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Floor Debate
March 19, 2008

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SENATOR STUTHMAN PRESIDING

SENATOR STUTHMAN: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the forty-fourth day of the One Hundredth Legislature, Second Session. Our chaplain for today is Pastor Robert Chitwood. He's a pastor of the Brownville Christian Church, Brownville, Nebraska; and he is from Senator Heidemann's district. Please rise.

PASTOR CHITWOOD: (Prayer offered.)

SENATOR STUTHMAN: Thank you, Pastor. I will call to order the forty-fourth day of the One Hundredth Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

SENATOR STUTHMAN: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR STUTHMAN: Thank you. Are there any messages, reports, or announcements?

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

SENATOR STUTHMAN: Speaker Flood, I would like to recognize you for an announcement.

SPEAKER FLOOD: Thank you, Mr. President and members. I have an important announcement to make regarding today's agenda. The agenda in front of you shows that at 3:00 p.m. we will move to Select File budget bills. Due to a personal matter that will take Senator Raikes out of the Capitol today, after noon today, we will work until noon on LB988 in hopes of finding a resolution on General File. At 1:30 we will begin with the Select File budget bills. Again, the Select File budget bills will take place at a time certain at 1:30 p.m. this afternoon. The Website will be changed to notify citizens across the state that that will be done. Thank you, Mr. President.

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SENATOR STUTHMAN: Thank you, Speaker Flood. We will now proceed to the first item on the agenda. Mr. Clerk.

CLERK: Mr. President, LB988, a bill originally introduced by Senator Raikes, considered yesterday by the membership. Committee amendments were presented, divided pursuant to a request by Senator Fischer. The first amendment this morning, Mr. President, is the third component of the committee amendments, specifically AM2369. That's the first amendment this morning, Senator. (Legislative Journal page 993.) [LB988]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Raikes, would you open on this committee amendment? [LB988]

SENATOR RAIKES: I would. Thank you, Mr. President and members of the Legislature. I would like to thank the Speaker for accommodating my personal agenda. As he mentioned, I do need to attend a funeral this afternoon and a person...the funeral...described his ailment as having had too many birthdays. So in the run of things, maybe that's a good an ailment as there is. This division deals with the important issue of valuation and local effort rate. The concept here involves a couple things, or the issue involves a couple things in mostly dealing with how school districts are charged, so to speak, with local valuation or resource in the aid formula. Let me remind you again, needs minus resources equals aid. Well, exactly how do we calculate that resource amount? In particular, usually the biggest component of the resource is property taxes. I'm going to take just a moment here to introduce this in the following manner, to explain to you what we now do and to also explain to you that what we have done with the green copy and the amendment to the committee amendment made two different changes to what we now do. What we now do in the formula in the way of valuation is that we adjust valuation for each school district to 100 percent of market value for residential and commercial, and to 75 percent of market value for ag land. School districts then are charged or credited, if you will, with that amount of valuation multiplied times the local effort rate as their local property tax resource. So you can, I think, quickly figure out that if your--well, and I'll jump ahead a little bit--if your valuation was at 96 percent versus 100 percent, you are credited with 96 percent instead of 100 percent and then that was multiplied times the same local effort rate. At the 96 percent, you would look less wealthy in the calculation of the aid formula and you would therefore receive more state aid. That brings a point that one of the things we're dealing with here is statewide equalization, making sure that we have a uniform way of looking at valuation across the state. What we've done in the past, as I mentioned, or what we're currently doing, we adjust all values to 100 percent. School districts are credited with that in the aid formula. Then when it comes to actually levying property taxes, school districts apply the levy up to \$1.05 against whatever is actually the assessed valuation. So you might be a school district in which valuation is assessed at 92 percent of market value. Under the current structure, that value is hiked up to 100 percent and

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you are charged with that in the state aid formula. When you levy the tax to fund your school district, you can only levy against the 92 percent. So you're being charged for more than you can actually levy and this, as you can imagine, has been a constant complaint by school superintendents. All right, one of the accommodations that we've made in the formula is that we've allowed the lid, the actual levy lid, to be higher than the local effort rate. That's the artificial common rate that we used in coming up with property values. And we've, at least according to folk lore, allowed an additional five cents of levy authority above the local effort rate to accommodate the situation of the school district that I just mentioned. I'm being charged with 100 percent, I can only levy 92 percent, so here's an additional 5 cents of levy authority to help you compensate for that clear difference. Now of course, you also have school districts where the levy...or the assessment is at nearly 100 percent. So they're charged with 100 percent, they can levy against 100 percent, but they also get the 5 percent additional levy authority even though they don't have the problem that that is intended to deal with. That's what we now do, and I'm sure that's completely clear but I will try to answer questions. Okay. The administration, for lack of a more descriptive term, the Revenue Department and the Property Tax Administrator came to us before the session and basically said, look, we got to change this system; this doesn't work. And very quickly the explanation was, if you say that a district is levying at, or valued at 92 percent or 94 percent--let's use that--you have to go, for purposes of adjustment, increase that value up to 100 percent. The school district is likely to come to the state and say, no, you don't. Because they're going to say, on what basis do you come up with 94 percent? Well, that's our procedure and so on and so forth. But they will also say that look, that 94 percent is simply a point estimate. Are you sure that's exactly what it is? The answer is no. That's the middle of a range, a statistical range. And the question then becomes, well, is that range statistically wide enough so it also includes 100 percent of valuation? The answer often is yes. So then the school district comes back; you have no right to adjust our valuation upward, to charge us more in the aid formula, and therefore give us less state aid. And not only in Nebraska but other places, in court cases the state has lost, that the precision of those valuation numbers is not accurate enough to justify that adjustment process. So the recommendation we first got was simply to take away adjusted valuation. We're going to simply let school districts assess against the valuation they have. We're not going to bother to adjust everything up. We take away an opportunity in doing that for statewide equalization, but we have TERC there and TERC does statewide equalization once a year. So you have that backstop. Wise remarks over there. But at any rate, that's the current procedure. So that was the provision that we introduced in the green copy. It turns out, just for your information, that that resulted in the savings of state aid, if you will, by about \$25 million. Now I didn't fully explain that. We're taking away the adjustment but we're also taking away the five-cent levy allowance we gave school districts because they couldn't levy against the amount that they were being charged with. So we raised the local effort rate from 95 to a dollar and we allowed school districts simply to assess against assessed value. All right. So that was the green copy.

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SENATOR STUTHMAN: One minute. [LB988]

SENATOR RAIKES: It amounted to about a \$25 million reduction in state aid. The amendment to the committee amendment makes another change, which I am proposing to you is the one we ought to stick with. We go back and include adjusted value, but instead of including it at 100 percent, adjusting to 100 percent, we adjust to 96 percent. Ninety-six percent is the middle of the range in statewide equalization. If the assessment is out of the range, it's brought to 96 percent for commercial and residential or 72 percent for ag land. So the local effort rate remains at \$1 but we adjust to 96 percent instead of 100 percent. The net impact on fiscal note of that is about a \$10 million reduction in state aid for the state. [LB988]

SENATOR STUTHMAN: Time. [LB988]

SENATOR RAIKES: Thank you. [LB988]

SENATOR STUTHMAN: Thank you, Senator Raikes. (Doctors of the day introduced.) Mr. Clerk, you have amendments to the amendment? [LB988]

CLERK: I do, Mr. President. Senator Raikes has the first amendment to this component. Senator Raikes, AM2404. (Legislative Journal page 1011.) [LB988]

SENATOR STUTHMAN: Senator Raikes, to open on AM2404. [LB988]

SENATOR RAIKES: Thank you, Mr. President and members. This, I believe, is the amendment that I mentioned before I was so rudely interrupted by the President that would change the valuation, or the adjustment from 100 percent to 96 percent. So keep in mind now, this maintains, this maintains familiarity. This is close to what we're doing now. This doesn't involve as drastic a change as what we are proposing in the green copy. We still have adjusted valuation. There is still, in my view, the important policy gain that we have another shot at statewide equalization in addition to what the TERC does. We still are going to have, quite frankly, advantaged and disadvantaged school districts on the basis of the level of assessment. If, for example, if you're in a county where the level of assessment is judged to be 99 percent, then you will be charged with 96 percent of that valuation in the aid formula but you will be able to assess 99 percent. On the other hand, if you're in a county where the valuation is judged to be 92 percent, that value will be adjusted so that you are charged with 96 percent in the calculation, resource calculation in the aid formula, but you will be able to only access 92 percent. So a lot of the same mechanisms that we now have are maintained with this amendment. What I'm trying to say to you: it's a less drastic change than what was proposed in the green copy. And quite frankly, it, I think, retains some of the legal challenge difficulties that were with...are with the system we now have in place, but

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certainly lessens them because it is a more moderate approach. You're not going to be faced with adjusting a school district that has 92 percent valuation all the way to 100 percent. Instead, the maximum change, valuation change would be from 92 percent up to 96 percent. So that is the proposal with this amendment. I would be happy to answer your questions as I can and I would urge your support. Thank you. [LB988]

SENATOR STUTHMAN: Thank you, Senator Raikes. Those wishing to speak are Senators Kopplin and Gay. Senator Kopplin, you are recognized. [LB988]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. Actually I am going to support Senator Raikes and his change away from assessed value to the way that we've been doing it. Make no mistake about what we're doing today, however. What we're doing is taking a look at things and seeing how we can reduce the amount of state aid that we owe. We're looking at ways that we can avoid paying for the things that we said we would pay for the last two years. Valuation is extremely important. If I had my way about it, I cannot amend this amendment, but I would change it not from 96 percent but back to 100 percent, and here's why: when I first saw this amendment I said, oh, 96 percent; Senator Raikes has just split the difference. That's okay. Then I heard Senator Avery say on the floor yesterday, oh, we came up with that number because that's what it takes to make Lincoln work. Hey, Lincoln, make yourself work. I don't know what the difference between 96 percent and 100 percent actually does. But I know this: I'm in a county that is right at 100 percent valuation. I'm involved with a county, a shared levy with a county that's maybe 92 percent. And that's supposed to be fair. No, it's not. What the 100 percent does is say, look you guys, your county assessor is not assessing your values where they ought to be, so we're not going to let you have more state aid; we're going to say that you have to consider what it would be if it was 100 percent. Yes, school districts cannot access that. Yes, we have a difference in levy then between effort rate so that we can account for that. But the point is, by moving it to 96 percent, what we're saying: hey you, assessors that have not done your job and put everybody at 100 percent where you belong; we're willing to go to 96 percent. Well, then why shouldn't Lancaster County and Sarpy County and the rest of them that are at 100 percent say, hey, for the benefit of our taxpayers we should be adjusting down to 96 percent so that it's equal again? We're going to have tremendous problems in the future because of valuations. There were comments yesterday: well, can you assure us that we're done with this and things are going to work out okay; and people saying, yeah, it'll work, it won't...you know, one of the reasons that we're going to have problems is because valuations are dropping. Douglas County is going to reassess, 26 percent of their residential property will drop in value. Sarpy County is going to do a few. Point is, that leaves them less resources; that means we put more state aid in. [LB988]

SENATOR STUTHMAN: One minute. [LB988]

SENATOR KOPPLIN: We need to take a long look at valuation. We need to see that it

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is equal across the state. We shouldn't be in the process of giving some counties or school districts a break because their assessors didn't do what they should have been. Remember, this is commercial property also. We give a whole lot of breaks on commercial property so that we can draw jobs and so on. I don't have a problem with that. But the point is, if Douglas County had truly assessed at 100 percent on their commercial and their homes, we probably wouldn't have been in some of the positions we are because they'd have had a whole lot more money to start with. Thank you. [LB988]

SENATOR STUTHMAN: Thank you, Senator Kopplin. Senator Gay, you are recognized. [LB988]

SENATOR GAY: Thank you, Mr. President. Senator Kopplin brings up a fine point and we'll discuss that a little more with Senator Raikes. But there was a handout that I just handed out to you showing the 26 percent of the homes reviewing in Douglas County to see a drop in aid. That's an important thing even if you don't live in Douglas County, obviously, because we're all taking from the same pool. The question I have, and we will discuss with Senator Raikes because I think he's doing a good job explaining this. It is a complex issue and we're having a nice discussion today, or we will, on this. But when we look at statewide equalization and values, they aren't all doing it the same. We're trying to get people to assess value the same. And as we look into that, the local effort rates versus the evaluations, it's important that we're...this 96 percent is there. That was an adjustment that was made to, I think, to kind of ease the pain for people. But would Senator Raikes yield to a question? [LB988]

SENATOR STUTHMAN: Senator Raikes, would you yield to a question from Senator Gay? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR GAY: Thank you, Senator Raikes. Senator Raikes, you talked about that 96 percent average. That was kind of a compromise maybe. I think it was a good change probably at this point. But on the...what I wondered, if valuations go up or down--I think in our county we're at the high end of the range. So if you're higher than that, you adjust it back down and they get aid. So you're not penalized for doing the right thing, are you? [LB988]

SENATOR RAIKES: No. In fact, Senator, you're exactly right. You would basically get the same advantage in the situation you described in this proposed arrangement that you get in the current system. The difference is that the...quite frankly, I think the potential amount of the adjustment is less. So it makes it a less legally risky prospect. [LB988]

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SENATOR GAY: So I guess here's the question I'm leading to then, what is the statewide, the current statewide valuation average on residential homes, let's say? Let's just stick to residential here. Not all counties are at the same. The state is the assessor in, I think, nine counties. But I've always...you know, and we've argued this and I had a bill in committee about the same thing, about the difference of assessed values between Douglas and Sarpy County. And I don't...I'm not going to get into all of that. But the point I'm making is, different county assessors are doing things differently. Then we come to the TERC Board, is the way I understand it, and they try to get this adjustment, a statewide assessed adjustment. Would we move...let's say valuations don't go up but they go down. What I'm...if they go down, how does that work on the state aid formula? If valuations across the state go down, where does that put us? [LB988]

