the increase in our cost here. I've seen this happen. I've seen the new poor that are coming into our system, and these really are people that have...that have held jobs and, in many cases, either could not afford the insurance or the insurance provided was inadequate to meet the needs of their family, or possibly they opted not to pay out the cost of the insurance due to the amount of money they were raising and where they were trying to stretch that money to cover their family needs. So I support Senator Chambers in this and I think we're certainly headed down the right road with this request, and I would like to give the rest of my time, the remaining of my...remainder of my time to Senator Chambers. Thank you, sir.

PRESIDENT SHEEHY: Thank you, Senator Howard. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, I saw Senator Kermit...Senator Brashear on the floor, the "Silver Fox," and there's an issue that I thought he was going to raise

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on the mike but he didn't. He was talking to me under the balcony and I would like to engage the Speaker in a discussion, if I may.

PRESIDENT SHEEHY: Senator Brashear, would you yield?

SPEAKER BRASHEAR: Yes, Mr. President.

SENATOR CHAMBERS: And, Senator Brashear, the reason I went through all that, I want some people to be aware that you do show up on the floor, you do participate in the proceedings...

SPEAKER BRASHEAR: I'm here!

SENATOR CHAMBERS: ...and we know who...right, you sure are. Right. It is not an optical illusion. (Laughter) Senator Brashear, when we talk about the type of things I've mentioned in my amendment, do you see a practical impediment to the carrying out of what this amendment suggests?

SPEAKER BRASHEAR: Yes, I do. May I explain?

SENATOR CHAMBERS: Yes, I want you to.

SPEAKER BRASHEAR: And this is what I had just come to you and Senator Erdman about. Understanding what your objectives were, as I heard you describing it, I began to have concern about the employer-employee relationship and the employer using this law, as you would amend it, as a justification for requiring what would otherwise be confidential information, making inquiry of the employee and then maintaining a database about the employee's, what I would consider to be, private information. I don't know that an employer with regard to HIPAA, and I'm not expert in anything, but I'm raising the issue that you're making it...the amendment would require the employer to inquire of employees about information that employees may not want to have inquired about by an employer and may not want the employer to maintain as against them, so to speak.

SENATOR CHAMBERS: And, Senator Brashear, there would be ways that an appearance could be created that the employee was giving

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the information voluntarily when, as a matter of fact, the employee would not be of a mind voluntarily to give such information. Would you agree with that?

SPEAKER BRASHEAR: I would agree with that.

SENATOR CHAMBERS: By mentioning HIPAA in the amendment and telling people what HIPAA is about and talking about the stringent privacy requirements, might that have served notice that a question could legitimately be asked, whether under HIPAA...

PRESIDENT SHEEHY: One minute.

SENATOR CHAMBERS: ...even this amendment would allow something to take place that would be struck down by what HIPAA requires as far as privacy?

SPEAKER BRASHEAR: Yes, sir, I believe that there could be a legitimate question there.

SENATOR CHAMBERS: Mr. Speaker, I had said when I was asked about your participation or whatever that business is carried on efficiently when you're not here and when you're here, and you've just demonstrated that when you're here it certainly is carried on efficiently. Mr. President, I withdraw that amendment.

PRESIDENT SHEEHY: AM1071 is withdrawn. Mr. Clerk, do you have a message and priority motion at the desk?

CLERK: Mr. President, your Committee on Retirement Systems, chaired by Senator Stuhr, reports LB 691 to General File with amendments attached. Senator Price has an amendment to LB 161 to be printed. (Legislative Journal pages 1111-1112.)

Senator Kremer would move to recess until 1:30 p.m., Mr. President.

PRESIDENT SHEEHY: I have a motion by Senator Kremer to recess until 1:30 this afternoon, this date. All those in favor say

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aye. We are in recess.

RECESS

SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Good afternoon. Welcome to the George W. Norris Legislative Chamber. Senators, our afternoon session is about to convene. Please check in, please. Record please, Mr. Clerk.

ASSISTANT CLERK: There's a quorum present, Mr. President.

SENATOR CUDABACK: Mr. Clerk, do you have any reports, messages or announcements?

ASSISTANT CLERK: Nothing at this time.

SENATOR CUDABACK: Thank you. We will now resume where we were when we recessed for lunch. Mr. Clerk, inform the body.

ASSISTANT CLERK: Mr. President, when we recessed for lunch we were considering LB 709. We had worked through a series of amendments to the committee amendments. We now have pending AM1057 by Senator Synowiecki to the committee amendments. (Legislative Journal pages 1113-1114.)

SENATOR CUDABACK: Senator Synowiecki, you're recognized to open, as stated by the Clerk, AM1057.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback, members. Prior to lunch, we took up AM1071, which was introduced by Senator Chambers. This amendment, AM1057, is quite similar to the Chambers amendment as it pertains to the role of employers in our state and our Medicaid cost. However, there are substantive differences in the approach incorporated within the two amendments. The Chambers amendment limited the scope of

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businesses to those receiving tax incentives under the Employment and Investment Growth Act, the Employment Expansion and Investment Incentive Act, the Enterprise Zone Act, the Invest Nebraska Act, or the Rural Economic Opportunities Act. My amendment would report all businesses that have 25 or more employees receiving publicly-funded health services. This broader scope will allow the state to have a comprehensive view of which companies are providing coverage to their employees and which companies are shifting the burden onto publicly-funded health-care programs. The Chambers...secondly, the Chambers amendment did not specify how the employees' private health-care information regarding the public health benefits was to be reported to Health and Human Services and which was, I think, essentially the reason why the amendment was eventually withdrawn. This amendment, AM1057, clearly specifies that the public health program beneficiary shall identify his or her employer or employers at the time of receiving public health program benefits to the health-care provider. Therefore, only the health-care provider has access to the private health care information of the employee. And incidentally, all of HIPAA regulations would apply. The employer is entirely insulated from the information-gathering processes relative to LB 1057. The report...I think it's important to underscore that the report will not disclose the identity of the patients receiving the public health-care benefits. As I mentioned, all HIPAA guidelines are clearly incorporated within the amendment. Several other states have complied...have compiled reports such as that which is called for under AM1057. Last year, Massachusetts passed legislation to statutorily require this sort of report. In their first report dated February of this year, it was disclosed that Massachusetts spent more than \$52 million in a one-year period to provide health-care coverage to employees of some of the state's largest businesses. A report released by Tennessee's TenCare Bureau show that the state of Tennessee is providing healthcare for 25 percent of Wal-Mart employees in the state. And Georgia reported similar results. In his introduction of the underlying bill, LB 709, Senator Erdman very clearly and eloquently expressed his concern and willingness to appropriately address private sector employers and their outsourcing of health-care coverage to the government. During the debate, a number of senators have

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mentioned the need to undertake a broad-based approach to this issue, namely Senator Byars. I submit that AM1057 is a way that we can incorporate a much more broad-based approach to the study, and I would certainly encourage the members of the Legislature to adopt this amendment. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. You've heard the opening on AM1057, offered by Senator Synowiecki to the committee amendments to LB 709. Open for discussion, Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President and members of the Legislature. I appreciate Senator Synowiecki's opening and I think he clarified the difference between potentially his amendment and Senator Chambers' amendment. There are, however, some substantial similarities. The other thing that I think is important to note, the employer itself is actually not insulated. They may be insulated from the HIPAA regulations but, just for the record's clarification, they're not insulated. Their information would be distributed as a part of the report. But I would like to ask Senator Synowiecki a question, if I may.

SENATOR CUDABACK: Would you yield, Senator Synowiecki?

SENATOR SYNOWIECKI: Yes, of course.

SENATOR ERDMAN: Senator Synowiecki, the way that your amendment is set up as far as the reporting, the individual provider would gather the information from the patient and then they would submit that information on a quarterly basis to the Department of Health and Human Services. Is that correct?

SENATOR SYNOWIECKI: Yes.

SENATOR ERDMAN: And are you envisioning a cost associated with that procedure because, as I recall earlier, Senator Byars offered an amendment that we shouldn't be shifting the cost on to providers, and I'm trying to be consistent, and so I'm trying to see what you have thought in that area to determine how we could accomplish your goal.

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SENATOR SYNOWIECKI: I appreciate that, Senator Erdman. I have been in contact with Dick Nelson from the Department of Health and Human Services, and they are at this moment studying the question of information-gathering or statistical-gathering as the amendment would assign to that department. Preliminarily, with a little bit of tinkering and with their N-FOCUS program, there is a potential, and Senator Howard will probably have much more to add in terms of the intricacies of the department and their information-gathering. But it appears that this would be of minimal cost. I would also mention, Senator Erdman, that several states have done this, and they have not been met with exceedingly dire costs associated with such an information-gathering program.

SENATOR ERDMAN: Thank you, Senator Synowiecki. And a follow-up question, I guess, would be, have you had discussions then with the actual providers? I recognize that the Medicaid program is administered under the department that Mr. Nelson is a part of, but rather the hospitals or other facilities that may be providing the direct care that would actually be gathering this information?

SENATOR SYNOWIECKI: The short answer is no. I believe they're gathering this information now. It would be a situation where they would have to relay this information to the department. They may already be doing this in instances of compensated care such as Medicaid.

SENATOR ERDMAN: Okay. Thank you, Senator Synowiecki. And as far as the information, you are actually correct, as far as what my intent is. The system of Medicaid is bigger than just the direct program we provide. It leads to costs that are associated elsewhere. Whether or not this amendment should be adopted to this bill or not is a question that I continually will have as I read through it. This has been enacted in legislation in other states and I think it's important for us to understand if that information is available and what the procedures would be. Whether they're correctly outlined here or not is obviously not at our discretion because it wasn't a formal process for this bill to be brought before us. But I

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will listen to the body's desire on this, and maybe there are other members who have some experience in this area that would like to speak on this topic that could kind of shed some light on whether or not this is adequate or whether this is accurately laid out according to their experience in other states and what other laws have. Ultimately, though, my concern is that we're introducing new topics to a bill, even though it is related. Whether or not this information would actually be timely, and I think that's the key point...this information would not probably be timely in the purpose of this study, but I think it's a part of this overall plan, if you will, that needs to be looked at. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Further discussion, Senator Cunningham, followed by Senator Jensen.

SENATOR CUNNINGHAM: Thank you, Senator Cudaback and members. I would stand up and say, Senator Synowiecki, that I'm not 100 percent positive what I'm doing on this amendment, but I am listening and very strongly considering voting for this amendment. Many of you probably think that goes against where I normally am on these issues. But I want to make a disclosure first. Senator Synowiecki did talk about Wal-Mart many times, and all of you in here know that I work for an association that does research on the impacts of stores of that nature, so I want to make that disclosure publicly before I say anything. But Senator Synowiecki talked about a few states where Wal-Mart was the biggest corporate user. I believe it is now 9 states that has been found. I have checked several months ago on whether we could do that in Nebraska, and we don't have that kind of information, the way I understand it, that we could get it here. But when we were in the Health Committee and we were discussing this bill, Senator Byars had some very grave concerns, and I told him then that I would support everything that had to do with a true study of Medicaid, and I guess this is part of a true study. And I guess what concerns me, and I'll be very fair up-front, the benefits that Wal-Mart pays, I don't know that they're any different than a smaller entity. A lot of smaller businesses in this state don't pay health insurance, and I would say that Wal-Mart does. It's just that the amount of hours they offer for a full-time job there are quite small, and for the pay

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you get it's hard to afford your share of the insurance. But I'm not...that's not different than a lot of small employers, so I want to clarify that. But as we get more and more Wal-Marts in this state, we're driving more and more businesses out, whether they be small employers or mid-sized or even large employers. And an awful lot of those businesses being driven out do have health benefits. So it does concern me. But not just the Wal-Marts, but I think that we need to have information. This is a study. We need to have information of where our Medicaid dollars are going. And when we get that information, we can use it to make better informed decisions in the future. So I am listening to the discussion, but I am very heavily looking at voting for this amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Cunningham. (Visitors introduced.) On with discussion, Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. May I ask Senator Synowiecki a question, please.

SENATOR CUDABACK: Yes, you may. Senator Synowiecki, will you yield?

SENATOR SYNOWIECKI: Yes.

SENATOR JENSEN: Was this in a form of a bill that was introduced this year, Senator?

SENATOR SYNOWIECKI: No, Senator.

SENATOR JENSEN: Okay. Well, let me just say a couple of things. As you may or may not be aware, Health and Human Services is looking at a new information system and are certainly...I know the Appropriations Committee is aware of that. I don't know how many dollars we have in N-FOCUS. Large, I do know that; well over \$100 million, I believe. And the new system, it's my understanding is somewhere around \$35 million of which I think that we can get a federal match on that of about 90 percent, but still would be another \$3.5 million to install such a system. Now it's my understanding that we can take, and we can get some of this information on N-FOCUS by checking a

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box. Now how we can then correlate that and tabulate that, I'm certainly not enough of a computer...matter of fact, I'm illiterate when it comes to computers. Whether we can translate that and get that information or not I really don't know. I do have a little concern as to if this is going to extend or increase costs, particularly on a system that we hope to replace in the near future. And certainly, there has been some discussion about how we proceed, even yet this session, on that information system for Health and Human Services. So I guess where I am, I don't have any problem with perhaps looking at employers, 25 or more, if we could readily obtain that information without a great deal of cost. And again, as long as we comply with the various HIPAA requirements and then...I will say that you have to be very, very careful with those to ensure that information is not given out about an individual. But maybe if there is a situation where we could look on this, maybe even between now and Select File, we could have a lot more information back at that time. I know HHS is still trying to come up with can we do this, what would be the cost of doing this? With that, I'll return the rest of my time back to the Chair and listen to the rest of the debate. Thank you.

SENATOR CUDABACK: Thank you, Senator Jensen. Senator Synowiecki, there are...your light is the only light on. You may either speak or you can...you may close on AM1057.

SENATOR SYNOWIECKI: Senator Cudaback, thank you. I'll see if some lights turn on,...

SENATOR CUDABACK: Okay. Fine.

SENATOR SYNOWIECKI: ...and then if they do, we'll continue with the debate, and I don't know if I really want to close at this time. One important...and I appreciate Senator Jensen's remarks, and I think one important thing that needs to be discussed is that the employers of individuals that apply for Medicaid are gathered at the time that eligibility is determined by the department. So those individuals within our state that are on Medicaid and are eligible for Medicaid and receiving Medicaid benefits, part of that criteria for their enrollment is naming their employer. So in discussions that I've had off the

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mike, perhaps one way to go about incorporating this dimension to the study under LB 709 would just simply report to the Legislature those that are Medicaid-eligible and those that are receiving Medicaid benefits, and to identify correspondingly their employer, which may be one way to go about this. And then policymakers then can examine the employment base and the employer base relative to the outsourcing of the medical benefits associated with employment, to government. And relative to Senator Cunningham's concern, we do have a 25 threshold here, a 25-patient threshold relative to those that have received compensated care or received some sort of benefit through the Medicaid program. Only those employers that exceed the 25 threshold would be reported to the Legislature. And therefore, your small entrepreneurs, those that employ two or three, or five people, would not fall under the scope of AM1057. Thank you, Senator Cudaback. Are there any...did any lights come on, Senator?

SENATOR CUDABACK: Senator Erdman's light did come on.

SENATOR CUNNINGHAM: Thank you, Senator.

SENATOR CUDABACK: Senator Erdman, you're recognized to speak.

SENATOR ERDMAN: Okay. Thank you, Mr. President. And I think furthering discussion with Senator Synowiecki's amendment, I think it's appropriate to request the information. The way that the system is set up, that information is gathered by the department when an individual applies for public assistance. The way that the N-FOCUS system is set up, however, that information is not searchable. It's dropped into a text field, then you can't go in and search for different companies or businesses that may fit into that classification. So you may have a list of companies that are 25 or greater, have employees 25 or greater, but the current system as it's set up now may have that information; in order to accomplish that or in order to get to that, you'd have to go through each individual line or, based on the printout that you would print out of those individuals, to be able to gather any of that information. So it's probably not readily available, but I do know that there are individuals willing to work with Senator Synowiecki to

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determine what those parameters would be, how realistic it is to try to get that information in a timely manner. And then I've also had a discussion with some of the individuals on the actual health-care provider side. Sometimes there's information that's gathered but that information is not generally kept. And so if there is that nexus or if there's that lack of nexus, as far as that information, there probably needs to be a review of how we would accomplish that information. Ultimately, I think what Senator Synowiecki is asking for is something that's reasonable. The question or I guess the thing that I have noticed is is that it's effective...it'll be a report that will be submitted to us February 1 of next year, according to the amendment, because obviously February 1 of this year has passed. So we would have time to do it, but whether or not it's appropriate to be in a bill that is terminating on January 1 of 2006 or not is obviously up for our discussion or our consideration. And I know that Senator Synowiecki has been having further discussions and I look forward to his response. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Further discussion? Senator Synowiecki, there are no further lights on. You're recognized to close.

SENATOR SYNOWIECKI: Thank you, Senator Cudaback. I appreciate the comments and I...if you vote to advance the amendment and AM1057, you're voting to advance this kind of concept. I will...what I will agree to the members of this legislative body is that I will continue to work with the department, with the providers, and if we need any additional technical improvements to this concept, I will bring them forward in cooperation and in collaboration with Senator Erdman, the underlying bill's sponsor. That's what I'll do. What you are voting here is to undertake a broader-based approach to the underlying premises of LB 709 and for it to have an evaluative component of the employers in this state, and that to receive information on where we're at...I mean, we don't...we have no idea where we're at, in terms of those employers in our state; namely, some of our largest employers, to determine whether or not they are leaving it up to their corporate...being good corporate citizens in providing necessary healthcare to their employees and their families and their children. And obviously, if we have

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employers in our state, and we do, that are very good corporate citizens, that significantly mitigates our costs relative to our expenditures in the Medicaid program. We want to do everything we can to encourage and to promote private enterprise and private companies and private employers in providing their employees access to healthcare and access to health-care insurance. What I would like Senator Cudaback is a vote to affirm AM1057. I will continue my efforts with the Department of Health and Human Services and with Senator Erdman if there is any additional technical attention that needs to be made to this concept. Thank you, Senator Cudaback.

SENATOR CUDABACK: Thank you, Senator Synowiecki. You've heard the closing on AM1057 which is an amendment to the committee amendments to LB 709. The question before the body is, shall that amendment be adopted? All in favor vote aye; opposed, nay. We've voting on adoption of the Synowiecki amendment, AM1057, which is an amendment to Health and Human Services Committee amendments to LB 709. Have you all voted on the amendment who care to? Have you all voted? Senator Synowiecki, for what purpose do you rise?

SENATOR SYNOWIECKI: Senator Cudaback, I would request a call of the house, please.

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

ASSISTANT CLERK: 22 ayes, 1 nay to go 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. The house is under call. Senators, please record your presence. Senator Janssen, Senator Johnson, Senator Heidemann. Senators Schimek, Burling, McDonald, Stuthman, and Bourne. Senator Brashear. Senator Johnson and Senator Burling. Senator Bourne. The house is under call. Senators Burling and Bourne. Senator Burling, Senator Bourne. Senator Bourne, the house is under call. All members are

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present or accounted for. Senator Synowiecki, how did you wish to proceed?

SENATOR SYNOWIECKI: Senator Cudaback, I request a roll call vote, normal.

SENATOR CUDABACK: There's been a request for a roll call vote on the question of adoption of AM1057. Mr. Clerk, please, when you get time call the roll.

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1114.) The vote is 23 ayes, 9 nays on the adoption of AM1057.

SENATOR CUDABACK: Amendment not successful. AM1057 is not adopted and I do raise the call. Mr. Clerk, next motion.

ASSISTANT CLERK: Next amendment, Mr. President, by Senator Chambers. This is FA144. (Legislative Journal page 1114.)

SENATOR CUDABACK: Senator Chambers, to open on your amendment to the committee amendments.

SENATOR CHAMBERS: Mr. President, friends all, this is a very minor amendment and what it does, though, is of consequence as far as perception. On page 1 of the committee amendment, in line 22, you have language talking about controlling the growth of Medicaid spending. Instead of the word "control," I would strike that word and insert the word "mitigate." When you mitigate, you lessen or make less whatever it is that you're talking about. In the green copy of the bill, there was talk about reducing the number of people who would need Medicaid coverage. To get away from the idea that the goal of this study and the ultimate legislation is to put some kind of artificial line in place, and once that line is reached, anybody else is kept out of the picture. Control is not what is being sought, to my way of thinking, but rather a way to deal with the increase and the number of people who need Medicaid or an increase in the cost of it, not by arbitrarily limiting coverage, not by arbitrarily cutting off people who are on Medicaid, not by arbitrarily putting an impediment to the

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obtaining of Medicaid for people who ought to actually have it. So the word "mitigate" would make it clear we're not talking about arbitrary guidelines or limitations or restrictions of any kind, but we're looking at the increase, the percentage increase that is apparently going to continue occurring if things proceed with reference to Medicaid as they are now. So this word "mitigate" would soften that idea of the arbitrary restrictions. It will not in any way limit what the committee members can study, what they can offer in terms of recommendations. But it kind of guides the direction that recommendation or those recommendations should not take. So I'm asking that you adopt this amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Chambers. You've heard the opening on FA144. Open for discussion, Senator Erdman.

SENATOR ERDMAN: Thank you, Mr. President. Members of the Legislature, FA144 is an amendment that Senator Chambers has spoke to me about and it makes a...it changes a word that he believes is more appropriate for the tone and the legislation, and I will support that amendment. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. Senator Jensen. Senator Jensen, you may use that mike there if you care to. You may use that mike.

SENATOR JENSEN: Yes. I'm sorry. What was the question?

SENATOR CUDABACK: You're recognized to speak. You had your light pushed.

SENATOR JENSEN: Oh, I have my light on. Thank you. (Laughter)

SENATOR CUDABACK: I'm sorry. I didn't mean to scare you.

SENATOR JENSEN: Oh, well. You know, at my age, yeah, you know, those things happen. A senior moment, I guess. I'd like to ask Senator Chambers a question, if he would respond, please.

SENATOR CUDABACK: Senator Chambers, would you respond?

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SENATOR CHAMBERS: Oh, yes, I'm willing to answer. Thank you, as one white-haired gentleman to another.

SENATOR JENSEN: Well, thank you. I understand what you're saying. Could you give me a better description or definition of the word "mitigate"? Now I've used mitigate when we're talking about funds, when you're talking about land that can be transferred. I've never really thought of mitigate when you're talking about individuals. Could you...