SENATOR RAIKES: Well, if actually there's a year over year decline, you know, you've got one issue of how quickly the assessors adjust...or accommodate that. I don't want to throw adjustment in there again. But that's one issue. The other thing, which maybe we talked about in our earlier conversation, we always used previous year, lagged one year values for the resource number in the aid formula. That turns out to be an advantage to school districts as long as valuations are going up because you're charged with that valuation. If the one that is in the current year is actually higher than the one the previous year, you're thereby advantaged because you're being charged the lower amount. If it turns around and valuations actually go down, the opposite would be the case. You would be charged with that year-old value which is no longer there, you know, and would be disadvantaged instead of advantaged. So there is that factor. [LB988]

SENATOR STUTHMAN: One minute. [LB988]

SENATOR RAIKES: But that's kind of separate from this discussion. [LB988]

SENATOR GAY: Okay. So if the valuations go down--let's say they go down 10 percent, just for a number--they go down 10 percent. You're still not going to see that effect until the next year when...on the following year though, when we're doing state aid, how does that affect the state? [LB988]

SENATOR RAIKES: Well, if valuations go down with an equalization formula, again, we're funding needs. So if we have less local resource, if we're going to fund needs, aid has to go up. [LB988]

SENATOR GAY: Okay. So...and what I'm getting at here is, are we creating a structure where assessors have to keep their valuations up because if they don't and a person comes in during Board of Equalization hearing, says I want... [LB988]

SENATOR STUTHMAN: Time. [LB988]

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SENATOR GAY: Thank you, Mr. President. [LB988]

SENATOR STUTHMAN: Thank you, Senator Gay and Senator Raikes. Senator Schimek, you are recognized. [LB988]

SENATOR SCHIMEK: Yes. Thank you, Mr. President. I'd like to ask Senator Raikes a couple of questions. And Senator Gay, if I have time left, I'll give it to you when I'm done. Senator Raikes, I'm... [LB988]

SENATOR STUTHMAN: Senator Raikes, would you respond to a question from Senator Schimek? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR SCHIMEK: Thank you, Mr. President. Senator Raikes, I think you need to explain the adjustment process to us and what role TERC plays and what role the Property Tax Administrator plays, and then I have a follow-up question. Why don't you do that? [LB988]

SENATOR RAIKES: Okay, Senator. I already did that and you are, I'm sure, the only one that didn't completely understand it. (Laughter) [LB988]

SENATOR SCHIMEK: Well, would you please repeat it for my benefit then? Thank you. [LB988]

SENATOR RAIKES: Let me try it with an example which...and it really is involved; it's not necessarily all that complicated. Suppose there's a school district and you go around and you add up all the assessed valuation in that school district. And let's just say that you come up with \$9,200,000 worth of valuation. Okay, so that's the amount of valuation that the school district could levy against with its property tax rate to get property tax revenue. All right, let's say the Property Tax Administrator comes along and looks at that school district and says, well, the value...the assessor has said that property is worth \$9,200,000 but actually it's really worth \$10,000,000. That would be the process of adjusting it from assessed value up to full market value. Okay? [LB988]

SENATOR SCHIMEK: Okay. [LB988]

SENATOR RAIKES: So in the aid formula you as a school district are charged with having \$10 million of property that you can assess. Now under the current structure, you are charged in the following way: you multiply that \$10 million times the local effort rate, which is 95 cents. When you go back to the other side and you say, well, how much can I actually access as a school district, well, you can only assess at the...against the

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\$920,000, the actual assessed value, but you can assess at \$1.05, 10 cents above the local effort rate. So the adjustment process involves taking the assessed value, \$9.2 million, and increasing it up to full market value, which is \$10 million. In this case, the assessor was assessing at 92 percent. It was adjusted up to 100 percent. [LB988]

SENATOR SCHIMEK: Okay. Let me stop you there for a minute then and ask two follow-up questions. What role does TERC have then? And if it is adjusted upward for purposes...is that for purposes of state aid only, or does that apply across the board for that county when they are figuring levies for, you know, the county and the fire districts, etcetera, etcetera? [LB988]

SENATOR RAIKES: No, for all the other levying, for any levying in the county, the \$920,000 prevails. It's only in the aid formula that the \$10 million is used. [LB988]

SENATOR SCHIMEK: That's what I thought, and that's what I wanted to clarify. [LB988]

SENATOR RAIKES: Yeah. [LB988]

SENATOR SCHIMEK: Okay. And then the role of TERC. [LB988]

SENATOR STUTHMAN: One minute. [LB988]

SENATOR RAIKES: Okay. TERC does statewide equalization once a year. And suppose it was determined that the value in the county--let me back up--it was only \$9 million, the assessed value. But it was also determined that the real actual market value was \$10 million. So they're only assessing at 90 percent of market value. The requirement is, in statute, that it has to be between 92 percent and 100 percent. [LB988]

SENATOR SCHIMEK: Right. [LB988]

SENATOR RAIKES: So in the statewide equalization process, TERC would move the valuation in that county, although it's not typical that they would do it fell swoop for the whole county all types of commercial, residential, everything. But in this case we'll assume that's the case. They would adjust that value to the midpoint of the range. So the \$9 million valuations... [LB988]

SENATOR STUTHMAN: Time. [LB988]

SENATOR SCHIMEK: Thank you. [LB988]

SENATOR STUTHMAN: Thank you, Senator Schimek and Senator Raikes. Mr. Clerk, for an announcement. [LB988]

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CLERK: Mr. President, the Appropriations Committee will have an Executive Session in 2022 at 9:45 this morning; Appropriations at 9:45 in Room 2022. [LB988]

SENATOR STUTHMAN: Thank you, Mr. Clerk. Senator Erdman, you are recognized. [LB988]

SENATOR ERDMAN: I'd yield my time to Senator Schimek, Mr. President. [LB988]

SENATOR STUTHMAN: Senator Schimek, Senator Erdman yields you 4:53. [LB988]

SENATOR SCHIMEK: Thank you. And I will just use a little bit and yield back to him, but I would like Senator Raikes to be able to finish the answer to the questions I asked. [LB988]

SENATOR STUTHMAN: Senator Raikes, would you be able to answer the rest of the questions? [LB988]

SENATOR RAIKES: Probably not. (Laughter) Well, I will finish the example though. In that particular case, TERC as a part of the statewide equalization process would adjust that value to the midpoint of the range, which for commercial and residential is 96 percent--halfway between 92 and 100. So then, I mean, the impact of that presumably would be that the school district, instead of being only able to actually assess against \$9 million would, once that TERC adjustment is made, be able to assess against \$9.6 million. [LB988]

SENATOR SCHIMEK: Thank you, Senator Raikes. That was very helpful. And with that, I would return Senator Erdman's time to him. [LB988]

SENATOR STUTHMAN: Thank you, Senator Schimek and Senator Raikes. Senator Erdman, Senator Schimek returns 3:40. [LB988]

SENATOR ERDMAN: Thank you, Senator Schimek. And you're welcome. A couple observations this morning, and I'll throw an analogy out and I hope that at the end of this process we can explain what happened. But if you look at either the yellow sheet or the blue sheet, and it's kind of like waking up the next morning after a massive storm and you see what happened but you don't know why, and you wonder whether there was a tornado, whether there was a hailstorm, what happened. And I think that's where a lot of people are in my...because I've gone out and tried to figure out what they're thinking and how this plays out. And so I'm appreciative of the explanation. Going beyond that though, there are some things in this division of the amendment that I think are important to understand. For example, giving an extra three cents to Omaha under the levy authority for the learning community, as I read the amendment. And I'm interested in those decisions because those are being done in advance of the actual learning

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community being established. And so I'm understanding from Senator Avery and others that there are some proposed ideas of what it might cost and what needs to be in place. And so I'm interested in how this works. I did jokingly, or somewhat truthfully, when Senator Raikes said that TERC has the responsibility of equalization every year, I said hopefully. Because depending upon the number of appeals that TERC gets, and there's thousands of them this year from Omaha and most of them are residential appeals that the county is not willing to be in that process with them in some mediation form or something, there's a large number there. And depending upon the caseload and the decisions that are made by TERC, it affects those valuations in those counties and potentially in other areas of the state. So Senator Raikes is right. The goal of TERC is to do it annually to make sure we have equalization, and hopefully that happens. They have an enormous task to do. The other side of this conversation goes somewhat in the favor of Senator Kopplin and others, as I understand the formula. We're addressing two sides of this balancing act. There's the needs side which is driven by student attendance, poverty planning, all of these things that are on the needs side, which is in the first division of this amendment. The other side however, the resources side is driven by those valuations. But if you live in a county that has...or you live in a district that has increasing student enrollment, you're getting a higher amount for the needs side because of the formula based per pupil, or however we're going to do this under the bill. So there are some balancing acts and trade-offs in here that have to be recognized. The other thing that has to be pointed out is that in parts of the state, even though there are residential properties that... [LB988]

SENATOR STUTHMAN: One minute. [LB988]

SENATOR ERDMAN: ...are being revalued or the potential of them being revalued, there's going to be the same reality in ag land and it's going to go up. And not only do you have the compounding effect under LB988 of the time in which it's happening, saying that the valuation of residential property is going down in the urban areas, and under the bill, the aid is continuing to go up in my areas where you potentially have valuations going up. You have aid going down as well under this bill and will continue to go down as those valuations continue to go up. So we're getting hit twice. So it's not just simply the perspective of woe is us in urban Nebraska. There's enough of that to go around. We're trying to figure out a process that's fair. If there's more local resources, there should be an expectation that they should be contributed. But we're doing more than that in this bill. Thank you, Mr. President. [LB988]

SENATOR STUTHMAN: Time. Thank you, Senator Erdman. Senator Gay, you are recognized. [LB988]

SENATOR GAY: Thank you, Mr. President. I'm going to go back with Senator Raikes, if he'd yield to a question again? [LB988]

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SENATOR STUTHMAN: Senator Raikes, would you yield to a question from Senator Gay? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR GAY: Thank you, Senator Raikes. I think you did a fine job. I appreciate Senator Schimek bringing this up, and you explaining it. I think you're doing a good job of explaining the hard thing to explain. But back to...what I want to do then, what she's saying then, that the 10 percent, if...so if valuations go down 10 percent, and hopefully they will not, but Senator Erdman is talking about a storm. I'm just trying to...you could predict storms, too, and valuations right now are going...should be going down. What I'm afraid is, here you have a valuation going down, a local assessor is then forced to keep these things artificially high because our budgets are all based on this, not just Lincoln's budget but everyone else's. I've always wondered about this, not just this year but in prior years. What happens if these things ever go down? Because it's great when they're going up. But let's say valuations go down in certain areas. Explain how you can make that up then. Is there a...can you go over your levy limit then to make it up, if valuations go down? Or how does...I guess let's talk about our portion first. I won't give you too many questions. But how does that affect the state if valuations were to go down statewide? [LB988]

SENATOR RAIKES: Actually, Senator, I think you've correctly captured it. If you have a subdivision such as a school district that is funded through an equalization formula, then a reduction in property valuation would be compensated such that the needs number in the equalization formula would be supplied. So they'd be funded at needs. Now if you've got a county government, for example, that at least for the most part is not subject to an equalization formula, then you have the situation that if, say they're at the lid before valuations decreased and they were using all that money wisely and valuations go down, then their budgets...they would either have to have a vote to override the levy or they would have to operate on less money. [LB988]

SENATOR GAY: Okay. So my needs would then stay the same but my local resources, since my valuation went down 10 percent, is...basically, so my needs are the same unless I want to lay teachers off or increase...but I can't go back to the local resources. So my needs are the same, my local resources are down. So state aid then would go up, because we're going to make up the needs, right? [LB988]

SENATOR RAIKES: Exactly. [LB988]

SENATOR GAY: Okay. Point is...and that's what kind of worries me a little bit with the formula. And the more needs we put in or we're participating in, as those resources go down...the one thing maybe, and I'm not saying...we all want to get education. If we had a local resources going down, they're capped at a certain rate that they can levy or they

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can override their local levy, correct? Can you explain what you would do if my needs went down dramatically, I didn't want...and I had certain resources or certain needs I just have to meet. They'd get some state. But is there an opportunity for them to override their local levy and get it from property taxes? [LB988]

SENATOR RAIKES: Two points there, Senator. Yes, there is. They can override both their levy lid and their spending lid with a local vote of the people. But I think the bigger point is that in an equalization formula, it's critically important to correctly specify the financial requirement of the school district in the needs calculation. [LB988]

SENATOR STUTHMAN: One minute. [LB988]

SENATOR RAIKES: Because that would prevent the need for...prevent the requirement for an override vote in order to supply what would generally be considered reasonable expenditures. Now you do have districts, as you know, that as a matter of the community culture or whatever it might be, have decided that they want to spend more and have consistently voted for overrides to do that. And all of that is certainly allowed. And those are instances, by the way, when I think it's clear by definition that the needs calculation has not correctly reflected the desires, the spending desires of that particular school district. That's why we have the override provisions for levy and spending, so that those sorts of districts... [LB988]

SENATOR STUTHMAN: Time. [LB988]

SENATOR RAIKES: Thank you. [LB988]

SENATOR STUTHMAN: Thank you, Senator Gay and Senator Raikes. Senator Howard, you are recognized. [LB988]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I appreciate this information that Senator Gay has handed out to us. I think we've all heard the stories about valuation and home prices dropping. And anybody that's looked at selling a house, there's a house across the street from me, has certainly noticed the decline in the cost of those properties. This brought to mind a bill that I had put in last year that actually was amended into the Revenue bill and adopted by this bill. And that required the reassessment of property...originally required the reassessment of property be done at least every four years. And I was approached by the rural representatives and they requested that that be amended to every six years due to the fact that their "reassessors" often work also on the election, as the election body or on election issues. And so that was amended to be six years. But my contention, and I believe it's...Senator Kopplin spoke to this also, is that in order to be...have this valuation be at least reasonably accurate, it needs to be timely. And continuing with this thought, two years ago when we were riding the crest of high property values, people were assessed