SENATOR CHAMBERS: I'm not talking about litigate.

SENATOR JENSEN: Mitigate.

SENATOR CHAMBERS: Right.

SENATOR JENSEN: Mitigate.

SENATOR CHAMBERS: That is to lessen or make...well, that's the only term I can think of that would really do it in one word. But let me kind of describe what it is that I'm talking about. The word "control" carries negative connotations in the context of what this bill is doing. When you talk about control, I go back, and some others do, to that original language in the green copy that talked about reducing the number of people. When we talk about controlling the growth, the idea could be that we're going to impose some kind of arbitrary standards or guidelines or restrictions or limits. And once those are reached, people who should be able to obtain Medicaid coverage will not. So if we talk about mitigating the growth, it means we're going to look at whatever inappropriately may be leading to that growth, which can be dealt with without restricting obtaining of Medicaid by people who are entitled to have it.

SENATOR JENSEN: Well, I...and I don't question that. I just wondered if there was another word and, boy, it's hard for me to challenge the master here, but if there was another word that could better describe this rather than "mitigate" but perhaps the...

SENATOR CHAMBERS: Well, if you want a different word...excuse

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me, I wouldn't object to that.

SENATOR JENSEN: Yeah.

SENATOR CHAMBERS: Why don't we take this for now. Then by the time we get to Select File, you and I can put our heads together and see if we can come up with a word that you're more comfortable with that conveys the idea that I'm trying to get across, because I don't object to a different word. I just don't want the word "control."

SENATOR JENSEN: Then I don't have any objection to allowing this amendment.

SENATOR CHAMBERS: Thank you, Senator. And it is my time. Right, Mr. President?

SENATOR CUDABACK: It's Senator Jensen's. We're a little confused here. This is Senator Jensen's time.

SENATOR CHAMBERS: Oh, it was his time. Okay.

SENATOR CUDABACK: But you may speak if you care to. There are no other lights on, Senator Chambers, so you may speak or you may close. You waive closing? The question before the body is, shall FA144 be adopted to the Health and Human Services Committee amendments? All in favor vote aye; opposed, nay. The question before the body is the Chambers amendment to the committee amendments. Have you all voted who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of Senator Chambers' amendment, Mr. President.

SENATOR CUDABACK: The Chambers amendment has been adopted. Mr. Clerk, next amendment, please.

ASSISTANT CLERK: Mr. President, Senator Byars would move to amend with FA145. (Legislative Journal page 1115.)

SENATOR CUDABACK: Senator Byars, you're recognized to open on

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your amendment to the committee amendments.

SENATOR BYARS: Thank you, Senator Cudaback, colleagues. I'm going to talk about this amendment for just a moment and then I'm going to withdraw it and take it up, refile it on Select File after Senator Erdman and I have a chance to work through appropriate wording. We have briefly discussed the amendment and I agree with him that some of the wording in the amendment might be changed, but I again, I think from an intent standpoint and how this body makes public policy, I think it's important that we have language similar to this in this bill before we move it, if we choose to, past Select File to E & R for engrossing. But basically, what my amendment does, and if you start back in Section 3, the purpose of the Medicaid Reform Act and on page 1, starts on line 18, you jump over to page 2, and what I want...what I'm doing in this amendment and what we'll work on to get better language, the amendment reads: ensure that this addresses and then meets the needs of the people in this state. I want to make certain that we have positive reenforced type language within this bill that, if this study as it goes forward sees not that there is a necessity for cuts or revamping of the system, but it finds that the needs of the people of the state of Nebraska are not met, that that is also brought forward in future legislation that's brought to this body next year. And I think it's a positive reinforcement. I think it's a message that this body sends that we are not drawing this legislation and moving legislation forward strictly, strictly to cut, to reduce resources and programs for the poor, the elderly and the disabled. And I don't...I think I've made it very clear my passion relative to this. Senator Erdman has assured me he will work with me on this language. I have faith that he will follow through with that. And Senator Cudaback, I want to thank everybody for the dialogue and the respect you have shown to those of us who have tremendous concerns, and who want to make sure that we protect the people in the state of Nebraska as well as being fiscally responsible in managing the interests of the state and our resources. And with that, Senator Cudaback, I would withdraw FA145.

SENATOR CUDABACK: FA145 is withdrawn. Mr. Clerk, anything further to the committee amendments?

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ASSISTANT CLERK: Mr. President, I have nothing further pending to the Health and Human Services Committee amendment.

SENATOR CUDABACK: We're back now to discussion of the Health and Human Services Committee amendment, AM0772, as amended. Open for discussion. Seeing no lights on, Senator Jensen, you're recognized to close on AM0772.

SENATOR JENSEN: Thank you, Mr. President, and I do appreciate everyone's involvement in this endeavor. I think it is...we've got a great discussion, and I think there's more that we can still do. And I, in visiting with Senator Synowiecki, that perhaps we can do something on Select File on an issue that is very, I think, very much a part of this. But with that, the amendment does become the bill now as amended, and I would just ask for its adoption. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Janssen. You've heard the closing on AM0772, offered by the Health and Human Services Committee. The question is, shall those amendments be adopted? All in favor vote aye; opposed, nay. We're voting on adoption of the committee amendments offered by the Health and Human Services Committee to LB 709. Have you all voted on the question who care wish to? Record please, Mr. Clerk.

ASSISTANT CLERK: 36 ayes, 0 nays on the adoption of the committee amendments as amended, Mr. President.

SENATOR CUDABACK: The motion was success. The committee amendments have been adopted. Any further on the bill, Mr. Clerk.

ASSISTANT CLERK: I have nothing further on the bill.

SENATOR CUDABACK: Open for discussion on advancement to E & R Initial, LB 709. Any discussion? Seeing no lights on, Senator Erdman, you're recognized to close.

SENATOR ERDMAN: Thank you, Mr. President. Members of the Legislature, I greatly appreciate your patience and willingness

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to be a part of this discussion, and as it appears that we go forward here, this will be the beginning of, hopefully, further discussion here in the Legislature as well as a discussion throughout the state on how we best address the needs of Nebraskans within this current framework, and how we may be able to better serve them under a new framework if necessary. The bill that's before you is a result of a number of discussions, both on and off the floor. I think there are some very valuable parts that have been added to the bill to ensure access, to ensure representation, as well as to clarify the purpose and the guidance that we, as a Legislature, believe should be given to those who are going to be legally responsible, as Senator Chambers pointed out earlier this morning, for the development of this plan. The reality is that no matter what happens outside this body, we're going to still have to make decisions and, hopefully, this will be a process in which we can gather those outside ideas with this process going forward to ensure this discussion with all members of the Legislature, specifically within the Health Committee, and with those individuals who are going to be nominated in the event that this bill would advance, to be a part of this formal discussion. I'm extremely grateful for your time and I would encourage your support of LB 709. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Erdman. You've heard the closing on advancement of LB 709. The question before the body is, shall LB 709 advance to E & R Initial? All in favor vote aye; opposed, nay. The question before the body is advancement of LB 709. Have you all voted on the question who care to? Record please, Mr. Clerk.

ASSISTANT CLERK: 40 ayes, 0 nays on the advancement of the bill, Mr. President.

SENATOR CUDABACK: LB 709 advances. (Visitors introduced.) Mr. Clerk, items for the record, please.

ASSISTANT CLERK: Thank you, Mr. President. Three items: Senator Redfield has amendments to be printed to LR 12CA. That's all I have at this time. (Legislative Journal pages 1115-1116.)

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SENATOR CUDABACK: Thank you, Mr. Clerk. Next, General File,
2005 senator priority bills. Mr. Clerk, LB 689.

ASSISTANT CLERK: LB 689 was introduced by Senator Stuhr and
Raikes. (Read title.) The bill was read for the first time on
January 19 of this year, referred to the Education Committee.
That committee reports the bill to General File with committee
amendments. (AM0403, Legislative Journal page 506.)

SENATOR CUDABACK: Thank you, Mr. Clerk. Senator Stuhr, you're
recognized to open on LB 689.

SENATOR STUHR: Thank you, Mr. President and members of the
body. LB 689 proposes the creation of the Distance Education
Enhancement Task Force to look at upgrading and coordinating
technology in Nebraska, especially in the area of distance
education. The Distance Education Enhancement Task Force would
develop an improvement plan to upgrade and coordinate distance
education in Nebraska. The task force would also make
recommendations for policy and potential legislation which would
become...or presented to the next Legislature before the next
legislative session. The task force would be challenged but not
limited to include in their proposed plan issues such as the
development of a broadband, scalable telecommunications
infrastructure for use in distance learning classrooms; the
development of an Internet protocol-based network to
interconnect all existing and future distance education and
video conferencing facilities; to upgrade current
telecommunications equipment; training and support programs for
educators in the development and use of distance learning; the
transfer of distance education coordinating responsibilities
from distance education consortiums to educational service units
on or before July 1, 2007; statewide coordination for distance
education offerings; potential funding sources; the
establishment of a equitable and affordable financing system for
both equipment and usage; and the establishment of a system that
allows school districts to purchase quality distance education
offerings from other school districts, either directly or with
educational service units acting as fiscal agents; also,
statewide provisions of other technology-based services. Those

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are some of the issues that the task force will be challenged to address. Originally, 15 members were proposed to serve on the task force. During the hearing, there were some concerns about other groups or organizations that might want to be represented on this task force. The committee amendment does address most of those concerns; however, I understand there's also going to be another amendment now that addresses some of those changes. The task force would terminate on December 31, 2005, so we do have a termination date. We do have an emergency clause so they will begin work in June and end that work then in December. And if you note in the committee statement, there were 14 people that testified in support of the bill. They represented many different interests and groups. And there was no opposition testimony at the hearing. I believe that we are at a critical point in our state where it is vitally important to bring key players together in this proposed Distance Education Enhancement Task Force. As I said earlier, the task force will be challenged to come up with recommendations for the most effective and efficient integration and coordination and upgrade of technology for delivering distance education opportunities in our state. I want to thank Senator Raikes for prioritizing this bill, and I will yield the remainder of my time to Senator Raikes. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Raikes, you still have five minutes.

SENATOR RAIKES: Thank you, Mr. President, members, and thank you, Senator Stuhr. Senator Stuhr has outlined the...some specifics about the recommendation for a task force. I was somewhat distressed to hear her say that no one complained about the organization of the task force because the committee amendment changes the composition of the task force and, not only that, I've got an amendment that's going to come down which changes it again. But other than that, everybody is happy with the composition of the task force, more or less. But as that amendment comes down, I will share it with you so that we can...so that you can understand what it is we're proposing here. Before I turn to the committee amendment, let me elaborate a little bit on what Senator Stuhr had to say about the importance of this issue. I'll background it this way. Our

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network of connections in the state of Nebraska between high schools, fiberoptic technology and so on, is one of the best in the nation. We are privileged to be very well connected in that regard. I don't know that you can point to any one reason for that. It's been sort of a collaborative effort involving schools, ESUs, organizations that are known as distance education consortia, that have arisen over the years; and certainly as well, the Legislature in providing funding, some through lottery money, I believe, to enhance this capacity. The problem we face is the following. This is all controlled, or these...for the most part, these connections between high schools are controlled by contracts with telecom providers in the state that provide for the operation of this fiberoptic system. These contracts begin ending in the year 2006. And by 2009, they have pretty much all ended. So there is an emergency appearing in that if these contracts are allowed to expire, then we will...without some help, without some action by the Legislature, we will begin to have as many as 180 of the school systems in the state drop off the edge of the earth in terms of connectivity. They will no longer be connected with other school systems or with other ESUs and so on by the fiberoptic network. So one problem is that these...this connectivity is operated by a series of contracts. These contracts begin to expire in 2006. The...an additional characteristic is that the way this fiberoptic network is now being operated is with a protocol, and I'm liable to very soon start telling you more than I really know; a protocol that's described to be as streaming JPEG or JPEG. And I meant to look up the initials for JPEG and I haven't done that. I'll do that. At any rate, this protocol is becoming obsolete. In language that I am more familiar with, if you need parts to fix this JPEG protocol, you have to go to the junkyard to buy them. They're not available anymore. So what we're looking at is upgrading the system so that it has a more current, more recent up-to-date technology, in addition...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...along with establishing new contracts that would provide for services to the school systems. That is...I want to emphasize that because that is the reason for the urgency here, and I will describe it as urgency. This, I will

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tell you, is going to be the main effort of the Education Committee during the interim, is to work on this task force and to try to figure out what it is that is most appropriate for the state to pursue in this regard. I will also add that we want to do our best to get all the people involved that could be helpful in providing both the technological and other expertise we need in order to figure out the best way to go. Finally, that's all emphasized by the fact that, as you might suspect, this is not free.