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at a higher valuation. And if those properties have not yet been reassessed possibly at a lower rate, they will continue to pay that higher rate. People are always saying to me, I understand the need for taxes, I'm willing to pay taxes, but I want it to be fair. I think for most of our constituents, that's the key--property assessment taxation needs to be fair and based on accurate information. If valuation cannot be done on a timely basis due to staff shortages, we're all going to pay more. We're all going to end up paying in the long run. Having adequate--and I call it person power rather than manpower--saves money in the long run and we really need to look at this aspect of this. Residential property values appear to be going down clearly. Is this a time that we need to get more serious about looking at business properties and other aspects of assessment? I offer the remainder of my time to Senator Gay so he can continue his conversation with Senator Raikes. [LB988]

SENATOR STUTHMAN: Senator Raikes, Senator Howard has yielded you 2:10. Senator Gay, you are recognized. [LB988]

SENATOR GAY: Thank you, Senator Stuthman. Thank you, Senator Howard. Senator Howard makes a good point. It is very hard to keep these values in line year to year. There's going to be a lot of protests coming, not just to Douglas County, I assume, but statewide as people are looking at, hey, homes aren't selling. And maybe...I don't know, I shouldn't be saying that because I don't know, but I do know Douglas County is already preparing for a lot of protests, I assume. Sarpy County is, too. I know Sarpy County is because I've talked to a few people there. But Senator Raikes brought up the fact Westside Community Schools is one that's really done a good job of providing great education and they've chosen to override their levy limit several times. And you can see on the chart here how that's working out for them. But I guess as we look at this, I just want to make sure that we all understand this. And we're having a good discussion, I think, and many want to learn about this process. I think, if anything, we're going to get that out. And I appreciate Senator Raikes answering all these questions because things do change. And as the formula changes... [LB988]

SENATOR STUTHMAN: One minute. [LB988]

SENATOR GAY: ...we need to understand that when he's not here, or at least try to understand what we're doing. I still think there's, you know, some things I don't understand and he's doing a good job explaining that. But on the needs, when we put the needs in there and we're asking people to do more, whether it's poverty, do this with poverty, do that, we're telling them...we're creating needs for them that weren't there before. And that's not...it's a good goal and it's a good thing. I'm just saying, let's be paying attention to what we're doing. We're putting needs in there and needs minus resources--and then their local resources are going down--equals state aid. So we're going to be paying for that at some point, or property taxpayers will be, unless we take needs away. And I don't want to get into a situation down the road two or three years

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when we have a bad budget. And I don't know if the budget is that bad this year. Let's face, we've got a cash reserve, we got other things. [LB988]

SENATOR STUTHMAN: Senator Gay, you may continue on your own time, and this is your third time. [LB988]

SENATOR GAY: Thank you, Senator Stuthman. So as these things are changing, we just need to be aware of it. The things we do today are going to be implemented down the road. And they are good programs, they're great programs. But at some point I don't want to have to be the one pulling the rug out from under them, saying you know, by the way in 2007-08 we implemented these plans, or at '06 or whatever it was, but we just don't have the money now. And then they're at home with good programs, good teachers, the whole thing. And then we're then going back and it ultimately goes back to the property taxpayer, I think, because we won't have the money to be doing some of these things. And maybe we will. I don't want to be gloom and doom on the economy and our budget and we're looking...if you look at the budget, I think there's some different variables there of our growth rate projection and our spending rate projections. If you change those just a little bit, the budget picture changes, the way I understand it. So there's a lot of moving parts to this thing. I just want to make sure we understand them. One thing on the levy...and like I say, on the levy limits I'm still a little bit...and I think Senator Raikes actually has done a good job to correct some of this, as some counties are doing exactly what they're supposed to be doing up around 100 percent. I don't think you can be at 100 percent because valuations are constantly changing. But as they're up around that 98 to 100 percent, and then we have somebody who is down around the 92 percent, we don't want to encourage, obviously...it's politically best, sure, if you're assessor is saying oh, yeah, I'll keep you at the low end and we'll go get the state money because that's free money. You know, when you're doing government budgeting, any money that you're not actually assessing is free money. So when we look at federal money, that's not our money. So as we look at that, I think Senator Raikes is making some good changes here, I don't...the ones I am understanding. If Senator Raikes would yield to a question, please. [LB988]

SENATOR STUTHMAN: Senator Raikes, would you yield to a question from Senator Gay? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR GAY: Senator Raikes, if the state wanted to change our budget scenario for the better, let's say, could we then...would we go take this 96 percent and would we move it up the scale to 98 then to make up our differences in the budget? If we were at 96 percent, would we go to 98? What would benefit us, I guess, would be the... [LB988]

SENATOR RAIKES: Okay. I mean, if you consider these pieces on the chess board that

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you can move around, if you move the level of valuation upward, then you're charging school districts more. So resources become higher; if needs are the same, state aid becomes less. If you moved valuation levels the opposite direction, then the opposite would result. But the other factor in here, which is important, is what you do with the local effort rate. And every increase of the local effort rate, a penny increase amounts to \$10 million or \$12 million impact in terms of total state funding of school districts. So for example, if you move the local effort rate from 95 cents to \$1, which is what we're proposing here, that amounts to...that, if you did nothing else, would reduce the state obligation by about \$55 million or \$56 million. [LB988]

SENATOR GAY: Okay. So the point, and that's what I was saying yesterday, there's points. We move these things around and we're benefiting our own budget, and that's, I guess, that's the rules of the game. There's nothing wrong with that. I'm just saying, when we do that... [LB988]

SENATOR STUTHMAN: One minute. [LB988]

SENATOR GAY: ...there's consequences on the other end and it's the schools or whoever we were providing aid to. So on all these aid formulas...and you were right, Senator Raikes. At a certain point we had talked about this. There's a certain point where we provide so much aid and that's what we do. We're just trying to make the best of it and we have differences on how to do that, or the formulas. So I agree. The more we become their partner, the more everything we do here is very dependent on the property taxes. And we always want to say, well, we don't control property tax rates. And I believe we shouldn't because that's a local government control. But in school funding, it definitely is that. When we change these figures around just to benefit our needs, it ultimately is going to affect local property taxpayers. I just want the schools to be able to have some flexibility in there. And I think you give them some. And what you're saying is a public vote to override a levy limit... [LB988]

SENATOR STUTHMAN: Time. Thank you, Senator Gay and Senator Raikes. (Visitors introduced.) Seeing no other lights, Senator Raikes, you are recognized to close on AM2404. [LB988]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. Again, this is the amendment to this division which would make the target for the adjustment--I'll put it that way--96 percent. We would continue having the local effort rate at \$1. I guess I would just say if this is a bad idea it's mine; if it's a good idea it's Cathy Lang's idea because she was one who suggested that this was an appropriate approach. I agree with her; I think it is a good approach. It is more consistent with what we are now doing than what was proposed in the green copy. So I think this is a good change and I urge your support. Thank you. [LB988]

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SENATOR STUTHMAN: Thank you, Senator Raikes. You have heard the closing on the amendment. The question before the body is, shall the amendment to the committee amendment be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB988]

CLERK: 27 ayes, 0 nays, Mr. President, on the adoption of Senator Raikes's amendment to the committee amendments. [LB988]

SENATOR STUTHMAN: The amendment is adopted. Mr. Clerk, for another amendment. [LB988]

CLERK: Senator Kopplin would move to amend. Senator, I have AM2423 in front of me. (Legislative Journal page 1012.) [LB988]

SENATOR STUTHMAN: Senator Kopplin, you are recognized to open on your amendment. [LB988]

SENATOR KOPPLIN: Thank you, Mr. President, colleagues. After visiting with a number of school districts in our discussions yesterday, I decided to go ahead with this amendment. Quite simply what this amendment does is say we're going to phase in the move to \$1, from 95 cents of local effort rate to \$1. We do it over a three-year period. Now here's the hang-up on it. One of the reasons that we need to--I don't know whether I should say need--we want to move from 95 cents to \$1 is so that we can reduce the amount of state aid that the state is going to owe. My amendment won't do that. And I got to thinking about that. When we look at why was state aid so high this year, we've heard a number of theories. One is some valuations went done, some were school districts were paying more, and some that we might have asked schools to do more. I contend that that's exactly what we did. Over the past two years, how many times when we were discussing proposals wasn't the comment made, but we're voting on something we don't know how much it costs? Now we know--poverty allowance, which I do not disagree with by the way, \$63 million; class size allowance, \$63 million; teacher education, which Senator Wightman discussed yesterday and I had the feeling what he was saying is we really don't need to do that. But that's tied to the poverty programs, too, because we need really great, well-educated teachers in our school. But that's \$34 million. We voted on all these things and said we want to do this. We're going to attack poverty, we're going to attack the achievement gap, we're going to attack problems of dropouts, we're going to make schools and our communities a better place. But then we're saying, yeah, but we really don't want to pay for it. So we're going to figure out a way that we have to reduce our state aid by \$58 million to make our budget balance. Well, how do you do that? You go back to your local entities. They can raise taxes or they can not spend some money or whatever they want to do. But it doesn't change the fact that we asked them and actually put in law we need to do these things. If we need to do these things, we need to pay for them. So I guess I'm not so concerned anymore

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about that minus \$58 million. If we have to use reserve, then do it. I appreciate Senator Heidemann and all the work he has done. He's done a very good job of putting things together and putting it in perspective for us. I appreciate the job the Appropriations Committee has done. But I'm going to tell you, as individual members, you voted for these things. You voted yes, we want to correct poverty, we want to correct problems in our schools, we want to correct the achievement gap. Well, then we should pay for it. And I'm saying, okay, let's phase in to that \$1 over a three-year period. That means the first year we don't have the money to balance this budget, but we do have the programs. Thank you. [LB988]

SENATOR STUTHMAN: Thank you, Senator Kopplin. You have heard the opening on AM2423. Senator Adams, you are recognized. [LB988]

SENATOR ADAMS: Thank you, Mr. President, members of the body. Thank you, Senator Kopplin, for introducing this amendment. In the process of leading up to this debate on this bill, I'm going to tell you, body, at the outset for whatever it may be worth to you that as a member of the Education Committee we have spent hours going over each one of these portions of the bill, talking about them, trying to determine the impact, trying to determine if it's good policy. And I believe most of what is in LB988 is good policy. Simplifying as best I can with my simple way of looking at things, we're constantly trying to get as accurate a picture as possible of what it takes, what it costs to educate a kid in Nebraska. And a lot of what LB988 does is to do that. It gets at the needs side and it tries to clarify even further by cutting some things out and to clarify even further the true cost of educating a kid. Now we come to the other side, the needs side...or excuse me, the resources side and the ability of a school district to pay for it. You know, maybe if we hadn't heard that budget forecast, maybe we wouldn't be under some of the stress that we feel right now. As I've talked to superintendents in my school district and outside, I would tell you almost to a person, most of them understand the changes in LB988 and, in principle and in philosophy, agree with the changes in LB988. But now we open the spreadsheet and look at the impact and all of a sudden some of the bets are off. And you know what the number one comment that has been made to me is? I understand the changes, I can agree with the changes, but why is it that education always has to take the hit? Now my answer, whether it's accurate or not, my answer has been: I say, well, number one, it's probably the largest part of the budget; number two, when you look at the financial status sheet that we all have and you look at all the line-items of appropriations and you see 2.5 percent and 3.2 percent and 4.7 percent and then all of a sudden you look at education and TEEOSA and it's 17 percent. It draws attention. The question is, well, why can't we spread this \$50 million cut out over more portions of the budget? I wonder about that, too. A simplistic view of it is, well, we could take \$1 million out of 50 different things or we can take \$50 million out of one thing, one thing that's showing a 17 percent increase, one thing that makes up such a big portion of the budget. It's the easiest thing to do and get it over with. And we already know in those other 50 places in the budget what we have done. And we've cut

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private providers and a whole lot of others pretty thin. So we're not real anxious to dig back into this, but here we are. So we go to the local effort rate. That's what Senator Kopplin's amendment is about. And we raise it from 95 cents to \$1. Now in its simplest means, what that says is, and I think you all know this, is that now when we calculate state aid, hey districts, we're saying that there's a nickel in there, a nickel more... [LB988]

SENATOR STUTHMAN: One minute. [LB988]

SENATOR ADAMS: ...that you ought to be able to come up with on your own. You ought to be able to do that. In principle, I like what Senator Kopplin is talking about because it's a phasing in of that effort on the part of local school districts. And I know I have but only seconds left, but I'd ask that Senator Raikes yield to a question, if he would. [LB988]

SENATOR STUTHMAN: Senator Raikes, would you yield to a question from Senator Adams? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR ADAMS: Senator Raikes, I think I already know the answer, but for the record, in the few seconds that you have, why did we go from 95 to \$1 on the local effort rate? [LB988]

SENATOR RAIKES: Senator, I think you've addressed it very effectively. It corresponds with a change in the level of valuation we include in the formula. As you mentioned, higher valuations, less state aid. The two changes we made are corresponding or offsetting... [LB988]

SENATOR STUTHMAN: Time. Thank you, Senator Adams. Senator Raikes, you may continue and you're recognized. [LB988]

SENATOR RAIKES: Thank you, Mr. President and members. I very much appreciate Senator Adams' comments and the issues he raises because certainly it is a topic among folks in education, public education, K-12 education in particular. The question he raised, why is K-12 being looked to, to carry the whole burden here? You know, and I think he also addressed. The long-term best interests of K-12 education in the state is served by a financial arrangement, a formula that is sustainable over time. That's what we're aiming for. And if you're going to come up with a sustainable formula--a financially, fiscally sustainable formula--the best time to start is sooner rather than later. And really, that's what LB988, as amended, would do. And you know, I also appreciate his comments about the components of LB988. But I also credit Senator Kopplin with his discussion of these important issues. He's exactly right, that valuation, the way

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valuation is considered in the formula, the way it's considered from the viewpoint of a school district as to what they can assess and what levy rates they can use are all critically important issues. They have a great impact. I will tell you that even though I appreciate his bringing the issue on this particular amendment, I won't support it because it is certainly not balanced in terms of its fiscal impact. Changing the local effort rate in the manner he suggests would greatly impact the amount of state aid to districts. You could make it financially sustainable if, instead of going from 100 to 96 percent valuation and from 95 cents local effort rate to \$1, you drop the local effort rate...or excuse me, you raise the local effort rate a penny at a time, or in the manner he proposes, and at the same time drop the level of valuation from 100 percent to 99 to 98 and like that. My thought is, it's...given the total fiscal impact and the fact that it is balanced, it's much better to do it in a single straight shot, one-time effort from here forward than it is to deal with a constant group of changes over time. So even though I appreciate him bringing the issue, I don't support this amendment. I think that we should stick with 96 percent valuation and a \$1 local effort rate. Thank you. [LB988]

SENATOR STUTHMAN: Thank you, Senator Raikes. Senator Gay, you are recognized. [LB988]

SENATOR GAY: Thank you, Mr. President. I just wanted to say I was listening to Senator Adams and I wanted to say earlier, we had a conversation, if I can say this. I talked to Senator Adams and I appreciate where he's coming from, and Senator Raikes as well. We just have a disagreement on how we're getting there. But he just made a very good point. This is...it is what it is. We're shifting some of this to the local. He understands that. The one thing, when I heard him say that and yesterday, you know, when he goes to his Fourth of July parade in Seward, it probably won't be very much fun, I wouldn't think. At least he understands what he's doing here and he's making some tough decisions that maybe don't affect his district. But I did want to put that on the record. I admire what he's trying to do. I know he thinks it's the right thing and moving forward. And what I'm discussing is what I believe is the right thing. Long term, we need to be accountable for the decisions we're making here and that's what he's saying, I think. I don't want to paraphrase. But we made these decisions and we made them last year and prior...and some we weren't even here. But as we continue to add these needs--which we add, and we're telling these districts do this, do that, you're going to take care of poverty, you're going to do all these good things and they are very good things. I don't think anyone wants to argue that. It's how we do that though. I think there's just differences in how we do that and how it's going to be paid for. So as we look at this, Senator Kopplin brings up a very good point. I just voted for the last amendment because that's probably the way to go. I was looking at that. I probably, now hearing Senator Kopplin's amendment, probably wish I wouldn't have done that because Senator Kopplin is making the point, listen, we told these people, these districts we're going to do it one way, we've changed it on them, this is a fair way to ease the pain, I guess, is what this could do. So it has some merit and there's just

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different views on how to do this. But last two speakers, I wasn't going to talk much on this issue, but the last two speakers, I just want to say I think they're trying to get to the right thing, find the right solution. We're just disagreeing on how we get there. And I do appreciate people looking for solutions here because I do think we are balancing our budgets a little bit on decisions we've made in the past. And now we're saying well, gee, you know what, it's a good decision but let's let the local people implement it. And I'm not so sure we're quite giving them the dollars. If we're going to make those decisions, should we back up the money to implement those decisions? So you know, it's a complicated issue again. I can't say that enough. But I did want to say that, like I said, Senator Adams had a discussion earlier even before this all started. And I told him, I go, you know, I don't like being in an adversarial position all the time. I respect what he's doing, I respect what Senator Raikes is doing. We have differences of opinions. But he's hit the nail on the head there. What we're doing here is costing local governments. We're shifting what we're doing. And Senator Kopplin is looking for solutions here, so I'm interested in hearing more about how this might work. Thank you, Mr. President.
[LB988]

SENATOR STUTHMAN: Thank you, Senator Gay. Senator Dubas, you are recognized.
[LB988]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I can't think of how many times we have heard on this floor property taxes are a local issue. And we know that, they are a local issue. They're assessed at the local level, they're collected at the local level, and they're spent at the local level. But now we're talking about state aid to education, and I do emphasize that word "state." And what I'm seeing us doing right now is putting additional burdens on property taxpayers without putting our money where our mouth is. I truly do understand what we need to do with state aid education. I look at those numbers. And as Senator Adams said, my superintendents look at those numbers. We recognize where we're going and it's not in a good direction and we've got to find some positive solutions to this issue. But I also agree with Senator Kopplin, that we put more demands on our schools. We're asking them to do more and more with less and less. We're expecting them to assess their students. We're expecting them to have successful assessments with their students. We're wanting them to raise the bar and meet those expectations. But yet we aren't giving them the resources that they need to make those things happen. At this point in time, I do support Senator Kopplin's amendment, but I struggle to know whether I should support LB988. I recognize, again, I recognize the tough position we're placing ourselves in. But we're also placing our school districts in a very tough position. You know, these administrators are well down the road to establishing their budgets for the following year. You know, I'm receiving e-mails from teachers and administrators who are wondering, do I need to send out RIF notices? You know, I've got to position myself to do the things I need to do to make my budget work. There's nothing that spreads panic more through a school building than those three little letters, R-I-F. You know, how do we expect our teachers to do their

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work with that threat, possible threat hanging over their heads? I see LB988 as something that rural school districts especially are going to have a problem dealing with. We've made adjustments that have taken the concerns of especially the Lincoln school districts off the table. You know, they had real concerns when those first printouts came out and saw the numbers and the numbers didn't look favorable to them. And we've made adjustments to try to accommodate their concerns, but my rural school districts have some real concerns, too. I do appreciate this debate and it's an important one, that we have this discussion and we raise these issues. I have concerns with the time line of the debate. We're making extremely important decisions in the waning days of our 60-day session. And while it's very hard for any of us to know the outcome of any of our decisions on any of the issues that we talk about on the floor, this one has very serious and long-reaching ramifications. It's our constitutional obligation to provide a public education for the children of our state. I don't feel it's appropriate for us to try to balance our budget on the backs of those children. Thank you, Mr. President. [LB988]

SENATOR STUTHMAN: Thank you, Senator Dubas. Seeing no other lights, Senator Kopplin, you are recognized to close on your amendment to the committee amendments. [LB988]

SENATOR KOPPLIN: Thank you, Mr. President. I do happen to agree with Senator Raikes that we need a sustainable outlook or program on state aid. And certainly what is proposed does that. But it does reduce our obligations. The other way that we can have a sustainable state aid program is to stop asking people to do more. That's not right either, but that would work; saying okay, we've reached the amount of money that we're going to put in state aid, we've also reached the amount of asking we're going to make of you. I suppose in the sense of time I ought to remove this amendment. But you know what? I'm in a cantankerous mood. I'm not going to. Let's vote on it. Thank you, Mr. President. [LB988]

SENATOR STUTHMAN: Thank you, Senator Kopplin. You have heard the closing on the amendment. The question before the body is, shall the amendment to the committee amendment to LB988 of the Education Committee be adopted? All those in favor vote aye; all those opposed vote nay. Senator Kopplin, for what reason do you rise? [LB988]

SENATOR KOPPLIN: Because I've never done this before, let's have a call of the house. (Laughter) [LB988]

SENATOR STUTHMAN: Senator Kopplin requests a call of the house. All those in favor of the house going under call vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB988]

CLERK: 27 ayes, 1 nay, Mr. President, to place the house under call. [LB988]

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SENATOR STUTHMAN: The house is under call. All members please return to the Chamber. Unauthorized persons please leave the floor. All senators please check in. Senator Schimek, would you please check in. Senator Rogert, please check in. Senators Cornett, Lathrop, and Friend, will you please come to the floor and check in. All members are present or accounted for. Senator Kopplin, how would you wish to proceed with the vote? [LB988]

SENATOR KOPPLIN: Roll call vote in regular order, please. [LB988]

SENATOR STUTHMAN: A roll call vote in regular order. Mr. Clerk. [LB988]

CLERK: (Roll call vote taken, Legislative Journal page 1016.) 10 ayes, 22 nays, Mr. President, on the amendment. [LB988]

SENATOR STUTHMAN: The amendment is not adopted. I raise the call. Mr. Clerk, the next amendment? [LB988]

CLERK: Mr. President, Senator Kopplin, I have AM2425, but I have a note you want to withdraw, Senator. At this time, Mr. President, I have nothing further pending to AM2369. [LB988]

SENATOR STUTHMAN: We're back to debate on this component of the committee amendments. Seeing no lights, Senator Raikes, you're recognized to close. [LB988]

SENATOR RAIKES: Thank you, Mr. President, members. With the amendment, this division would change our procedure for adjusted valuation to adjust the valuation to 96 percent. The local effort rate would remain at \$1. The net fiscal impact of this is something on the order of \$10 million. And actually, that's a reduction of \$10 million in state aid. So with that, I appreciate the discussion and urge your support. Thank you. [LB988]

SENATOR STUTHMAN: Thank you, Senator Raikes. You have heard the closing on AM2369 to the committee amendments. All those in favor vote aye; and all opposed vote nay. Mr. Clerk, record. [LB988]

CLERK: 33 ayes, 5 nays, Mr. President, on the adoption of the third component of the committee amendments. [LB988]

SENATOR STUTHMAN: The third component of the committee amendment passes. Mr. Clerk. [LB988]

CLERK: Mr. President, the next component is AM2371. (Legislative Journal page 993.)

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[LB988]

SENATOR STUTHMAN: Senator Raikes, you are recognized to open on the committee amendment. [LB988]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. This division of the amendment deals with another important issue, certainly, for school districts and for that matter, for all concerned, including the funders, both local and at the state level. It deals with budget or spending authority. A significant change that's being made here is to base budget authority on the needs calculation. A little bit of history, if I might. Over the years there have kind of been separate but somewhat related tracks. The needs calculation, so to speak, goes on over here; the budget or spending lid calculation goes over here. There is a connection between the two. The basic allowable growth rate would be one of those connections, because that basic allowable growth rate, which is a part of the budgeting calculation, is also used in the needs calculation. But nonetheless, with the arrangement that we've had in place, we can and have ended up in a situation where you have a school district, for example, that has a needs calculation that they do not have the budget authority to fulfill. So for example, the needs calculation says to you, as a school district, you need to spend, say, \$10 million in order to serve the needs of your district, but your budget lid, as it currently stands, is at \$9 million or \$9.5 million. So you end up potentially with discrepancies that are somewhat nonsensical in terms of consistent state policy. To make the budget lid depend directly on the needs calculation, I think you can see, avoids that difficulty. Why might you encounter that difficulty in the first place? Well, to remind you a little bit, and I think you'll recognize this, currently there is a basic 2.5 percent allowable growth rate that political subdivisions have. In addition, with a super majority vote of the governing board, they can add 1 percent to that increase in budget authority. So that instead of 2.5 percent, they could go to 3.5 percent, and at least in the case of school districts, you have an applicable allowable growth rate, which is another adjustment allowing low-spending subdivisions, school districts, to increase their budget authority a little bit more than, say, high-spending ones. But say you have a situation where you have a governing board that decides not to exercise their additional 1 percent and at the same time, say, the student body that's being served is growing rapidly or changing in its demographic mix, or whatever the case might be, such that you end up in a situation where that school district cannot...doesn't have the spending authority to meet the needs calculated in the aid formula. So again, this is a significant change, because this is something that we have not done before, but I think it's a very sensible one, and I hope I can convince you of that. There's some other changes that come along with this. In the green copy of the bill, we simply had the 120 percent of calculated needs for budget authority, and the current mechanism just went away. In the committee amendment we actually soften that, so that for a transition period--actually, quite a long transition--school districts can either use the current arrangement for determining budget authority or the 120 percent of needs. There is specific language in

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here that would eliminate a budget exception for interlocal agreements, and that requires probably a little bit of explanation on my part. Currently, there is spending lid exception allowed with the formation of an interlocal. There is no intent here to discourage in any fashion interlocal agreements. I think they're a very useful organizational structure. They permit subdivisions, school districts, to take advantage of joint action, economies of size, or whatever it might be, and they ought to be encouraged on that basis. They should not, in my opinion, be encouraged as a technique to get around a spending lid, and if you've got a situation where the real problem is not enough spending authority and you force, in effect, or force...maybe not force but provide an option to get an additional spending authority by forming an interlocal, which may have little other purpose than to increase spending authority, I think that is roundabout, not direct, and something that we shouldn't do. So certainly there is no intent to discourage interlocal agreements. I think it's a good idea, but the additional budget authority that goes with the creation of interlocal agreements would go away with that. There are also some other exceptions to the budget lids that would end along with the additional budget authority to interlocal agreements, but the thought here is that the approach of making the spending lid equal to 100 percent of needs will cover the situations where that becomes a problem. I'll remind you that certain expenditures of school districts are not subject to budget lids and one of those, probably the main category of that, are expenditures for special education. They remain outside any budget lid. But that is the essence of the change. We're changing the method by which school districts can calculate a spending lid, and I'd be happy to answer questions you may have. Thank you. [LB988]

SENATOR ERDMAN PRESIDING [LB988]

SENATOR ERDMAN: Thank you, Senator Raikes. Members, you've heard the opening on AM2371, the fourth division of the committee amendment to LB988. (Visitors introduced.) Senator Fischer, you're recognized to speak, followed by Senator Adams. [LB988]

SENATOR FISCHER: Thank you, Mr. President and members. Mr. President, would Senator Raikes yield to some questions? [LB988]

SENATOR ERDMAN: Senator Raikes, would you yield to questions from Senator Fischer? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR FISCHER: Senator Raikes, I see that there is a section in the bill--I believe it's Section 47--that deals with the Class I budgets, if we could turn to that. [LB988]

SENATOR RAIKES: (Inaudible), Senator. [LB988]

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SENATOR FISCHER: Section 47 in the bill. [LB988]

SENATOR RAIKES: Okay. Please go ahead. [LB988]

SENATOR FISCHER: I would try...I am trying to turn to here. [LB988]

SENATOR RAIKES: Section 47. [LB988]

SENATOR FISCHER: It deals with the Class I budgets. [LB988]

SENATOR RAIKES: Okay. [LB988]

SENATOR FISCHER: I realize that there's just very little changes there that deal with that. Basically those are just technical changes; is that correct, to statute? [LB988]

SENATOR RAIKES: I'm sorry. I didn't quite hear you. Repeat that, please, Senator. [LB988]

SENATOR FISCHER: Senator Raikes, that's a compliment. I have three sons. Everybody always hears me. (Laughter) In Section 47, there's just some minor changes. I would assume that that's just clean-up language, since we no longer have the Class I districts. [LB988]