SENATOR CUDABACK: Time, Senator Raikes.

SENATOR RAIKES: Thank you.

SENATOR CUDABACK: Senator Raikes, you are now authorized as chairman of the Education Committee to open on AM0403, the committee amendments.

SENATOR RAIKES: Thank you, Mr. President and members. We did get this amendment down that I had promised so I will get that turned in quickly so that you can see what I am talking about. To continue on, this is somewhat...the bill itself is somewhat of an unusual request in that we have a task force that is going to be convened to address a problem of technological upgrade involving a great number of schools in the state. The scope of the task force is going to be a couple or three things. One of them is the actual technological system that we should employ that should be put in place. A second important thing is organization out there that carries out this technological framework. Now we have ESUs, we have distance education consortia as well as individual school systems. It's my belief that we don't need to keep all of these separate entities in place in order to carry out this function. Finally, I will mention that another problem the task force needs to address is that of incentives for schools to participate in distance education. Along those lines, I'll point out to you that, as you know, the obligation to provide a free instruction in the common schools in Nebraska, constitutional obligation, falls basically at the state government level. We authorize the creation of school districts, ESUs and other entities to carry that out, but the base responsibility is with the state. If we

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are going to provide educational, equal educational opportunity in all parts of the state, it is my belief it's critical that if we're going to do it cost effectively and in a manner that provides relatively equal quality, we are going to have to take advantage of distance education. We're going to have to take advantage of the technology. We're going to have to take advantage of the fact that some school systems in the state can have specialties and can have staff people on line or have staff people in place that can provide educational opportunities that are not available throughout the state. Recognized in that is that we simply cannot afford to have, for example, an AP math teacher and and an AP literature instructor in every school system in the state. We've got to be able to figure out ways that we can share those resources throughout the state. This becomes then very important, this task force in the works, and its work becomes very important toward that end. We need not only to have the technology available, we need to provide individual school systems, both on the sending and receiving ends, incentives to participate in the delivery of these educational services. A final thing I'll mention. A projected cost we have is something on the order of \$25 million over a three-year period to do what is needed to do to provide the technological upgrade and also the enhanced distance learning package. We, as you know, are in the process now of creating a biennial budget. You'll see, and we'll talk more about this, the green copy proposed a \$10 million appropriation for this. At that point, the thinking was that there would be \$10 million needed for each of three years for a total of \$30 million. We have probably without great reason backed that down to \$8 million per year. Perhaps the reason is growling by Senator Pederson. But the point is, this task force itself is in place strictly to figure out a plan as to what should happen. None of the money would be spent until the Legislature had the plan of the task force to work with and make a decision on, which would happen next session. On the other hand, if, in fact, the \$8 million is a reasonable number, the beginning expenditure for that would be at the...in the second year of the biennium that we are now budgeting for. So the reason for the intent language to appropriate the money is that we need to make allowance in our budgeting decisions now that we provide for this amount of money which would again be spent only after the Legislature had

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been...had taken action to do so and only, as we see it now, in the second year of the biennium that we are now budgeting. With that, I'll move on quickly to the committee amendments and also the amendment...well, let me deal first with the committee amendment. The committee amendment changes the structure of the task force. Under the committee amendment, there would be 18 members as compared to the green copy. There are a couple or three changes. One of them is adding a superintendent or principal of a K-12 school. These are the important user...this is the important user group so that's the reason for that. We reduced the representation from the Department of Education, Public Service Commission, and NITC; added a member from the Nebraska Educational Telecommunications Commission, and expanded the representation by the postsecondary education sectors in the state. We changed the deadline for the report that could come back to the Legislature from November 1, 2005 to December 31, 2005, and also changed a term regarding...a technical term. We used high capacity instead of broadband which we were advised by those that are technologically proficient would be a more appropriate choice of words. So as I mentioned to you, there is an amendment to the committee amendment which actually comes up with the final construct of the...hopefully the final construct of the task force. And I'm going to stop now on the committee amendment so that I can talk to you about the amendment to the committee amendment.

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

ASSISTANT CLERK: Mr. President, Senator Raikes would move to amend the committee amendments with AM1084. (Legislative Journal page 1116.)

SENATOR CUDABACK: Senator Raikes, to open on AM1084 which is an amendment to the committee amendments.

SENATOR RAIKES: Thank you, Mr. President and members. I apologize for this confusion but the...this amendment would propose the task force that we would like to recommend to you. It includes 15 members. We have...and I'll count on you to look at the specific membership as you are interested. We have added

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again some more people from the user group, two superintendents or principals. We've reduced the representation from ESUs, distance education consortia, Department of Education and PSC from 2 members to 1 member each. We've...there remains a member from the Nebraska Educational Telecommunications Commission. It does clarify the expertise we would like represented by the people in the postsecondary education part of the task force. And it discusses as well that the Department of Education representative would be appointed by the Executive Board of the Legislative Council rather than the Governor. There are some other changes which, in part, repeat the changes I mentioned to you earlier in the committee amendment. This is the task force that we would like to move forward with, 15 members. We feel it's a reasonable balance between having a group that is of size that is manageable but yet represents enough of the sectors involved and enough of the expertise involved so that we can come up with a recommendation that you would find useful. With that I'll stop. I would recommend...I will urge you to support the amendment to the committee amendment, and then the amended committee amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the opening on AM1084 which is an amendment to the committee amendments to LB 689. Open for discussion, Senator Chambers, followed by Senator Kremer and others. Senator Chambers.

SENATOR CHAMBERS: Mr. President, members of the Legislature, are Senators Stuhr and Raikes nice people? Yes. Should there be a study? Maybe. Should there be any money besides the \$10,000 that might be granted to be frittered away if there's a study? Yes. Should there be \$10 million? Absolutely and positively not. I don't know who drafted that so I need to ask Senator Raikes a question.

SENATOR CUDABACK: Senator Raikes, would you yield to a question?

SENATOR RAIKES: I would.

SENATOR CHAMBERS: Senator Raikes, you don't need a crib note for...crib sheet for this one unless it's somebody you persuaded

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to sign a confession because you knew I'd ask this question. That's not a confession from somebody that you have in your hand, is it?

SENATOR RAIKES: No.

SENATOR CHAMBERS: Who drafted the A bill, if you know?

SENATOR RAIKES: The...I don't know, Senator. A Fiscal Office...pardon

SENATOR CHAMBERS: Do you know who authorized its drafting?

SENATOR RAIKES: I'm sorry.

SENATOR CHAMBERS: Then I'll ask Senator Stuhr, if you don't mind since you don't know, Senator Raikes.

SENATOR RAIKES: Sure.

SENATOR CHAMBERS: Senator Stuhr, would you be so kind as to answer a question?

SENATOR CUDABACK: Senator Stuhr, would you respond?

SENATOR STUHR: Yes, Fiscal.

SENATOR CHAMBERS: Senator Stuhr, did you direct that the A bill be drafted?

SENATOR STUHR: Yes. I mean, Fiscal worked with us.

SENATOR CHAMBERS: And why did you have them put \$10 million in it, if you don't mind me asking?

SENATOR STUHR: Yes. Well, because we are in a dilemma in the fact that 180 schools, the contracts, their telecommunication contracts are up in August of 2006. We know that that is going to be a sizeable amount of money that is needed. We don't need it this year, and the task force will be formed to see how they can work efficiently to provide and connect those 180 schools.

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SENATOR CHAMBERS: Well, when does the A bill say that this \$10 million will be appropriated?

SENATOR STUHR: In 2006.

SENATOR CHAMBERS: Isn't that the year that we would have to pass an A...what...all right. Let's say we passed this A bill. Where would that \$10 million go?

SENATOR STUHR: Well, actually it would just hold a spot for it. It wouldn't be spent because we would have to come in next year...since we're working on the biennium budget, we would have to come in next year and ask for a deficit appropriation of we don't know exactly how much.

SENATOR CHAMBERS: Okay. But we don't need this money...

SENATOR STUHR: So, you know...

SENATOR CHAMBERS: We don't need this A bill other than the \$10,000. Is that correct?

SENATOR STUHR: Well...

SENATOR CHAMBERS: I know what you'd like to have,...

SENATOR STUHR: Do you...well, yes.

SENATOR CHAMBERS: ...I know what you want. But you don't...

SENATOR STUHR: I mean we need some funding but we don't know how much.

SENATOR CHAMBERS: Ten thousand dollars, that's what they need for...

SENATOR STUHR: Yes, we need that for the task force to do their work.

SENATOR CHAMBERS: ...to fritter away on doughnuts, coffee,

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potato chips, jerky and whatever else. But beyond that, they don't need any millions of dollars. Right? And you were being overly optimistic when you drafted an A bill requesting that we appropriate that much in these dire times,...

SENATOR STUHR: Well...

SENATOR CHAMBERS: ...when it's not even needed right now.

SENATOR STUHR: Actually, if you would look at the yellow sheet, it gives you some estimates. All we could...you know, all we could ask for is estimates because...

SENATOR CHAMBERS: The yellow sheet is not law.

SENATOR STUHR: ...at this point we don't...we don't know. But this...you have your yellow sheet, I believe.

SENATOR CHAMBERS: It's not law. The only thing that would be law is in that salmon-colored or orange-colored sheet. Right? If we take this \$10 million, it won't break your heart, will it?

SENATOR STUHR: Well, I mean, I'm talking about the schools. If you can guarantee that we will have some funding for the telecommunication contracts for next year, how...

SENATOR CHAMBERS: I can't guarantee that the world will be standing next year. If we're lucky, everything is gone. Then all of our troubles will be over. Hallelujah.

SENATOR STUHR: Right. I know this is a difficult concept because we really don't know how much will be needed. But what we're trying to do is just...

SENATOR CUDABACK: One minute.

SENATOR STUHR: ...kind of set up an amount and at least bring this to your attention that this how much we may possibly need.

SENATOR CHAMBERS: Well, would you be vexed if somebody offered an amendment to take all that money out of the A bill, except

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what the committee needs?

SENATOR STUHR: Well, I would...

SENATOR CHAMBERS: Would you be vexed a little bit?

SENATOR STUHR: Well, yes, I would be.

SENATOR CHAMBERS: Thank you. Senator Beutler you should be vexed at because he beat me to the punch. Thank you. (Laugh)

SENATOR CUDABACK: Thank you, Senator Chambers. Senator Kremer, followed by Senator Beutler and others.

SENATOR KREMER: Thank you, Senator Cudaback and members of the body. The distance learning concept and hooking up the schools and the consortiums has been something that's been an interest to me for some time. I've been a member of the school board and also the Edgerton hands-on science center in Aurora has a distance learning classroom that teaches science classes from there and I know they've hooked up with NASA and some others to do this. And my first year down here, I...or maybe in '99 or 2000, one of the other, we had realized that the schools all added incentive to hook up to distance learning but that incentive money had run out and there were a number of schools that still had not been hooked up. So...and I think it was a bill that Senator Bromm had introduced and I prioritized that that we would take some lottery money and provide money for all the balance of the schools to hook up to distance learning. And I guess I'd like to ask Senator Stuhr some questions and just see where we're at in that. Do...are all of the schools now...and that time it was even permissive. If they did not want to utilize that money and hook up to distance learning, they did not have to. Are all schools hooked up, have the facilities and equipment for distance learning now or how many are still lacking in that area?

SENATOR CUDABACK: Senator Stuhr, would you yield to...

SENATOR STUHR: Yes. Senator Kremer, I can only say that what we have been talking about are about 300 school districts.

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SENATOR KREMER: But they have already...they have the equipment. They've been hooked up and...

SENATOR STUHR: Yes. One hundred twenty of them were able to use federal funding, so that they are able to connect. It's my understanding, and if Senator Raikes, I hope will be also paying attention, that there are 180 school districts that their contracts will be running out in August, 2006. There is no way that they can continue to be connected because the equipment that they're using now is...will no longer be used when that contract runs out. So we're looking at about 180 school districts.

SENATOR KREMER: Okay. So this is really talking about new equipment for those schools also.

SENATOR STUHR: Yes. Yes.

SENATOR KREMER: So this is something that has become outdated over the last eight or ten years...

SENATOR STUHR: Right, seven to ten years. Yes.

SENATOR KREMER: ...and have to be new equipment and everything from that point. So that's kind of what happens to technology these days, isn't it? But I think this is something that is vitally important for our small schools. The students are required to have foreign languages and science classes and they do not have enough students to really provide a teacher for, a full-time teacher. So I think it's very important that they can work together. And I know it's being done. I would fully support this bill. I guess I'm kind of amazed that just after we've spent a lot of money hooking them all up that we need another \$10 million to go over and do the process again. But I...that's kind of today's world. But I think it's something that's very important to give the kind of education to our students that we need. So I am in support of the bill. Thank you very much.

SENATOR CUDABACK: Thank you, Senator Kremer. Further

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discussion, Senator Beutler.

SENATOR BEUTLER: Senator Cudaback, members of the Legislature, first of all, let me start by saying I support this bill. I support the whole idea. If there's one area where I think we should continue to be as much in the front as we possibly can be, it's in the area of K-12 schools, and I think the K-12 schools around the state should have all the equal advantages when it comes to distance learning or to the most advanced technologies. I'm very willing to spend this kind of money. Having said that, Senator Stuhr or Senator Raikes, I'm not sure...Senator Raikes, since we're on the committee amendment, although this will not be directly on the committee amendment, let me ask you what the plan is.

SENATOR CUDABACK: Senator Raikes, would you yield?

SENATOR BEUTLER: And let me lay out the bottom line right at the beginning so you're aware with all questions what I'm circling around. We've had some bad experiences with broad technology applications. And one of the most recent ones was the attempted application to police communications and that whole fiasco. And from our various experiences, I want to be cautious in terms of knowing as much as we can about what it is that's going to be done and why it's going to be done and why it's the best way to go about doing something, especially when it's something that involves a total expenditure of \$25 million to \$30 million or whatever. Under this bill, and I want to ask you about some of the specific language here, but you indicated that there was an intent to come back to the Legislature, it says here, for recommendations, for policies and potential legislation. So through the period of January through April of next year, we're going to be dealing apparently face to face with various policies and suggestions that are being made by this task force. And yet, under the A bill, we're being asked to commit \$8 million to this project before it is that we know and, at least for myself, can feel comfortable with the fact that this large expenditure of money is being made in the best way possible. The main question is, since you're coming back to the Legislature anyway, and since we need to know what's going on, is there any reason we can't drop the \$10 million out of the

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A bill and let the Appropriations Committee and the Education Committee deal with it next year in terms of how it's financed and how the financing is staged, at which point in time, of course, we will also have a better handle on whether our upward trend in revenues is consistent and continuing, or whether we're having a little blip here of sorts?

SENATOR CUDABACK: Senator Raikes.

SENATOR BEUTLER: Can you help us get to that point maybe?

SENATOR RAIKES: I'll try, Senator. And I think those are very good questions. My question I guess back to you would be the following. Suppose this task force comes together, prepares a report as is suggested, the result of that report is that there would be a project undertaken financed by the state to update the technology, build in the appropriate e-learning functions and that sort of thing, and that that would need to...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...begin in...

SENATOR BEUTLER: That would need to what? Excuse me?

SENATOR RAIKES: It would need to begin, say, July 1, 2006. If you did nothing, if you make no allowance for that in the biennial bit...budget, where would that money come from?

SENATOR BEUTLER: Does the money need to be available by July 1, 2006?

SENATOR RAIKES: That's the...that's an important premise here, Senator, is that these contracts would expire in 2006, so that as soon as they expire, there is a need to be...in fact, leading up to that, there's a need to be to update the hardware with new routers and something called a Codec in each school building, plus the server type gizmos that are in the ESUs or however that is determined to be organized. That needs to begin to take place in 2006 as those contracts expire.

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SENATOR CUDABACK: Time, Senator. Sorry, Senator Beutler. Senator Stuhr.

SENATOR STUHR: Thank you, Mr. President. I'd give my time to Senator Raikes so that he can continue that discussion.

SENATOR CUDABACK: Senator Raikes.

SENATOR RAIKES: Thank you, Senator Stuhr. And, Senator Beutler, if I could I'll engage you to continue the conversation. The belief is that we are going to be able to come up with a plan. The best recommendations we have from the people who know most about this sort of thing suggest to us that it will cost, as you suggested, between \$8 million and \$10 million a year over a three-year period in order to implement it. It needs to begin in 2006, say July 1, 2006. If that's the case, how...what is the most prudent way to plan for that financially? I think what our approach here was to say that 8...I think there's an amendment that Senator Stuhr has, \$8 million is our best estimate of what is likely to be required, so we are going to put that amount of money as an item in the budget in the second year of the biennium for which we are now budgeting. If you'd like to respond to that?

SENATOR CUDABACK: Senator Beutler, respond.

SENATOR BEUTLER: Well, a couple of initial observations, Senator. First of all, I'm troubled by a process that puts the gun to our head, sort of, before we know what the plan is. And I'm sure it had nothing to do with you, but if these people who are most interested in this could have come to us a little earlier, we wouldn't be in this position that you're describing today, if in fact we're in that position. Secondly, July 1, 2006, we can budget next year for an appropriation to begin on that date, and so I would be most interested in knowing what specific...which specific contracts cannot be extended for the period of a few months in order to accommodate the...perhaps the desire of the Legislature to see what's in this package, rather than buying...rather than appropriating \$8 million before we know what kind of pig is in the sack.

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SENATOR RAIKES: Okay, and I'll try to respond, Senator. First off, in terms of the late warning, if you will, I empathize with your comment entirely. We have, I think, a considerable infrastructure in the state that is concerned with technological connections and so on. We literally did not really hear about this emerging need until the interim right before this session. So we're arriving on the scene late, as you suggest. I still think it's important enough that, even though we are notified late, we do in fact need to respond. The response of, okay, we heard about it late, let's just extend the contracts another year or maybe more as need be. A couple of points about that. One is the outdated technology, and apparently, and I don't...I can't act as an expert at all on this. Apparently it is the case that extending a contract with that outdated technology is expensive. And it would be expensive not only in terms of the outlay, but expensive in the fact that once you did the update, it would really be usable only for a very short period of time. So it makes apparently not good sense to do that sort of an extension of the contract.

SENATOR CUDABACK: One minute.

SENATOR RAIKES: The second thing I would point out is that it's important to have connection between the school systems in the state; thereby, it's important that what one school does or is what...is done to provide service to one school is compatible with that that is done for other schools and is done for the ESU. So there's a need for a coordination of the technological effort. If you allow the contracts to expire and allow individual school systems to make do with what they can over a certain period of time, there is fear that what you may end up with is money that is not well spent in terms of coordination among school systems.

SENATOR CUDABACK: Are you through, Senator.

SENATOR RAIKES: I am. Thank you.

SENATOR CUDABACK: Yeah. Your time is up right now anyhow. Senator Don Pederson, followed by Senator Jensen and others.

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SENATOR D. PEDERSON: Thank you, Mr. President, members of the Legislature. This is a very, very difficult issue. You know, after the Legislature adjourns each day, the Appropriations Committee goes down to room whatever it is, a cave I think, and we sit there for an hour and a half or so and try to figure out how to spend \$100,000, \$20,000 at a time, and what's in the best interests of the state. And here on the 56th day of the Legislature, after doing all of this, now we say, well, and there's this little thing about 10, 10, \$10 million for the next three consecutive years, and maybe we could get by with \$8 million because we don't really know what it is we're going to need. Now that's a very difficult position to put us in, and I would say that candidly we don't have \$8 million to put into this program at this time. So I think what Senator Beutler is talking about is perhaps the best that we can do. I really am ill at ease suggesting that we go in and start spending an indeterminate amount of money on something that we really don't know what the total cost would be, assuming that we have the dollars. That's just not a good way to spend money of the state of Nebraska. So I'm not sure exactly what we're going to do. I think we're going to have to talk through this but, in some way, I would say that we cannot spend 8 million additional dollars this year on the education program. That's just flat it. We just don't have those dollars. And this is a very desirable program. I sure wish that we had known, and various users of this system certainly should have been advising us that these contracts were going to run out, and we should be doing something, perhaps we could revise a number of the things that we've been doing. But this is certainly a late date in which to come in and say, now, we'll just spend...oh, we'll set aside \$8 million, like we had \$8 million to set aside. We don't have it. We'll listen and see what can be worked out. Hopefully, something can be worked out to where we look into the program and see what can be done. And I don't understand exactly the way this is, that it sounds like all of it is going to fall apart and we're going to have to start over again, so I don't see what we're losing, frankly, if we wait. But be that as it may, that's my feeling at this time. I don't see how we can do this. Thank you.

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

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followed by Senator Raikes and six others. Senator Jensen.

SENATOR JENSEN: Thank you, Mr. President, members of the Legislature. Senator Raikes, would you respond to a question?

SENATOR CUDABACK: Senator Raikes, would you yield?

SENATOR RAIKES: Yes.

SENATOR JENSEN: This last year we linked, I believe, 85 hospitals in the state of Nebraska up with a communications system. Took some money from the PSC that they had allowed for that purpose. And so we are linking those 85 hospitals together in a hub system for telemedicine, telepsychiatry and also learning, distance learning. We also have a university system that again links all of its campuses together throughout the system. We have a provider network. I know there are several different providers that are hooked together, Lutheran Family Services and others. And now...well, we've already had this other system that now we need to improve upon. Do we ever look at what is there and try to bring everything together under one system, and can that be done? And certainly, like I said, I technology-challenged, but it would seem to me that we are spending a lot of dollars in a lot of different areas. Can they be brought together in some collaboration and save some dollars by doing that. And that would certainly be my question to you.