SENATOR RAIKES: You are correct, Senator, although as I'm sure you know, that it is possible in statute to create a Class I school district. For example, if a K-12 district decided to give up their high school grades, they could become a Class I district, but yes, you're right. That's simply clean-up language. [LB988]

SENATOR FISCHER: Under Section 43 on the budget override, I know you went through that a little bit, but I do notice that there might be some need for some clean-up language in that section, on 43, basically because the different classes of schools are listed still in this bill, and we no longer have Class VI districts, as you know. Is that still in statute here, because there is a possibility that a Class VI district can reform under current law? [LB988]

SENATOR RAIKES: That is my belief, Senator, but I can check that out for you. I think that is the case. [LB988]

SENATOR FISCHER: When districts override, where they have that budget override authority, could you get into a little more detail on how that happens? I know in many cases it's difficult for districts who are up against the wall with the levy and still meet obligations to the students in those districts, sometimes they have tremendous difficulty

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in explaining that to their constituents. Could you maybe just outline the process here, to educate the members on how that budget override works? [LB988]

SENATOR RAIKES: Well, you're right, Senator. Depending on the situation a district may face, they may face either a resource shortage or a spending limitation shortfall to address needs that they perceive. So through an override, they could pursue those. Really, they could do just a levy override without seeking additional budget authority, they could do just a budget lid override without seeking additional levy authority, or they could do a combination of the two. I can remember at least...there have been several instances, of course, when there's been requests to the voters for additional levy authority. I remember one instance where there was a request to the voters in a local school district... [LB988]

SENATOR ERDMAN: One minute. [LB988]

SENATOR RAIKES: ...to increase both levy and budget authority. I don't know that I remember one where there was just simply a budget authority one. I'm getting a signal that maybe there is one, yeah. So all three of those have been pursued. [LB988]

SENATOR FISCHER: Thank you. I will hit my light again, Senator Raikes, but I have a concern, then, under Section 40. I think you clarified the other sections for me. But under Section 40, where the department is going to certify the district for the General Fund budget of expenditures, I would like to ask you next time on how that interacts then, or if it does, with state aid. [LB988]

SENATOR RAIKES: Okay. [LB988]

SENATOR FISCHER: With that, thank you, Mr. President. [LB988]

SENATOR ERDMAN: Thank you, Senator Fischer and Senator Raikes. (Visitors introduced.) Senator Adams, you're recognized. [LB988]

SENATOR ADAMS: Thank you, Mr. President. Senator Raikes, would you be willing to yield to a question, please? [LB988]

SENATOR ERDMAN: Senator Raikes, would you yield to a question from Senator Adams? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR ADAMS: Senator Raikes, as we developed this portion of LB988 in the Education Committee, I understand why we arrived at the point we did with interlocal agreements. We heard some testimony that in my personal opinion, about how

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interlocal agreements were being used, that shed a pretty negative light. On the other side of it, we do know that there are interlocal agreements out there the school districts have entered into that really have had value, in terms of the real intent of interlocal agreements. Would you agree to that? [LB988]

SENATOR RAIKES: I would. I think there are several examples of that. [LB988]

SENATOR ADAMS: Then along that same line of questioning, the next question I'd ask, then, and I know you already stated this in the introduction to this division--we're not suspending interlocal agreements in this language, are we? [LB988]

SENATOR RAIKES: Absolutely not. There is no restriction here on a school district entering an interlocal agreement with another school district, an ESU, or another entity they might choose. [LB988]

SENATOR ADAMS: Then one other question, and then I'll yield the rest of my time to you, to answer or to continue on with other. When you arrived at the 120 percent, I'm...would it be correct to say that in doing that you were looking at the fact that there are school districts out there with interlocal agreements that are effective, and we were trying to build into that budget authority the ability to continue to use some of that budget authority that's been gained by legitimate interlocal agreements? And I'd yield the rest of my time to Senator Raikes. [LB988]

SENATOR RAIKES: That's exactly right, Senator. I'm glad you brought that up, and I would say legitimate or otherwise interlocal agreements, not to say that they weren't all legitimate. But what you find...and it's a bit ironic, in the discussions you find from folks from school districts involved in interlocals. It might be, for example, well, we're involved in an interlocal whereby we join with some other school districts and we're able to buy, say, natural gas cheaper. We saved 10 percent on our gas bill by doing that. And then you get, the second part of the argument is, well, we need additional spending authority in order to join an interlocal which is going to save us money. So the two kind of don't go together. Certainly the interlocal that allows school districts to more efficiently purchase or provide services or whatever it might be ought to be absolutely encouraged. It's not clear why additional budget authority ought to go with that. But I think, Senator Adams, as you know, the difficulty came when you had some school districts in a situation where they simply didn't have enough budget authority to do what they needed to do, and so really their recourse, or the recourse they chose, was to form--allegedly--form interlocals strictly for the purpose or maybe mainly for the purpose, of getting additional budget authority. I think the appropriate policy analysis of that is that if in fact the school district cannot address the concerns,... [LB988]

SENATOR ERDMAN: One minute. [LB988]

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SENATOR RAIKES: ...or address the students that they need to serve with the budget authority they have, you should not force them, sort of, underground, so to speak, to go out and create interlocals just so they can get the budget authority they really ought to have, as indicated by the needs calculation in the aid formula. So I think that's really what pushed us down this track. What we're interested in doing as a matter of good state policy is assuring that those school districts have the spending authority to spend their needs to serve the students they're supposed to serve. That's the reason for tying budget authority or spending lid to the needs calculation, which is done here. Thank you. [LB988]

SENATOR ERDMAN: Thank you, Senator Raikes and Senator Adams. Senator Carlson, you're recognized. [LB988]

SENATOR CARLSON: Mr. President and members of the Legislature, in listening to the discussion this morning a couple of things come to mind on remarks made by Senator Dubas, where she talked about that over the years, we're requiring more and more from our school districts. We vote and we did last year and we have in the past for what our public schools have to do, responsibilities that we give them, and we make these votes without really knowing what future costs are going to be. Senator Heidemann certainly referred to that yesterday in his discussion. Now we've become squeamish about the budget; 17.1 percent, if that's what the initial budget was going to be increased. It's tough. Regardless of what I feel about education, 17.1 percent is unacceptable. So now we have some new figures that we started debating on yesterday for LB988. And reflecting on what Senator Dubas said, I look across the yellow sheet here, and just some items that school districts are responsible to take care of, regardless of funding--some of these are funded, some of them may not be--transportation, particularly in sparse areas; poverty allowance--I'm learning more about that in the discussion we had yesterday, and I'm not opposed to poverty allowance; certainly would like to see it in the counties that really demonstrate a great degree of poverty; legislation concerning class size--class size determines cost; allowance for teacher education and wanting to encourage that. And all these things are good, and we're requiring districts to address these issues and then find it difficult to fully fund them. And so I refer back to my district, District 38. We've got four schools that are in trouble as a result of LB988--all small schools. Franklin, down \$136,000; Superior, down \$297,000; South Central Unified district, down \$390,000; Red Cloud, down \$230,000. I'd like to address a question to Senator Raikes, if I could. [LB988]

SENATOR ERDMAN: Senator Raikes, would you yield to questions from Senator Carlson? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR CARLSON: Senator Raikes, I think--you correct me if I'm wrong--but in

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discussing these particular districts with you, you indicated that they were probably overfunded in the past; is that true? [LB988]

SENATOR RAIKES: Which districts, now, are you talking about, Senator? [LB988]

SENATOR CARLSON: Franklin, Superior, South Central Unified, and Red Cloud, and you were discussing the needs factor with me and so forth, and you said we probably--I think, if I heard you right--you said we probably overfunded them in the past. [LB988]

SENATOR RAIKES: Well, certainly a statement or description that any district is being overfunded is certainly going to be challenged. I doubt if there's any district that is going to say, look, we don't...we get too much state aid. We ought to get less. What we...you know, what you might do, though, is look at it from the perspective of the state and say something like, all right, this particular district is spending at a rate of...or has needs, not spending, but needs, at a rate of \$14,000 per student,... [LB988]

SENATOR ERDMAN: One minute. [LB988]

SENATOR RAIKES: ...where the average in the state, say, is \$8,500 or \$9,000 or some such number. Okay, that district has needs of \$14,000 per student, and their levy is 92 cents. Well, you might conclude that that district is having some difficulty finding ways that they need to use additional money, given their levy rate and so on. So you might attach the label of overfunded in that sort of a context, but I would almost guess, if you went and talked to an individual district, they would dispute the characterization of overfunded. [LB988]

SENATOR CARLSON: I would agree with you, and even if it is overfunding, whose fault is it? I don't really believe it's theirs. [LB988]

SENATOR ERDMAN: Time. [LB988]

SENATOR CARLSON: Thank you. [LB988]

SENATOR ERDMAN: Thank you, Senator Carlson and Senator Raikes. Senator Raikes, you're recognized to close on AM2371. [LB988]

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. Again, I appreciate the discussion. This does change the way we calculate budget authority for school districts. It ties budget authority to needs. It eliminates budget authority for interlocal agreements, although it in no way inhibits school districts from entering interlocal agreements. Those are the significant changes. I believe they are good policy advancements, so again, I ask your support. Thank you. [LB988]

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SENATOR ERDMAN: Members, you've heard the closing on the fourth division of the committee amendment, AM2371. The question before the body is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all members voted who choose to? Record please, Mr. Clerk. [LB988]

CLERK: 28 ayes, 2 nays, Mr. President, on adoption of the fourth component of the committee amendments. [LB988]

SENATOR ERDMAN: The committee amendment is adopted. Mr. Clerk, next motion. [LB988]

CLERK: Mr. President, the fifth and final component of the committee amendments, AM2402. (Legislative Journal page 993.) [LB988]

SENATOR ERDMAN: Senator Raikes, as Chair of the Education Committee, you're recognized to open on the fifth division of the Education Committee amendment, AM2402. Senator Raikes, you're recognized to open. [LB988]

SENATOR RAIKES: Thank you, Mr. President and members. This last division deals with a couple of different things. On the sheet that you received, division sheet, it's recertification and a section entitled, "Miscellaneous," which includes some things about option students, a class size requirement, and annual reports--financial reports--for ESUs. Concerning the recertification, which I think is the significant part of this, this was a part, as I mentioned earlier, of the committee amendment. When the green copy was introduced, we did not, or at least I did not, suspect that there would be a need to do a recertification. The green copy, I will remind you, as it was introduced, reduced state aid by around \$80 million. As time went on, and I think you all went through the same time period I did, it became clear that we did need to make some financial adjustments, and it seemed appropriate that we do a recertification of state aid, so that was included in the committee amendment to LB988. The recertification would occur April 30. This is something that certainly we don't do lightly. The certification date is set at February 1 for a good reason. It's sort of the earliest possible date that we can get the information we need, or the department can get the information that they need in order to do the certification, and yet it is hopefully early enough that school districts have time to use that information as they need in their budgeting process. So recertification is a disruption. It's something that certainly, given other options, we'd just as soon not do. In this particular case, I believe it is important and appropriate that we do it. We do need to address the issue of the financial sustainability of school funding in Nebraska. The best way to do that is sooner rather than later, so this part of the bill calls for recertification of the February 1 aid according to this new...the LB988 format, to be done on April 30 of this year. So if you have questions, I'll try to answer. Thank you. [LB988]

SENATOR ERDMAN: Members, you've heard the opening on AM2402, which is the fifth

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division of the Education Committee amendments to LB988. Mr. Clerk, an amendment?
[LB988]

CLERK: Mr. President, Senator Gay, I understand you want to withdraw AM2383.
[LB988]

SENATOR GAY: Yes. [LB988]

CLERK: Mr. President, Senator Gay would move to amend the committee amendment with AM2432. (Legislative Journal page 1017.) [LB988]

SENATOR ERDMAN: Senator Gay, you're recognized to open on AM2432. [LB988]

SENATOR GAY: Thank you, Mr. President. AM2432 strikes Section 4, and Section 4 is a state mandate that students in K through 3 spend at least 50 percent of their time in a classroom of 20 or fewer students. So if a school does not comply with this, it does not get a hardship guarantee by the board of education. I'm just concerned that they may lose an accreditation along this way. So this would be considered, I think, a substantial hardship under this. But if we look at Section 4, if you'd just go to that, it pretty much says, beginning with school year 2013-2014, students in kindergarten through grade three in public schools shall spend at least 50 percent of their school day in one or more classes with 20 or fewer students. Up to ten days each school year may be designated for any student or group of students to have special activity days, to which the requirements of this section do not apply. School districts may also apply to the State Board of Education for a hardship waiver to waive the requirements of this section for a specified period of time, due to circumstances that would cause the school district a substantial hardship to meet the requirements of this section for such a period of time. Looking at this section, my concern would be that if you had a...let's say you had class sizes. The smaller schools we may not get a class size. You may not reach that 20, but if you're at...let's say a certain portion of your community is growing, and you may have 24, 26 here, 18 here, how they move around and how this would work. So the amendment is to strike this at this point, because I think it's...again, this goes back to the point that we said the most important component of a formula is that it is sustainable over time. And I just wonder what the cost of this might be. The small class size allowance that we discussed a little bit yesterday was \$64 million, and I just...and some of that money, the way I understood it, was coming from poverty. So this amendment would strike Section 4. Thank you, Mr. President. [LB988]

SENATOR ERDMAN: Thank you, Senator Gay. Members, you've heard the opening on AM2432 to the fifth division of the Education Committee amendments. Those wishing to speak are Senators Fischer, Janssen, Carlson, and Raikes. Senator Fischer, you're recognized to speak. [LB988]

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SENATOR FISCHER: Thank you, Mr. President and members. This section is of great concern to me. When we look at the blue sheet, which I know everybody in this Chamber has done, because you want to know if your school districts are gaining or losing state aid, as I told you yesterday the majority of my districts are losing state aid. And those districts are losing over a fourth of the total amount lost by districts in the state of Nebraska. Those 14 districts I have that lose state aid are losing over \$2 million. We're looking at, I say only an \$8 million loss to school districts, because in the great scheme of things with state aid, \$8 million isn't much. Eight million dollars isn't much at all when you're talking about a state-aid budget that's going to be close to a billion dollars in a year or so, but that \$8 million to districts like mine, like Senator Erdman's, like Senator Carlson's, that you've heard about, like Senator Hansen's, like Senator Dubas', those are districts where it amounts to, in some cases, over 30 percent of their state aid. That's a hit. I have a lot of districts that are going to lose over 17 percent of their state aid. That's a hit, especially when I have districts like Thedford in Thomas County, that's up against the levy right now. They are bare-bones curriculum, they have very few students, they have very few staff members, and they can't offer much more. And they're facing over a \$200,000 loss in state aid. That's a lot of money for a district where you have maybe a dozen students graduate a year. So that's a concern for me, and it's a concern because that state aid was certified on February 1 and those districts made decisions based on what that certification was, and now we're turning around and we're saying, oh by the way, we've taken some action in the Legislature this year, and you're going to lose 30 percent of your state aid. But we'll let you know by April 30 what that's going to be. So hopefully we can work that out, hopefully we can make some changes to that. I realize that there's a lot of support for this bill, because as I said, the majority of you, your districts gained state aid, so of course you support the bill. But hopefully we can work that out, because this is a hit to many districts, and I believe we need to have some kind of stabilization in there, so that they can adjust to it. This is nothing new. We've done it in the past. We've done it with the ESUs last year on the bill that was passed by this body. We had stabilization two years ago, under LB129 that was passed, and I think we need to look at that in regard to these districts. As I said, it's \$8 million. No, that may not be a lot of money to many of you, but in districts that are small, that are sparse, that are at their levies, that are bare-boned curriculum, that don't have many of the facilities that a lot of you enjoy in the more urban areas, that don't offer the curriculum and the variety in the curriculum that many of you offer in urban areas, it's a lot of money. So I would ask that you would be open to looking at changes to this section,... [LB988]

SENATOR ERDMAN: One minute. [LB988]

SENATOR FISCHER: ...as we continue on. Thank you, Mr. President. [LB988]

SENATOR ERDMAN: Thank you, Senator Fischer. Senator Janssen, you're recognized, followed by Senator Carlson. [LB988]

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SENATOR JANSSEN: Thank you, Mr. Speaker (sic), members of the Legislature. I would like to ask the Chairman of the Education Committee a few questions, please. [LB988]

SENATOR ERDMAN: Senator Raikes, would you yield to questions from Senator Janssen? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR JANSSEN: Senator Raikes, I was looking at the option enrollment portion of this section. Now am I correct in looking at that as though that is only within the learning community, that this would take effect? [LB988]

SENATOR RAIKES: This is just to clarify. The learning community, as you may know, Senator, when that begins there is an open enrollment policy. This just clarifies that students within that learning community area who were option students would remain option students through the remainder of their educational careers. [LB988]

SENATOR JANSSEN: All right, and then this does not affect any other school district... [LB988]

SENATOR RAIKES: That's right. [LB988]

SENATOR JANSSEN: ...throughout the state. [LB988]

SENATOR RAIKES: That's right. [LB988]

SENATOR JANSSEN: Is that correct? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR JANSSEN: All right. This is only within the learning community? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR JANSSEN: All right. Thank you, Senator Raikes, and that's the only question I wanted to ask. I'll give the remainder of my time back to Senator Raikes, if he'd like to have it. [LB988]

SENATOR ERDMAN: Senator Raikes, 3 minutes and 45 seconds. [LB988]

SENATOR RAIKES: Thank you, Mr. President, and thank you, Senator Janssen. I will

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just respond at this moment--I have my light on. Senator Gay's amendment here would basically eliminate the requirement that a school district serve all K-3 students in class sizes of 20 or less. And I think his concern is that it is a mandate on school districts, one that they will have to adjust...to adapt to, and so on. I think this is an amendment that I could and will accept, so I will urge your support of the Gay amendment. Thank you. [LB988]

SENATOR ERDMAN: Thank you, Senator Raikes and Senator Janssen. Senator Carlson, you're recognized, followed by Senator Raikes. [LB988]

SENATOR CARLSON: Mr. President, members of the Legislature, Senator Raikes, I simply want to make some concluding statements--testimony earlier that I ran out of time--because in talking about school districts possibly being overfunded, and I don't know if they were or if they weren't. I'm not even arguing that. It's just that it seems that it's an all-of-a-sudden adjustment that's pretty difficult to accept, and Senator Fischer talked about \$8 million not being much when you're approaching a billion. Well, \$300,000 is a lot of money to a small district, which is probably about six full-time positions, and that's a very difficult thing to adjust to in a year. So I'm looking for ways to support this bill and simply can't, under the circumstances I see my district in, and I'm interested in stabilization that could help with this and will certainly listen to that. And then referring to something I said yesterday about very concerned about teachers' salaries in the future, and I've had conversations with several, including Senator Avery, who I didn't mention yesterday, but I'm going to be following that up very aggressively in future sessions. But appreciate listening to me, and Senator Raikes, I will yield the balance of my time to you. [LB988]

SENATOR ERDMAN: Senator Raikes, 3 minutes and 30 seconds. [LB988]

SENATOR RAIKES: Thank you, Senator Carlson. And I do agree with your concerns, and also very much with a statement you made earlier, that if there is a so-called overfunded situation for a particular school district, it's not the fault, so to speak, of that school district, and I think that's exactly right. An overfunding situation, as you described it, would be a result of the state's aid formula, rather than choices or decisions by that individual school district. I also agree with your comments that changes that come about, impacts that come about on a district because of a change in the aid formula, need to be addressed. They need to be mollified or moderated, and I am very interested in procedures to accomplish that, and I think we have a couple approaches that offer some possibilities there. So I am anxious to talk with you and others about those approaches as we move forward. Thank you. [LB988]

SENATOR ERDMAN: Thank you, Senator Raikes and Senator Carlson. Those senators wishing to speak are Hansen, Kopplin, Wightman, and Adams. Senator Hansen, you're recognized. [LB988]

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SENATOR HANSEN: Thank you, Mr. President. We started off yesterday and when...with Senator Raikes and this LB988 bill. Senator Fischer called some of the things that we were going to talk about a wish list. Well, I'm not sure it's a wish list. It may be something that's necessary. The Education Committee has gone over the years adding things, without knowing exactly what they were going to cost. And as Senator Kopplin said this morning, well, now we know what they're going to cost. I see a similarity here, and Senator Erdman referred to it yesterday, where we have this wish list or this list of improvements to the state aid formula and to Medicaid. Since I sit on the HHS Committee, I've looked in the history of Medicaid and tried to see how we've got to where we are now, and the increase, and the rapid increase, and the future increases that we're not going to be able to sustain in Medicaid, either. What happened there was in the mid-90s or sometime in the nineties. There was an optional list of Medicaid services. Nebraska had money--we said, let's get some of those optional services over there. So we have about as many optional services as we do mandatory services. I see a comparison there, and if this is a wish list that is just starting, this might be the time to take another look at that and reduce it. I do have a question for Senator Raikes, if he would yield. [LB988]

SENATOR ERDMAN: Senator Raikes, would you yield to a question from Senator Hansen? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR HANSEN: Senator Raikes, when do RIF letters need to go out to teachers? [LB988]

SENATOR RAIKES: Senator, I'm not sure I have that firmly in mind, but April 15, I believe is the date. [LB988]

SENATOR HANSEN: I think that was the date I understood, too, from the superintendents, that if they were going to have to have a reduction in force, that they want to know what the Legislature is going to do by April 1, so they can get those RIF letters out, balance their budget, and do it that way, to reduce the staff. It's too late to do anything about their levy. They can't have any...they don't have any other source of money other than the cash reserve, and I don't think the cash reserve is or should be used to make up the difference of what the Legislature does in the middle of a biennium budget. I think that the Legislature...thank you, Senator Raikes. I think that the Legislature needs to somehow--and several ways have been discussed--is to figure out how to do this, how to expand the time amount, how to phase in these changes, and so it's not such a shock to each of these school districts. I had my LA call the Wallace School District. They are in a very sparse area. I'll give you an example of what very sparse is--483 square miles, 483 square miles. As of February 1 they had 166 students.

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They're very sparse; they may have gravy in their budget, and their gravy is probably spent on bussing, it's probably spent on gasoline for those busses, or diesel fuel. May be some gravy there, but I doubt if there's a whole lot in 483 miles. We just...I think we need to slow down, look at this. I think the recertification, if we're going to wait until April 30, may be too late. I think those RIF letters that do go out, that's going to take a big hit... [LB988]

SENATOR ERDMAN: One minute. [LB988]

SENATOR HANSEN: ...on families, on teachers, and on the school district and the quality of education in this state. Thank you, Mr. President. [LB988]

SENATOR ERDMAN: Thank you, Senator Hansen. Senator Kopplin, you're recognized. [LB988]

SENATOR KOPPLIN: Thank you, Mr. President. My apologies to the body. I want to correct something. This morning when I talked about comparison valuations I talked about Douglas County being low. That's the information I have. They are indeed at 97 percent on residential and 96 percent on commercial. They've made great improvements, and my apologies for the incorrect information. Thank you. [LB988]

SENATOR ERDMAN: Thank you, Senator Kopplin. Senator Raikes, you're recognized to close...oh, excuse me. Senator Gay, you're recognized to close on your amendment to the Education Committee amendment. [LB988]

SENATOR GAY: Thank you, Mr. President. Thank you, Senator Raikes, for supporting this amendment. It is--this amendment really...we found a way...this will not in any way, then, mandate. If we remove this, then we're not mandating any small class sizes. We're still keeping that control. Senator Raikes brought up that a formula that is sustainable over time. This will help be...create that formula that's sustainable over time. None of us want to be told in our local schools here's what we have to do. Many schools are already doing this anyway, but we don't want to tie funding or accreditation to a small class size. And I'm not going to argue the point that small class sizes aren't better. Wouldn't we all like that? But the flexibility sometimes that you need would require, if you're 24 students or 18 or wherever you're at, we just don't want being mandated by the state, and I think this would be bad policy if this remained in the bill. So this amendment, I hope you will support. It will remove that entire amendment from the bill. Thank you, Mr. President. [LB988]

SENATOR ERDMAN: Thank you, Senator Gay. Members, you've heard the closing on AM2432 as an amendment to the Education Committee amendments. All those in favor vote aye; all those opposed vote nay. Have all members voted who choose to? Record please, Mr. Clerk. [LB988]

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CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Gay's amendment to the committee amendments. [LB988]

SENATOR ERDMAN: The amendment is adopted. (Visitors introduced.) Senator Raikes, you're recognized to close on the fifth division of the Education Committee amendments, AM2402. [LB988]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. This is the final division of the committee amendment. It is now, with the Gay amendment, it deals with recertification...and with the Gay amendment, it eliminates a requirement that school districts serve students, K through 3 students, in class sizes of 20 or less. They still, of course, have the option to do that, but they would not be required to do that. I urge your support. Thank you. [LB988]

SENATOR ERDMAN: Members, you've heard the closing on the fifth division of the Education Committee amendments, AM2402. The question before the body is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have all members voted who choose to? Record please, Mr. Clerk. [LB988]

CLERK: 28 ayes, 2 nays, Mr. President, on the adoption of the fifth and final component of the committee amendments. [LB988]

SENATOR ERDMAN: The amendment is adopted. Mr. Clerk. [LB988]

CLERK: Senator Raikes, I now have, I believe, Senator, two amendments that you'd drafted originally to the combined pending amendments, AM2335. I have a note you want to withdraw. [LB988]

SENATOR RAIKES: Please. [LB988]

CLERK: And likewise with AM2358? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR ERDMAN: The amendments are withdrawn. [LB988]

CLERK: Senator Erdman, I have a note that he wishes to withdraw his bracket motion. [LB988]

SENATOR ERDMAN: Motion is withdrawn. [LB988]

CLERK: Senator Kopplin, AM2433. (Legislative Journal pages 1017-1018.) [LB988]

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SENATOR ERDMAN: Senator Kopplin, you're recognized to open on AM2433. [LB988]

SENATOR KOPPLIN: Thank you, Mr. President, members of the body. Yesterday as we discussed this particular bill, it came up several times that what would happen if we delayed this for two years, does it make any difference? We also talked about understanding this bill. My amendment right now has nothing to do with either of those. It simply is this: For two years I've had a bill in the Education Committee saying we need to have a study of the state aid formula. The...it laid there last year, so we did an interim study on it. We didn't have any cash to really spend on it, and we didn't have a whole lot of support on it, but we did do a study, an interim study. And I'm going to tell you--I don't think we have a bad state aid formula at all. That's not my point. The point is there are many people that don't understand it, that want to understand it, that will need to understand it, after this year. In the interim study what we looked at--I use "we" loosely, because I really wasn't that involved in it--but we looked at what were the original objectives of the state aid formula. And one was it was to reduce property taxes, and second, equalize educational opportunities. The state aid formula does do that. But I think maybe it's time we at least talk about having a long-range study by some experts in the field--and when I say experts in the field I'm including a lot of business managers that actually operate with it--to study the state aid formula and make a presentation to us that yeah, here are some ways you can improve, or here's some major ways you can improve. I don't know. But I think a study is in order, whether we do this right now or not, I certainly want to plant it in your minds that we can and should study this extensively, if not starting this summer, then starting later. And that's what my amendment is. I'll leave it on the board, if anybody wants to talk about it, and go from there. Thank you. [LB988]

SENATOR ERDMAN: Thank you, Senator Kopplin. And members, while we continue with the discussion, if you can please keep your conversations at a minimum, to assist in the conversation being held on the floor. Senator Gay, you're recognized to speak. Senator Gay waives. Senator Kopplin, there are no lights on. You're recognized to close on AM2433. [LB988]

SENATOR KOPPLIN: I'll withdraw this motion. [LB988]

SENATOR ERDMAN: AM2433 is withdrawn. Mr. Clerk. [LB988]

CLERK: I have nothing further on the bill, Mr. President. [LB988]

SENATOR ERDMAN: Members, we're now in discussion of LB988 as amended by the committee amendments. Senator Heidemann, you're recognized. [LB988]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. It looks like we're winding down here a little bit, and I've been kind of busy this morning