SENATOR RAIKES: Senator Jensen, I...it's certainly my hope that we can. And the way we're trying to approach that with the task force is to include, for example, the Nebraska Information Technology Commission, which has broad authority to look at the overall use and connectivity in the state. I would also suggest that whatever has been done in the health-care system probably could act as a pattern, if you will, for what might be undertaken in terms of school connectivity. The other thing which I think is very important, and you touched on, is the higher ed system. It's becoming, I think, more and more important that the higher ed sectors, really all of them, be able to communicate via distance learning, or e-learning, with juniors and seniors in high school, to provide enhanced course work, dual credit courses, and that sort of thing, so that...I

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guess a couple of things. One is, from the standpoint of the higher education institutions, it's more likely you're able to keep those students in the state. And secondly, I think it probably enhances the efficiency of the higher education system, in that there are certainly some students, maybe high achieving students, or others, that have...would have the opportunity to begin to gain college credits while they're still in high school. So for all those reasons, I think what you're suggesting is not only important, but something that we're going to try very hard to pursue.

SENATOR JENSEN: So you will try to link as much of this together as possible, then?

SENATOR RAIKES: That's right.

SENATOR JENSEN: All right. Thank you. I'll return the rest of my time to the Chair.

SENATOR CUDABACK: Thank you, Senator Jensen. Senator Raikes, you may continue.

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. I will again emphasize, the...quickly, the overview here is the following. This is a problem that has been presented to us, if you will, with some late notice. But I think it is a very important issue, both in terms of quality of education in the state, in terms of the challenges we face in providing a good education to...good educational opportunity to the students in the state, and obviously, also, in terms of our state budget and outlays of money to serve the important needs in this state. We are proposing here one alternative, which I'll throw out that we really did consider some, but decided was not a good one, was to make some sort of a...try to make a recommendation in...as to what to do, in the form of introducing a bill at the beginning of this session which said, for example, we're going to restructure ESUs thus and so, we're going to restructure distance education consortia thus and so, we're going to recommend that this amount of money be appropriated for this particular technology, on this time scale. The fact is, we simply didn't at that point, and, I would tell you, still don't

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have the information to make that sort of a recommendation. That, I think, would likely lead us astray, because I think we'd be recommending some things that we would later regret. What we've chosen as an alternative here, as Senator Stuhr has, is to suggest that we make a detailed, high-priority study of how we proceed on this issue, and then to not authorize the expenditure of any money by the group that's coming up with this plan, but rather to make sure that a reasonable appropriation--some of you would argue with the term "reasonable"--a reasonable appropriation be allowed for, pending the outcome of that...of the study. That's what's proposed here. There would be a study at the...that would begin at the end of this session, would be completed with a report by the end of the year. There would be a bill introduced next session to make a specific set of recommendations regarding this issue, and along with that, a recommendation for an appropriation of funding. We don't know at this point...and Senator Chambers and others are certainly right. To some extent, the dollar amount is little more than a guess. But by the same token, I think it's prudent, in the sense that if it is at all in the ballpark, it gives warning as to what this might cost, and makes...draws attention to the need to set aside that amount of money. So that's the approach. Again, I welcome your comments on this. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. Further discussion. Senator Mines, Senator Redfield, Senator Louden, Senator Beutler, Stuhr, and Senator Brown. Senator Mines.

SENATOR MINES: Thank you, Mr. President, colleagues. When you're seventh or eighth in line, many of your questions have been asked and answered already. And I did spend some time talking with Senator Raikes and some technical people out behind the glass. You know, the questions I have are, I believe, practical. One would be, why are we allocating money or appropriating money before we know what we're going to appropriate the money to? And I understand the reasoning. And there is a madness to...or, a method to Senator Raikes' madness. However, I think some procedures might better be followed if we first took a look at the needs and necessities, and then, as Senator...as other senators have said, let's come back next year and make appropriations for that. I do like the idea of the

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study, and I like the idea of looking at the organization and the provision of these services and products from the ESU, the consortia, from individual schools, and combining that function, combining those responsibilities into one organization that can oversee and manage and provide the best service possible. I have to tell you, I'm a marketing guy, and I don't fully understand if and how distance learning works. And heaven forbid I'd say anything about education. I don't understand how it works, I don't understand if it's cost-effective, if it's doing what it is. And if you ask an educator, I'm sure they'll say it's wonderful. But as a layperson, I don't understand how it works, I don't know if in fact it's educating our children to the very best, the very most efficient it can be. I know it's wonderful technology. And I guess that study would help convince me that we're doing all the right things. And one more bit on the technology. What we have today isn't bad technology. It sounds to me like contracts are expiring. And even though those contracts are expiring, I agree with Senator Beutler that contracts can be extended to a point. I don't understand who the contracts are with. I know they're both for the delivery of the service over telecommunication lines, as well as the hardware and software. But in my experience, contracts that are in place can be extended until we fully understand how much it's going to cost and what we need to replace it with. So I think we've got, you know, one foot ahead of ourselves, and would like to see the study happen, and then we talk about appropriating money in our next session. Thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Mines. Senator Redfield, followed by Senator Loudon and others.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I am looking at the bill, and I will tell you that I am a wholehearted supporter of delivering education through distance learning, because I see at the library every day children who learn a great deal with the technology that is available. And I believe that many times, we are looking at delivering the product of yesterday, when we should be looking at delivering the product of tomorrow, because otherwise, by the time we purchase the technology and install it, it's already obsolete. In fact, if I'm not mistaken, this would already perhaps be the

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third generation of distance learning equipment that might be installed in some of our school districts in the state. And I wonder if we've really gotten our money's worth from those systems as they were installed. I'm wondering if the task force should not be looking at what kind of product we're going to deliver, or want to deliver, before we talk about what kind of equipment we need to deliver it. In fact, if we're not looking at video conferencing...and all of you have been in video conferencing situations where you're somewhat frustrated by the delays, and you feel that it impedes your interaction. And I'm wondering, if we don't look at the community college model...I will tell you that my daughter-in-law has a doctorate in distance learning, she is the director for a community college system in North Carolina, and the growth of registrations for classroom delivery in the distance learning is far exceeding the growth in the actual, literal classroom. You look across the country and you see that there are a number of states that already have virtual schools--Washington, Utah, North Dakota, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Florida, Michigan, Illinois, Kentucky, West Virginia, Virginia, and Maryland. So we're behind the curve already in looking at delivering a virtual classroom. Are we looking to deliver a full high school curriculum over a web-based server, that anyone could plug into any socket anywhere in the state? Or are we looking for a classroom setting where we put four or five children together in a classroom to Internet with a teacher at another site? I think we have to decide what the product we want to deliver is, before we can talk about the equipment. Senator Raikes, I'm wholeheartedly in support of a task force to study this. But I would ask if in fact this is going to be geared for delivery to upper grades, or whether this would be envisioned for delivery in the elementary grades as well. And if I have any remaining time, I'd give it to Senator Raikes.

SENATOR CUDABACK: Senator Raikes, about two minutes, if you care to use them.

SENATOR RAIKES: Thank you, Senator Redfield, Mr. President, and members. To respond to the question, I think your general thrust in your comments, Senator Redfield, was that you need to...it's only appropriate to look at the models for delivery of

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education, maybe, before you look at the specific technology that you're going to put in place. And I think that's a fair point. What...I'll just comment quickly that what we're talking about, given the rate of change of technology, I think experience that most people have had would suggest that if you have a possibility for this much technology right now and you only buy half of it, that really hasn't proven to be a wise decision as you go down the road. So...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...I think the implication at this point--and it's certainly available for study--is that we would try to upgrade the technology so it provides the maximum capacity, and so on, available. It doesn't really cost much more money for half than for a whole, so you buy the whole thing. The other question, though, is, do you try...once you've got the technology, do you try to do synchronous learning situations? Do you try to do asynchronous learning situations? Do you do e-learning? Do you do Class.com and that sort of an arrangement? Exactly how do you proceed? And I think those are very important questions to be addressed by the task force. Preliminary to that, though, is the notion that technologically, you get yourself to a point where whatever you might decide,...

SENATOR CUDABACK: Time, Senator Raikes.

SENATOR RAIKES: ...you allow the possibility. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes and Senator Redfield. Senator Louden.

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look at this bill as it comes across, I guess I have several questions to ask. I myself am a real...an advocate of this technology for these schools in these remote sites, and that sort of thing, because out in the western end of the state, we use a lot of it. There's nearly all the schools have some type of Internet service, and receive some education learning in the Internet and through the computers. I guess...and I think, like Senator Redfield, I would like to know which way we're

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going. Is this setting up for a classroom-type system? Or are you setting it up where the individuals can pull on the Internet? I would...may I ask Senator Raikes a question, if he would, please?

SENATOR CUDABACK: Yes, you may. Senator Raikes, would you yield to a question from Senator Louden?

SENATOR RAIKES: Yes.

SENATOR LOUDEN: Senator Raikes, I was looking on this yellow copy that I think Senator Stuhr sent around. But anyway, it's got some of the costs on this thing. Now, are...when you're talking about upgrading this thing, are you talking about upgrading some...I guess you call them uplinks to satellites, so you can receive them back down? Is this the type of system you're envisioning, to use satellite service to contact the schools around the state of Nebraska?

SENATOR RAIKES: Senator, if I can attempt to respond, there may be a situation or two in the state where that sort of communication technology would be required. I think in most cases, though, we're talking about using fiber-optic or T1 lines that are coming to the school system. And the technological upgrades would include the routers and the Codec machines and that sort of thing, both at the school site and at the...what I'll call the hub site. If you have an ESU, for example, that is serving several schools, there's some hardware updates that would be needed there to accommodate the updated protocols.

SENATOR LOUDEN: Now, I served on an electric co-op before I came down here, and we got into the Internet business. And I think it cost us in the vicinity of \$50,000 when we got in the Internet business and served the Internet to, I don't know, 600-700 customers. In fact, it was up to about 1,000 customers when we...I think it was finally sold. But it didn't cost us anywhere near 10 million bucks. And I noticed on your each fiscal year, you know, where you have, you know, \$25,000 a site for engineering costs, this is...I mean, I think for that kind of money you can put a...you can finance an Internet service for this kind of money. Am I correct on that? Isn't this rather

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expensive for what you're trying to do, just to go over T1 lines and then try to go as far as the type of telephone lines will allow you to go? Don't you think it's rather expensive the way they're doing this?

SENATOR RAIKES: Senator, you might be right. All I can tell you is that we are relying on estimates prepared by people who are expert in this area and, as near as I can tell, have no interest in upping the cost estimates, if you will. I think these folks not only understand the technology, but are interested in coming up with a middle-of-the-road, or reasonable, doable estimate. I would certainly be happy to take questions to them based on yours or anyone else's experiences that suggest that these numbers are too high.

SENATOR LOUDEN: Now, another question. When you talk about in...some of this, the different sites, you know--and I think they ended up with,...

SENATOR JANSSEN PRESIDING

SENATOR JANSSEN: One minute.