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with other things that got put upon me, and I haven't been able to be part of this debate. I apologize for that, because this is important to me, and I think it's important to the state. I would like to ask Senator Raikes some questions, if he would allow. [LB988]

SENATOR ERDMAN: Senator Raikes, would you yield to a question from Senator Heidemann? [LB988]

SENATOR RAIKES: Yes. [LB988]

SENATOR HEIDEMANN: In one of your meetings--I believe it was the first meeting--you handed out a sheet of paper with formula needs, and I actually tore that out and I handed it out to the rest of the body yesterday. And it shows your model of ten schools, being anywhere from Douglas County west, all the way up to Central City. And it is interesting the wide range of needs between those ten schools. The question I have: As we have opened up debate on what we need to do for TEEOSA, how much have we actually got into discussion of what needs to do? And I see what you're trying to do with your array of ten. Eventually you're going to pull them all down to a line; is that correct? You're going to pull them all down to the middle. [LB988]

SENATOR RAIKES: Senator, as you know, in the needs calculation there is a base funding, and for the array of ten school districts, that base funding will be a common number. But you have a number of provisions in the formula to allow for funding for special characteristics of the situation that a school district faces. So no, they will not all come to the same line. [LB988]

SENATOR HEIDEMANN: But you're getting them closer there. [LB988]

SENATOR RAIKES: At least in many instances. Probably not all instances. You're going to have some arrays that you can put together, where actually the factors that are in the formula may cause them to be a little bit farther apart. I think in the array that I handed out and that you have duplicated here, that would be the case. You know, you've got...I think it is there...you've got two very sparse districts, one sparse district, and the rest standard, and that illustrates now what the needs calculation is doing. But I would have you notice that even for the very sparse districts, which are the highest ones, that the LB988 model continues that needs level at where it is now. It doesn't pull it down to the middle. [LB988]

SENATOR HEIDEMANN: The question that I have, as we look into this, how deep did we look into this? You know, you have in this group of ten, you have one of my schools, which is Syracuse, but actually there's one more that probably does it...with less formula needs than even Syracuse, it's Milford Public Schools. They have very close population as far as enrollment, correct? That's how this works, the array. [LB988]

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SENATOR RAIKES: Right. [LB988]

SENATOR HEIDEMANN: Have we ever asked ourselves the question, who's doing it right and who's doing it wrong? Why do we have Valentine close to \$14,000, and why do...how can Milford survive at less than \$8,000? Have we ever asked ourselves that question, who's doing it right, and who's doing it wrong? [LB988]

SENATOR ERDMAN: One minute. [LB988]

SENATOR HEIDEMANN: Or maybe nobody is doing it wrong and nobody is doing it exactly right. But it looks like under what we're trying to do here, we don't know who's doing it right or wrong, but we're going to pull them all more toward the middle. And if we are going to look at state aid to education, and we are going to have a remake of it, have we ever asked ourselves the question, what do we need? Instead of just trying to make a system that brings everybody closer together? I probably am a little frustrated with how far we have gone into this, and I know that you have looked into this a lot and you've done a lot of work as far as trying to make it work. But has the question been asked, is Syracuse doing it right? Is Valentine doing it right? I mean, have we ever asked ourselves the question? I'll give you some time. [LB988]

SENATOR RAIKES: Thank you, Senator. I would say we ask that question all the time. [LB988]

SENATOR ERDMAN: Time. [LB988]

SENATOR RAIKES: We're evaluating...thank you. [LB988]

SENATOR ERDMAN: Thank you, Senator Raikes, Senator Heidemann. Senator Fischer, you're recognized, followed by Senator Heidemann. [LB988]

SENATOR FISCHER: Thank you, Mr. President and members. I just wanted to thank Senator Raikes for some of his earlier comments, in that he was willing to work on this, if the bill does move to General File, on the concerns that I expressed before. What we've been talking about is at least a 95 percent stabilization in state aid for those districts that are losing. Over a two-year period they would receive that 95 percent stabilization in state aid. I appreciate his willingness to move on that, although I still do not support the bill because I am concerned about the long-term ramifications of it. But I do appreciate his willingness to work on that and look forward to having something on Select File that will ease those districts that are losing a very large percentage of what they expected to gain in state aid. They're losing it, and this will help them over a two-year period in that transition. Thank you. [LB988]

SENATOR ERDMAN: Thank you, Senator Fischer. Senator Raikes, there are no lights

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on. You're recognized to close on LB988. [LB988]

SENATOR RAIKES: Thank you, Mr. President and members. It's been a great discussion. I appreciate the contributions all of you have made. It's clear that we've got additional issues to deal with. We will do that. We'll have a number of...or we will have some discussions, very serious discussions, between now and Select File. I think we do have some concepts in mind for dealing with the issues that remain, and we will bring them to you on Select File. So I ask for your support at this time. Thank you. [LB988]

SENATOR ERDMAN: Members, you've heard the closing on the motion to advance LB988 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all members voted who choose to? Have all members voted who choose to? Record please, Mr. Clerk. [LB988]

CLERK: 29 ayes, 13 nays, Mr. President, on the advancement of LB988. [LB988]

SENATOR ERDMAN: LB988 does advance. Mr. Clerk, next item on the agenda. [LB988]

CLERK: LB988A. It's by Senator Raikes. (Read title.) I do have an amendment to the bill, Mr. President. (AM2407, Legislative Journal page 1018.) [LB988A]

SENATOR ERDMAN: Senator Raikes, you're recognized to open on LB988A. [LB988A]

SENATOR RAIKES: Thank you, Mr. President. Am I opening on the committee amendments or the LB988A? This is the bill that goes along with LB988, of course. It makes the A bill compatible with the committee amendment. So I think that's all I need to say, except that I urge your support. Thank you. [LB988A]

SENATOR ERDMAN: You've heard the opening to LB988A. Mr. Clerk, an amendment? [LB988A]

CLERK: Senator Raikes, AM2407. [LB988A]

SENATOR ERDMAN: Senator Raikes, you're recognized to open on AM2407. [LB988A]

SENATOR RAIKES: Thank you, Mr. President, members. I got ahead of myself. Actually, the amendment to the A bill is what makes it compatible with the committee amendments, so I urge your adoption of the committee amendment. Thank you. [LB988A]

SENATOR ERDMAN: Members, you've heard the opening on AM2407 as an amendment to LB988A. Senator Raikes, you're recognized to close on that motion.

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Senator Raikes waives his opportunity to close. All those in favor vote aye; all those opposed vote nay. Have all members voted who choose to? Record please, Mr. Clerk. [LB988A]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Raikes's amendment. [LB988A]

SENATOR ERDMAN: The amendment is adopted. [LB988A]

CLERK: Nothing further, Mr. President. [LB988A]

SENATOR ERDMAN: Senator Raikes, you're recognized to close on the advancement of LB988A. Senator Raikes waives his opportunity. Members, the question is, shall LB988A be advanced to E&R Initial? All those in favor vote aye; all those opposed vote nay. Have all members voted who choose to? Record please, Mr. Clerk. [LB988A]

CLERK: 29 ayes, 0 nays, Mr. President, on the advancement of LB988A. [LB988A]

SENATOR ERDMAN: Mr. Clerk, items for the record?

CLERK: At this time, Mr. President, I have no items for the record.

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR271, LR272, LR273, and LR274. Mr. Clerk. [LR271 LR272 LR273 LR274]

CLERK: Mr. President, a priority motion. Senator Kopplin would move to recess until 1:30 p.m.

SPEAKER FLOOD: Senators, prior to taking up this motion to recess until 1:30 p.m., a reminder that if you could please find your seats, we will be honoring former members of the Legislature momentarily, following recess. You've heard the question before the Legislature. The question is, should the Legislature recess until 1:30 p.m. this afternoon? All those in favor say yea. All those opposed say nay. The yeas have it. We are in recess until 1:30 p.m.

RECESS

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Welcome to the George W. Norris Legislative Chamber, for

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the afternoon session is about to reconvene. Senators, please record your presence.
Mr. Clerk, please record.

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any items for the record?

CLERK: Just one, Mr. President. I have an amendment by Senator Raikes to be printed to LB988. That's all that I have. (Legislative Journal pages 1020-1021.) [LB988]

SENATOR LANGEMEIER: Thank you. We will now proceed to the first item on this afternoon's agenda, Select File budget bills. LB961. [LB961]

CLERK: LB961, Mr. President, on Select File. I have Enrollment and Review amendments, first of all. (ER8210, Legislative Journal page 1000.) [LB961]

SENATOR LANGEMEIER: Senator Heidemann, would you make the motion on the E&R amendments? [LB961]

SENATOR HEIDEMANN: I make a motion we move the E&R amendments. [LB961]

SENATOR LANGEMEIER: You have the motion on the adoption of the E&R amendments to LB961. All those in favor say aye. All those opposed say nay. They are adopted. Mr. Clerk. [LB961]

CLERK: Mr. President, the first amendment I have to the bill, Senator Erdman, is AM2367 (sic--AM2364). I have a note, Senator, you want to withdraw AM2367 (sic--AM2364) and offer us... [LB961]

SENATOR ERDMAN: I believe there is a substitute request for AM2427. [LB961]

CLERK: Yes, sir. [LB961]

SENATOR ERDMAN: Yep. [LB961]

SENATOR LANGEMEIER: No objection, so moved. [LB961]

CLERK: AM2427, Senator. (Legislative Journal pages 1021-1022.) [LB961]

SENATOR LANGEMEIER: Senator Erdman, you are recognized to open on AM2467 (sic--AM2427.) [LB961]

SENATOR ERDMAN: Thank you, Mr. President, members of the Legislature. AM2427

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is the functional part or the cash part of LB862, which was advanced by the Agriculture Committee unanimously after an interim study this year that we did regarding the funding of noxious weed programs in the state of Nebraska. This program has traditionally been the target of a number of budgetary discussions, whether it's in front of the Appropriations Committee or elsewhere. But with the renewed interest from the Legislature last year under LB701 of utilizing the noxious weed program under the Department of Ag to be able to provide the necessary mechanism to deliver those \$2 million of funds statewide for the invasive species program, we took a renewed interest as a committee with oversight to determine--is there a need to fund this program with more cash funds instead of the General Fund balance? And what we came up with was a bill, which was LB862. The bill as introduced would have provided a long-term solution to a funding problem that the noxious weed program generally experiences. What AM2427 does is narrow in scope, and it simply does what the cash transfer language would have done in the amendment to LB862. And more specifically what it does is it transfers \$250,000 of excess cash funds from the balance in the Commercial Feed Act administrative cash funds to the Noxious Weed and Invasive Plant Species Assistance Fund. This fund was created by LB869 in 2004. What LB869 did was it provided funding from the state through a grant program for weed authorities and weed districts throughout the state to be able to utilize, to not only maximize local match for other funds but also, potentially, federal funds. And so these are funds that are currently being utilized, and I have a list of all of the existing programs that have received funding by region, and I also have a list of what those costs are. But we had some discussion the last time we were on this bill about what cash funds do and what they don't do. At the Department of Agriculture we have generally authorized them in the funding of these types of programs to be able to raise or lower the fee to better balance those cash management responsibilities. Because of the growth that we have seen in the inspection of commercial feed in the state of Nebraska, the department was unable to keep track of that, and in turn has created a balance that is in excess of their needs long term. So this would take a one-time amount of \$250,000, and would put it in this noxious weed program. That number is the exact same number that was requested from the environmental trust in 2004 to be able to fund these grants, and it funded them for a period of three years. By transferring this money, it allows the Ag Committee to come back next year with a comprehensive solution, but provides us the opportunity to ensure that the funds that need to be available for these grant programs to continue are available, and there are excess funds in the Commercial Feed Act. I can explain to you the nexus between the noxious weed program and why this is an appropriate use of those funds, and would open to any questions. We have explained this to the fiscal staff of the committee. There was some concern about the amendment. I'm not sure ultimately if they're agreeing to this yet or not but I do know that the Appropriations Committee, at least the Chair, has been made aware of this amendment, and we believe it's technical. This would have been a part of LB862 had it been able to be debated during this legislation session. But because of some factors that prohibited the committee from advancing the bill sooner, we believe that this is the only option that we

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have, and we believe this is an appropriate solution to a known problem in funding this needed program. I would be happy to try to answer any questions to further explain what the grant fund does, and I would ultimately encourage your adoption of AM2427. [LB961 LB862 LB701]

SENATOR LANGEMEIER: Thank you, Senator Erdman. You have heard the opening on AM2427 offered to LB961. The floor is now open for discussion. Those wishing to speak, we have Senators Heidemann and Wallman. Senator Heidemann, you are recognized...or Wightman, excuse me. Senator Heidemann, you are recognized. [LB961]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. Thank you, Senator Erdman, for giving us a background on this. While I have talked to Senator Erdman through the process about this, I can see where he comes...he's trying to find a way help the noxious invasive weed, I'm not quite for sure this is the place to go. There is room in this fund to actually do this. I will say it's not going to hurt. It has been a rapidly growth in this fund revenue and the growth has because...probably because of the ethanol industry and the sale of distillers grain which they put a fee on. The revenue went from \$703,000, fiscal year '04, to \$961,000 in fiscal year '05-06, and revenue continues to grow in this fiscal year. I probably would question how you can tie funding this with the fee on this feed. I'll let Senator Erdman probably elaborate on that. I also probably would question the amount of money. We heard Senator Erdman talk about trying to address this next year or the Agriculture Committee address this next year, and if they did that I don't know if they would need this amount of money to transition just for one year. I will turn the rest of my time over to Senator Erdman and let him expand a little. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator Erdman, 3:20. [LB961]

SENATOR ERDMAN: Thank you, Mr. President, and thank you, Senator Heidemann. Let me first address the issue of the nexus, if you will, the connection between the noxious weed program and the Commercial Feed Act. One of the testifiers at the hearing pointed out that there are commodities being raised in Nebraska that are being inspected under the Commercial Feed Act that become part of a...we'll say they're being disseminated. So the example would be sunflowers in western Nebraska. There is a company in western Nebraska that packages a lot of sunflowers. They are grown in areas where there are noxious weeds, and what happens is, is that those noxious weeds attach to the sunflowers. When those sunflowers are inspected as a commercial feed, they then end up being included in this whole process. And we have been told at that hearing that those same sunflowers have been pointed to distributing noxious weeds in places like Iowa where they end up being birdseed. So the logical connection...and I'll yield you back the time, Senator Heidemann...the logical connection