SENATOR LOUDEN: ...eventually 338 sites in the state all over. That doesn't...how are all of these schools...we have way more schools than 338. How are they going to network into this system? You're going to use it like an Internet service from their routers? Is that the plan?

SENATOR RAIKES: Senator, I think this proposal is based on what is in place now, in terms of which schools have contracts with telecom providers and are using equipment owned by those telecom providers. So it's based on the existing connections. As far as I know, we're not talking here about connecting new buildings that are not now connected, if that's the direction you were going.

SENATOR LOUDEN: Okay. Then in other words, whatever is connected to it now would...still would be, and those that aren't, that are doing something on their own, would still be on their own. I have one more question. If these schools have to

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upgrade...

SENATOR JANSSEN: Time, Senator Louden.

SENATOR LOUDEN: Thank you.

SENATOR JANSSEN: Thank you, Senator Louden. Senator Beutler.

SENATOR BEUTLER: Senator, I would yield the first part of my time to Senator Louden to finish his questions, if he would like.

SENATOR JANSSEN: Senator Louden.

SENATOR LOUDEN: Thank you, Senator Beutler. Yeah, I had one more question for Senator Raikes, if I may.

SENATOR JANSSEN: Senator Raikes, will you respond?

SENATOR RAIKES: Yes.

SENATOR LOUDEN: With...if these schools have to upgrade on some of this, will that be figured in their needs for their state aid to education?

SENATOR RAIKES: To the extent, Senator, that it is an allowable expense that's reported in the general fund operating expenses, it does go into the needs calculations, as you know. To the extent that the state paid money to provide for either the hardware, the service, then it wouldn't.

SENATOR LOUDEN: Okay. Then some of this would actually...could be picked up by the schools and through the state aid to education on their needs cost. Thank you, Senator Raikes. And thank you, Senator Beutler. I'll return the rest of my time to...or the rest of Senator Beutler's time. Thank you.

SENATOR BEUTLER: In the short amount of time that's left, Senator Raikes, one more question, if you would. As you know, there's been a looming controversy with regard to broadband and how it's delivered. And there are a couple of bills in this

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Legislature that we're fooling around with. And I have no idea where that's going. I did note that one of the items of the plan is the development of a broadband scalable telecommunications infrastructure for use in distance learning classrooms. Is that controversy in any way an appropriate one to consider with respect to this bill? Or is the delivery system already determined for this whole system that we're talking about?

SENATOR RAIKES: It's a good question, Senator. My belief is that the hardware technology, the fiber, the T1 lines, and all that sort of thing, are in place, that anything proposed in this study, at least at the moment, would not include incorporating a technology such as BPL.

SENATOR BEUTLER: It's not anticipated at this moment, but it's a possibility?

SENATOR RAIKES: And that's a good point. Because again, we're...for reasons that I hope I have made clear, or at least a little less fuzzy, we are proposing an appropriation without knowing exactly what it is. I mean, we still have not done the work of the task force. So not until that is done would we know exactly what it is we would propose. And certainly, technologies that become available, or trying to provide for upgrades of technologies as they do become available, would be part of the purview of the task force.

SENATOR BEUTLER: Tell me, because I honestly don't know, but I should, under current law, can public utilities supply broadband service to their customers?

SENATOR RAIKES: Senator Louden...well, I think he was talking about a co-op. I don't know the answer to your question. I think there's an anecdote or two where there is a power company that's providing broadband service, possibly because of an opting out by a telecom provider.

SENATOR BEUTLER: Senator, thank you. I'd redirect my question to Senator Louden, if he has information in that regard.

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SENATOR CUDABACK PRESIDING

SENATOR CUDABACK: Senator Louden, would you respond?

SENATOR LOUDEN: Yes. Yes, I would.

SENATOR CUDABACK: One minute.

SENATOR LOUDEN: The...Senator Raikes is right. A co-op can have Internet service with...in the state of Nebraska, and not be in any jeopardy of any laws. On the other hand, there were several public power districts that were giving Internet service. In fact, at the present time, we're buying satellite service from a public power district out in western Nebraska. So it is being done, whether there's skirting of the law or not. But when no one else provides it, why, the public utilities have been able to do it. Does that answer your question, Senator Beutler?

SENATOR BEUTLER: That's very helpful, Senator. Not to the degree that we'd probably all like to have the question answered. I'm looking forward to the discussion in that regard that will surely be upon us in time. But with that, Senator Cudaback, I would return what small amount of my time remains.

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

SENATOR STUHR: Thank you, Mr. President and members of the body. It seems like it's been a long time since I've been at the microphone. But I do want to share with you some of the background, and hope that some of these handouts that I might go through and point out some of the things that we are trying to accomplish. One question that has been talked about, what about these contracts? The contracts, is my understanding, that the schools...that those other companies own the equipment and the service. So when the contracts expire, they no longer have either. So they will become disconnected. And I think that we all will agree that certainly distance education is extremely important across the state, not only in our rural schools, but also, as Senator Jensen was talking about, for health, for the telehealth issues. And what the task force is really aimed to

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do is to bring all of these entities together, to bring the university, to bring the K through 12 schools, so that we're all on the same page. We all know we have limited resources. We must make the best use of resources that we have. Just a little bit of background in what has happened. During the decade from 1992 to 2002, approximately 300 Nebraska school districts used local, state, and federal funding to develop their interactive video distance learning systems. And they formed themselves into consortiums, and you've heard that word before. Since the original service contracts providers were for ten years, these contracts are about to expire in the summer of 2006. And that's what we've been talking about. Now, the JPEG video technology that they're now using is no longer supported by the industry. And so approximately 180 of these schools will have to renegotiate these contracts. And they will be required to have new video technology, will require new hardware and new software. And it is...and that's what we're talking about when we look at the cost. So if you would actually turn to your yellow sheet. And what it does is break down...and you're wondering why we were asking or even looking at the amount of \$10 million per year, which we've tried to scale back to \$8 million, and, as we've been talking about, is just a ballpark figure. But as Senator Raikes indicated, these are specialists in these fields who looked at what it would take to look at, in 2006 and '07, 60 of the districts; and then in '07 and '08, we look at 77 of the schools; and then in '08 and '09, we look at 45. So in three years, we have reached the 180 schools that we have been talking about. And what we're looking at is just a rough estimate. Engineering costs, about \$1.5 million for these 60 schools; equipment, about \$3.6 million; with a total of \$5.1 million. If we go...and that is just the Codec and the network upgrades. Then we look at another part. We look at Network Nebraska, and how that K through 12 and higher education sites, how they will be affected. And that is probably going to cost about \$441,000.

SENATOR CUDABACK: One minute.

SENATOR STUHR: And then we look at 190 sites on the electronic learning, the e-learning and digital media distribution. And there we're looking at about a \$2.4 million, just roughly then

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totally about \$7.9 million. And that will kind of carry across for those three years. Now, maybe we'll...maybe we can't do it in three years. Those are some of the things that the task force will really look at and try to decide what is best. But what we are trying to do is look at the overall picture, to try and bring the schools, those 180 schools that we have out there left hanging, when we know we're having declining enrollments and that distance education is becoming more important with each year.

SENATOR CUDABACK: Time, Senator Stuhr.

SENATOR STUHR: Also,...thank you, Mr. President.

SENATOR CUDABACK: Thank you, Senator Stuhr. Senator Brown, followed by Senators Redfield, Wehrbein, and Stuthman.

SENATOR BROWN: Mr. President, members, putting money into distance education was one of the first things that happened when I joined the Legislature. And we made a fairly substantial investment at that point in time. I went to a conference soon after, and there...part of the conference was talking about what states were doing to improve their education system. And one of the speakers said that what Nebraska was doing in terms of distance education was...should be...was probably one of the wisest investments, and should be a model. And yet I've listened to Senator Raikes today, and I've listened to Senator Stuhr, and it's not the technology and whether I agree with that, and it's not whether I think that our students need to be...have as much introduction to the Internet and to distance learning as possible. That's not the problem I have. The problem that I have is that I listen to...on the Transportation Committee, to what we need to do in terms of communication for our safety individuals, and how much that's going to cost, and we're talking hundreds of millions of dollars; our e-911 system, and how much that's going to cost, and that's millions of dollars, and millions of dollars and ongoing. And it's not so much the technology and the investment in the technology, but whether our structure is supporting the right kind of thing and is operating in the most efficient manner possible. And Senator Raikes has somewhat acknowledged that we have overlapping

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provision of these services, overlapping coordination. I'm not sure that we are getting the best bang for our buck. And I'm not sure that we...and maybe the study is the way to answer it. But we've already put a lot of money into this system. And obviously, something about the structure isn't working, because we didn't know prior to about a month ago or two months ago that this was going to happen. How could we not have planned for the planned obsolescence of a system that we knew...if the contracts had dates of 2006, we had to know that this was going to happen. It is the structure and our coordination that I'm concerned about. And I'm not certain that we're going to get enough of the information. Now, Senator Raikes is saying that that's a part of what the study is. But let's go back and look at how much we've already invested. And the result in terms of the...and the result has been that we didn't even know until the contracts were ready to expire that they were going to expire. So we had no way to plan for it. That doesn't cause me to have great deal of sentiment that we assume that these numbers are correct. And it's not that I'm arguing with it. But I have seen in the discussions that we've had on e-911, on the safety telecom, that we get these huge numbers and the immediacy of doing it, but nobody wants to change the delivery system, nobody wants to change the coordination, nobody acknowledges that part of the problem is the coordination and the delivery system.

SENATOR CUDABACK: One minute.

SENATOR BROWN: So I'm going to listen a great deal more. But I'm not arguing that our students don't need to have this as a methodology to expand the horizons of their education. It's just that I'm not certain that our structure is supporting the right kinds of things. Thank you.

SENATOR CUDABACK: Thank you, Senator Brown. Senator Redfield, followed by Senator Wehrbein.

SENATOR REDFIELD: Thank you, Mr. President, members of the body. I pushed my light again so that I would have a little more time to explore with Senator Raikes some of the issues that I was raising before. Again, going back and asking the right questions may be the crucial piece here for the task force.

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Because in fact I don't think our goal is just to replace an obsolete system with another one that will become obsolete shortly, but to make sure that we're delivering a system that will serve our students well. I hope, Senator Raikes, that the task force will look, in fact, at what the utilization has been. How many students have actually taken classes through this means? Is it one class per building? Is it five students a year? And is that worth the cost? And should we deliver a different type of system that would be more economical per student? When I read to you the list of states that have virtual schools, I didn't also share with you that there are a number of other states that have a cyber school, and there are five states that have both. We have neither. But the state of Utah can deliver an entire high school curriculum on-line. That means that a student that may not have an alternative school can sit a student down in front of a computer, and they can complete an entire high school curriculum on-line. And the cost to that school is the tuition for the course, just as you might do a distance learning course through a community college. And in fact, the cost of that tuition is less than the cost of a teacher. Now, the goal here should not be to replace teachers. But it certainly should be to deliver courses to students who would not have access in any other way. And so I would hope that the task force will explore, in fact, whether, in fact, they want to deliver the course to the student, or whether they are trying to deliver a classroom experience to the students. And I think that that's a crucial distinction in the type of technology that we purchase and the cost that we have. Because if we look at the other states that have already designed virtual schools, we may be able to just purchase from them, without a redesign. And Senator Raikes, I would be happy to give you the rest of my time so that you might address that. Thank you.

SENATOR CUDABACK: Thank you, Senator. Senator Raikes, about 2, 30.

SENATOR RAIKES: Thank you, Senator Redfield, Mr. President, and members. Senator Redfield makes a very good point about the technology that might be most appropriate to use. I think it's still somewhat of a question, but I think she's absolutely right

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in that there is a great deal of forward progress being made in the area of virtual learning, of e-learning. There's some...our focus in the state currently is the synchronous classrooms, I guess is what I'll call it. I'm guessing that because some people have and are finding that useful, it would be...you would certainly want to maintain that option. But in addition, you would as well want to expand virtual education, if that's the proper term, e-learning, and so on. I would suggest to you that another issue that needs to be brought in in the task force is that of providing some sort of a statewide platform from which to implement, manage, operate distance education technology. There are software packages out there. I don't know very much about them. Blackboard, or ANGEL is one. It simply makes good sense, I believe,...

SENATOR CUDABACK: One minute.

SENATOR RAIKES: ...that the state could purchase this and implement it on a statewide basis, rather than certainly school-by-school, or even ESU-by-ESU. That is another function that I think would be very important for this task force to examine. So again, I think she makes very good points. In the last few moments, I will tell you that I would urge you to adopt this amendment. One of the things this amendment does do is strike the appropriations intent language from the bill. So this creates the task force. The appropriations issue is left to the A bill, which will come up next. Thank you.

SENATOR CUDABACK: Thank you. Thank you, Senators Redfield and Raikes. Senator Wehrbein, on AM1084.

SENATOR WEHRBEIN: Thank you, Mr. President, members of the Legislature. I'm not going to be able to cast much light on this, except to make a remark. And I just respectfully suggest that perhaps this bill either should have been divided, or should...and I guess we're going to end up doing that if we change the A bill, or...but one of the awkward parts here that we're discussing is the actual appropriations of money. And in my mind, this properly should have gone to the Appropriations Committee. Historically, that's where equipment, capital investments, and those kind of things would have gone. They

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would have had an earlier warning of this, and could have reacted to that, or at least had that in their scenarios as they worked through the last two months, without getting caught here at this time. It's really more of a point of future reference, because we did this with NETV. We spent millions of dollars, millions and millions and millions of dollars on NETV. And a lot of that coordination and so forth, most of it all came through the Appropriations Committee in the past. The task force, the Nebraska ETV Commission, was even created by the Appropriations Committee to do that. And so I would suggest that some of what we're hanging up here today is money. Most of you have talked about engineering, software, and other things, which has been intensely discussed over the years, in my mind, on Appropriations. And so now we're a little bit bogged down because we don't have all the information to coordinate it. And it all comes back to one thing--millions of dollars. And that's the issue. So, just as a comment, I guess, maybe a point of education for us all as we move forward in the next few years. These...it is important to have them properly referenced. And that is no dig at the Education Committee at all. It's just that we have difficulty in here coordinating all our committees so that we all know what we're doing. And there's no process other than the floor to do this. But we've spent a couple hours on something that probably could have had a lot of that discussion in the Appropriations Committee, on the money side, rather than Education. Thank you.

SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Stuthman.

SENATOR STUTHMAN: Thank you, Senator Cudaback and members of the body. I've been listening very close this afternoon to this issue. And I would like to ask a couple questions of Senator Stuhr, if she'd respond, please.

SENATOR CUDABACK: Senator Stuhr, would you respond to a question?

SENATOR STUHR: Yes.

SENATOR STUTHMAN: Senator Stuhr, have you ever been invited to

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SENATOR CUDABACK: Thank you, Senator Wehrbein. Senator Stuthman.

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SENATOR STUHR: Yes.

SENATOR STUTHMAN: Senator Stuhr, have you ever been invited to

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a school where they had the distance learning that was in cooperation with three or four schools around them?

SENATOR STUHR: Yes, I have.

SENATOR STUTHMAN: Okay. I was fortunate to attend one of those also. What is happening now? I know I was listening to you, Senator Stuhr, and you said, that contract is going to be up, that funding is going to be up. Or, what's the real problem?

SENATOR STUHR: That's true. About 120...it's my understanding that about 120 of those schools are connected, because they received large amounts of federal funding to enable them to change the equipment and go ahead and continue with their distance education opportunities. We have about 180 school districts...or 180 schools left that will need some updating, because their contracts are about...and I don't know. They begin to expire, it's my understanding, in 2006. So what we are bringing forth is that we need to at least be on the alert, that this task force will come together, see how we can continue to connect, and with a new technology. And with all due respect to Senator Brown, we have both been here 11 years, and I think we all know that technology has changed a lot, and also increased in cost because of the new developments. But those are some of the problems that the schools are being faced with now. And what was proposed is that this is going to be a three-year project. And maybe it will be a four-year project, or whatever that task force might decide. But something needs to be done.

SENATOR STUTHMAN: Okay. But realistically, you know, what is...I know there's, you know, an upgrade in technology. But when I viewed the classroom setting between four of the schools in my district...well, one of them was in another district...but to me, I don't know, what would realistically be the upgrade on it? And why can't they continue with the program that they're doing right now with the telecommunications? Could you answer me that, Senator Stuhr?

SENATOR STUHR: Well, Senator Stuthman, it is my understanding that they have what they call a JPEG video technology that they're using now. And when that contract expires, that

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equipment can no longer be updated or used. It's like an old computer, so to speak. It's my understanding that whoever they have the contract...the schools have the contract that provides the service and the equipment. And it's just like something that wears out. And so that equipment is going to have to be replaced. So that's where we're getting some of the cost.

SENATOR STUTHMAN: Okay. Thank you, Senator Stuhr. That is a real concern of mine. You know, if we're going to have a contract with some telecommunications, or some software company or something like that, that's going to need an upgrade every couple of years, I have a real question about that because, you know, what I viewed in my local area seemed to be working good. But, you know, if that contract is up and you can't utilize that equipment again, but you have to pay a lot of money to start another program or another upgrade, then I don't know. I can't quite see the total dollar value that we're going to be sticking into this. So I'm going to listen. I'm very interested in the distance learning part. But I have a real question about the dollars that we're going to spend. So, thank you.

SENATOR CUDABACK: One minute. Thank you, Senator Stuthman. Senator Don Pederson.

SENATOR D. PEDERSON: Mr. President, members of the Legislature, since we started discussing this matter, I have been visiting with our Legislative Fiscal Office to see how we could handle this matter. And it's my understanding that these contracts extend for a period of, I think, eight or nine years, perhaps. And the first ones start to go in expiration. And if in fact what we have is a study, we can fund the study and not fund any other matters connected with this, and then next year come back and fund an amount that will replace those that are off-line or are going off-line, so that it's a new expenditure at that point. We're not replacing existing things; we're treating that as a new expenditure. And we could go forward that way and not have an A bill that's an indeterminate amount. We will know by the time we get ready to do an A bill what it is. And next year we can treat the issue, I think, with a bit more information than we have right now. And perhaps, hopefully, we will have enough money to fund what is being proposed. Senator Raikes

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asked me, well, what if we don't have enough money to do that next year? And I said, well, if we don't, then we certainly would be ill-advised to pass it this year anyway. So I think this is the way that we can approach this. And it's my understanding that what we can do is pass the proposal that will eliminate the funding in future years, and decide that we will do that next year. Thank you.

SENATOR CUDABACK: Thank you, Senator Don Pederson. Seeing no further lights on, Senator Raikes, I'll recognize you to close on your amendment to the committee amendments to LB 689.

SENATOR RAIKES: Thank you, Mr. President, members. Thank you for the discussion. I think this has been a very good one. Would remind you that this amendment basically is the committee amendment. It's an amendment to the committee amendment. It constructs the task force, which I think we're pretty much in agreement is something that we need to do. It also strikes the appropriations intent language, which is also something that I think has been suggested that we should do at this point. The A bill is left for us to have that discussion. So with that, I would urge your adoption of the amendment to the committee amendment. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the closing on AM1084. The question before the body is, shall AM1084 be adopted? All in favor vote aye; opposed, nay. The question before the body is an amendment to the committee amendments, AM1084. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 30 ayes, 0 nays, Mr. President, on the adoption of Senator Raikes' amendment.

SENATOR CUDABACK: The amendment has been adopted. Mr. Clerk.

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

SENATOR CUDABACK: Discussion of the committee amendments themselves? Senator Raikes, there are no lights on. You're

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recognized to close on AM0403.

SENATOR RAIKES: Thank you, Mr. President, members. I would urge your adoption of this committee amendment as amended. Thank you.

SENATOR CUDABACK: Thank you, Senator Raikes. You've heard the closing on the committee amendments by the Education Committee to LB 689. The question before the body is, shall those amendments be adopted as amended? All in favor vote aye; opposed, nay. The question before the body is adoption of the committee amendments, offered by the Education Committee to LB 689. Have you all voted on the question who care to? Record please, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on adoption of committee amendments.

SENATOR CUDABACK: The committee amendments have been adopted.

CLERK: Mr. President, the next amendment, Senator Raikes, AM1000. But I understand you want to withdraw that amendment, Senator?

SENATOR RAIKES: I would, please, Mr. Clerk. Thank you.

SENATOR CUDABACK: AM1000 is withdrawn.

CLERK: Senator Chambers would move to amend with FA147.

SENATOR CUDABACK: Senator Chambers, to open on FA147.

SENATOR CHAMBERS: Mr. President, the purpose of that amendment having been accomplished by Senator Raikes' previous amendment, I withdraw it.

SENATOR CUDABACK: FA147 is withdrawn.

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

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LB 117, 480, 689, 689A

SENATOR CUDABACK: We're back to discussion of advancement of LB 689 to E & R Initial. Open for discussion. Seeing nobody wishing to discuss the advancement, Senator Raikes, you're...or, Senator Stuhr, rather, you're recognized to close.

SENATOR STUHR: Thank you, Mr. President and members of the body. I appreciate the discussion that we have had this afternoon. And I want to just remind you that there are no dollars in this bill. What this bill does is allow for the Distance Education Enhancement Task Force. And it will be challenged to look at the most effective and efficient ways that we can bring technology together for delivering the distance education opportunities across the state. And the task force will be made up of various individuals from primarily the K through 12, but also higher education, also some industry people. So I think it's a wide representation of people, to look at how we can best deliver distance education learning in Nebraska. Thank you.

SENATOR CUDABACK: Thank you, Senator Stuhr. You've heard the closing on the advancement of LB 689. The question before the body is, shall LB 689 advance to E & R Initial? All in favor of the motion vote aye; those opposed, nay. The question before the body is advancement of LB 689 to E & R Initial. Have you all voted on the question who wish to? Have you all voted? Record please, Mr. Clerk.

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LB 689.

SENATOR CUDABACK: The motion was successful. LB 689 advances. Mr. Clerk, items for the record.

CLERK: Mr. President, Senator Synowiecki would like to print an amendment to LB 480; Senator Aguilar to LB 117; Senator Beutler to LB 689A; Senator Chambers to LB 689A. (Legislative Journal pages 1117-1118.)

Mr. President, I do have a priority motion. Senator Brashear would move to adjourn until Wednesday morning, April 6, at 9:00 a.m.

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SENATOR CUDABACK: You've heard the motion by Senator Brashear to adjourn until Wednesday morning, April 6, 2005, 9:00 a.m. All in favor of the motion say aye. Opposed to the motion say nay. We are adjourned.

Proofed by: Bernie Ward