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is this, that the Commercial Feed Act has the potential under the way that it is done and because of where those crops are being grown of being a carrier for the vectors of noxious weeds or the seeds of those noxious weeds, and therefore there's just as much of a logical connection between that and any of the other 15 items that I can outline. This is one that the committee felt was the most appropriate. And I'll yield my time back to Senator Heidemann. [LB961]

SENATOR LANGEMEIER: Senator Heidemann, 1:50. [LB961]

SENATOR HEIDEMANN: And I understand where you're going and it's a possibility, but then we would be back to you and I don't want to get into an argument for more of a discussion. It's been pointed that this could happen, but has it ever been proven that it can happen, that is has happened? And the other point I would like for maybe you to expand on a little bit, the majority of the funding or a lot of the funding, excess funding in this fund right now is because of distillers grain. And I believe when the grain goes through the distiller process, actually all the wheat seed, the germination is killed. Wouldn't that be correct? I yield time to Senator Erdman. [LB961]

SENATOR LANGEMEIER: Would you yield to a question? We'll turn you both on. [LB961]

SENATOR ERDMAN: That would be better. Thank you. Senator Heidemann, the example that I gave you wasn't a hypothetical. It was real. It's happening now. The items, the commodities that are being raised in Nebraska... [LB961]

SENATOR LANGEMEIER: One minute. [LB961]

SENATOR ERDMAN: ...and being transported under the inspection act, the Commercial Feed Act, but being transported as, say, birdseed, are actually carrying the vectors of the seeds of the noxious weeds. That is actually happening. That's not a hypothetical. That is actually happening. Even under this transfer, the Department of Ag is going to pursue a reduction in the overall fee for those individuals. The alternative is, and you're aware of this as anyone else, the alternative is, is that if we come back next year in a shortfall, the Appropriations Committee will take any excess cash funds that they believe are available and there won't be any nexus to the potential of taking those funds from one place to another. There is at least a logical nexus, in our opinion, in our research, that using this money for this other purpose at least has a connection as opposed to what we may end up doing in a shortfall, and that is taking money from one cash fund just because it's in excess and using it somewhere else within the general budget. [LB961]

SENATOR HEIDEMANN: I will want to point out...I know my time is about over...that there's actually in statute that you couldn't transfer this into the General Fund,... [LB961]

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SENATOR LANGEMEIER: Time. [LB961]

SENATOR HEIDEMANN: ...so you would have to statutorily change the law before you could do that. Thank you. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Heidemann and Senator Erdman. Senator Wightman, you are recognized. [LB961]

SENATOR WIGHTMAN: Thank you, Mr. President. I'm not going to use all of my time. I listened for an answer as to exactly how much was in the fund. I heard, I believe, that the revenues have grown from \$700,000 to \$900,000, and I don't know whether that's on...I think it's on an annual basis. But I guess I'm interested and if Senator Erdman would yield to a question, I'd like... [LB961]

SENATOR LANGEMEIER: Senator Erdman, would you yield? [LB961]

SENATOR ERDMAN: I will. [LB961]

SENATOR WIGHTMAN: Can you tell us at the present time, Senator, how much is in that commercial feed fund? [LB961]

SENATOR ERDMAN: The commercial feed fund, Senator Wightman, is as Senator Heidemann pointed out, and it's over \$900,000. That's not the fund that we're trying to transfer money into; that's the fund we're taking money away from. I have the flow charts, the cash flows of that fund with this transfer to show that that fund itself is not harmed by making this transfer, and I'd be happy to give you that information. [LB961]

SENATOR WIGHTMAN: Maybe I misunderstood that then. I thought you were talking about the revenue having grown from \$700,000 to \$900,000. But \$900,000 is presently the amount in the fund? [LB961]

SENATOR ERDMAN: Senator, we're talking about two funds. We're transferring money from the fund that has an excess to the fund that has a need. The fund that has the excess has grown substantially, and Senator Heidemann is partially correct that its due to the increased amount of commercial feed that has to be inspected, such as distillers grain. That's why that balance has grown so quickly without the Department of Ag being able to come in and, by rule and reg, lower the fee from 10 cents per ton down to a lower amount to keep the cash fund balance more reasonable. So there is an excess. Now it is likely because of that, but there are other programs and inspections being done, as I gave the example, that show that the noxious weeds are actually being transported through this system. [LB961]

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SENATOR WIGHTMAN: Okay. I think that answers my question. Thank you, Senator Heidemann. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Erdman, followed by Senator Fulton. Senator Erdman, you are recognized. He waives his time. Senator Fulton, you are recognized, followed by Senator Carlson. [LB961]

SENATOR FULTON: Thank you, Mr. President. Would Senator Erdman yield to a quick question? [LB961]

SENATOR LANGEMEIER: Senator Erdman, would you yield? [LB961]

SENATOR ERDMAN: I will. [LB961]

SENATOR FULTON: Senator, on the original bill, so I'll try to get up to speed on the bill also just to understand a little bit of the policy behind this amendment. Can you explain what the cooperative council's objections were to the original bill, and whether or not the amendments assuaged that concern? [LB961]

SENATOR ERDMAN: Yeah. LB862, as introduced, had a number of components in it. One of them was that we were going to take one cent of the Commercial Feed Act inspection fee that is currently being utilized to fund this program for the long-term funding of this grant program. They were opposed to a long-term solution that didn't include other partners in that process. They're not opposed to a one-time transfer. They would like to see, next year, that as we look--and again this is one component of the noxious weed program, this isn't the totality, this is one grant program within that program--they would like to see pesticide fees and other things be included in that. What we're simply trying to do here is replace what the environmental trust amount was that we have currently expended so that we can replenish that fund and still make available throughout the state the availability of matching funds or grant funds for entities to be able to control noxious weeds locally. [LB961 LB862]

SENATOR FULTON: Okay. [LB961]

SENATOR ERDMAN: So their concern was the long-term issue, which is not in the amendment. [LB961]

SENATOR FULTON: Okay, understood. If Senator Heidemann would like to finish on his, I would yield the rest of my time if he would like to finish on the thought that he had. [LB961]

SENATOR LANGEMEIER: Senator Heidemann, 3:30. [LB961]

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SENATOR HEIDEMANN: I would just take a little bit of time. I think there was a question about how much was exactly from the fund that we want to pull, and right now I believe there is just a little bit over \$1 million. Then there was the question about exactly how much was in the noxious and invasive weed fund or I believe that's what it's called, was \$77,000. And then I asked the question to the Fiscal Analyst, how much it takes per year to run this, and the indication was just about \$77,000 or approximately. To give you an idea of what we're probably dealing with here, and I understand what Senator Erdman is trying to do, they would be very tight if they don't get any funding. I'm just a little bit hesitant just to pull it from this fund source. Would Senator Erdman need some time? I could pass the rest of my time on to him. [LB961]

SENATOR LANGEMEIER: We can only yield it to one person. Thank you. [LB961]

SENATOR HEIDEMANN: Sorry, Mr. Chair. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Heidemann and Senator Fulton. Senator Carlson, you are recognized. [LB961]

SENATOR CARLSON: Mr. President and members of the Legislature, I may want to address a question to Senator Erdman, but certainly as I look at things in noxious and invasive weeds, that perks my interest, and then I listened to this possible transfer. And in general, I'm very skeptical about transfers from one fund to another. I think that Senator Erdman has probably answered that and erased some of that doubt. I do have a question I'd like to address to Senator Heidemann. [LB961]

SENATOR LANGEMEIER: Senator Heidemann, would you yield? [LB961]

SENATOR HEIDEMANN: Yes. [LB961]

SENATOR CARLSON: Senator Heidemann, Senator Erdman said something that also caught my attention. He indicated that if this money wasn't transferred then the Appropriations Committee is going to transfer it someplace else. Can the Appropriations Committee do that? [LB961]

SENATOR HEIDEMANN: We would have to change the law as we see it now. There is probably more money in this cash fund than would be needed. I don't think it's the Appropriations Committee's thought that we would go access that. I believe the Department of Agriculture right now has the thought that they can reduce the fee to pull down the cash fund. I believe that's what the thought is. [LB961]

SENATOR CARLSON: Well, this is a learning question. But does the Appropriations Committee have the authority to transfer money from one cash fund to another without the approval of the Legislature? [LB961]

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SENATOR HEIDEMANN: No. Not on this one they do not. I'm not saying not all of them, but this one we cannot transfer without changing the law. [LB961]

SENATOR CARLSON: But there are some that you could. [LB961]

SENATOR HEIDEMANN: Yes, I'm pretty sure. [LB961]

SENATOR CARLSON: Okay. We just have to be careful about those then. Thank you, Senator Heidemann. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Carlson. (Visitors introduced.) Continuing with discussion on AM2427 offered to LB961, we have those wishing to speak, we have Senator Stuthman, Senator Dierks, and Senator Erdman. Senator Stuthman, you are recognized. [LB961]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I have a little bit of a concern of the fact of trying to take some money from one fund and utilizing it in another fund. I think, in my opinion, the Commercial Feed Administration Cash Fund, you know which is a tax on commercial feed, you know, to assure the public that there is not any noxious weeds and that the food is safe, the feed is safe. And because there is a lot of, quite a large amount of money in that, is mainly because of the ethanol interest and the amount of the by-product going back to the cattle yards and feeding of that. I do think that when there is an excessive amount that's generated in a fund, I think that the tax portion should really be lowered so that it doesn't generate a large amount of money in excess of what the real need is for it. I do agree that there is some similarity between the Noxious Weed and Invasive Plant Species Assistance Fund, but I think this is something that if there is a real need for the invasive species of weeds, I think that should be taken care of on its own issue. Yes, there is only a small amount of money in there, but I look at what is accomplished with that small amount of money. Yes, maybe very little. I do not see a lot of accomplishment in the noxious weed control in my area, in my district and my surrounding districts. I am concerned with the fact that we want to take a couple hundred thousand dollars out of the one where it's generating more money than we thought, but I think that we really should consider...and I think the Department of Ag is thinking about lowering the tax on there, which they can. It's something that I'm going to think through very hard, but I am in the position right now that I don't think I can support an amendment like this. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Dierks, you are recognized. [LB961]

SENATOR DIERKS: Thank you, Mr. President. Members of the Legislature, I would like

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to visit with Senator Erdman a moment on the mike. [LB961]

SENATOR LANGEMEIER: Senator Erdman, would you yield? [LB961]

SENATOR ERDMAN: I will. [LB961]

SENATOR DIERKS: Senator Erdman, both these funds are deposited in the Department of Agriculture, is that right? [LB961]

SENATOR ERDMAN: They are administered by the Department of Ag. [LB961]

SENATOR DIERKS: What does the department have to say about this transfer? Have you visited with them? [LB961]

SENATOR ERDMAN: Senator Dierks, as you are probably aware from the letter we got back from the Department of Ag, they don't necessarily have a solution to the problem, to be candid with you. We have asked them for alternatives to LB862. They were unresponsive or at least they were not willing to at least propose a solution this session. They were interested in possibly pursuing other items that don't solve the problem in the short term, but they, I don't believe, and I will double-check with Rick, I don't believe that they have a specific position on this other than that believe that the program is important. [LB961 LB862]

SENATOR DIERKS: Do you have another bill from our committee that deals with the funding for the weed program? [LB961]

SENATOR ERDMAN: Yeah, Senator Dierks. This is part of LB862 that we as a committee advanced unanimously, so this amendment deals with the cash fund transfer that's actually in LB862, and the other part of LB862 deals with lowering the fee from 10 cents per ton to 9 cents per ton. [LB961 LB862]

SENATOR DIERKS: Okay. Now what does the department tell us our needs are going to be as far as control of the noxious weed...or funding of the noxious weed program? [LB961]

SENATOR ERDMAN: Well, that's an interesting question because the noxious weed program, which is different than this grant fund, the noxious weed program is intended to be funded half from cash funds and half from general funds. And every year when the Governor puts forth the budget, the Department of Ag offers up the noxious weed program as the one they want to have cut, and then all of the entities that are beneficiaries of this program come in and get the Appropriations Committee to restore some of their funding. One of the letters that I sent to the Department of Ag was, how would you administer the noxious weed program as a whole without any money from

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the Legislature from the General Fund, and they really didn't have a very good answer other than they would have to pretty much eliminate staff or the program to be able to figure out how to do it without additional funding. [LB961]

SENATOR DIERKS: What is the history from the time we instituted the noxious weed program and the funding for it, what's the history as far as the funding goes over that period of years? [LB961]

SENATOR ERDMAN: That goes back quite awhile, Senator Dierks. I don't have that. I do have the specific grant fund in front of me, and that began in 2004. That number in 2004 was \$250,000. That was funded out of the environmental trust. This amendment would put the same \$250,000 into that fund, as well, because we do have to come back and look at cash funding the actual noxious weed program. This is a separate program within that program, or separate fund, so we're trying to make this be one less issue that we have to deal with next year, but my sense of where the committee was is that we would likely do this, this year or next year, from whatever date, to make sure that this grant fund was fully funded, and that is consistent with the interim hearing that I believe you chaired in Alma this summer. [LB961]

SENATOR DIERKS: Thank you. I appreciate that. I just wanted that on the record, and I do support Senator Erdman's efforts here this afternoon. I hope you will too. Thank you. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Senator Erdman, you have the last light. You can close or use your time. [LB961]

SENATOR ERDMAN: I'll go ahead and use the time, Mr. President, because I may provoke a response. One of the interesting parts about the budgetary process is that you can pretty much do anything you want in the budget unless the state statute prohibits you from doing it elsewhere. What we have to do in order to transfer the fund from one fund to another is essentially do what we're doing, and that is put language in the budget that allows for the fund that's being addressed to have the money transferred from that fund to another fund. And if you'll notice, we're doing it on the budget. I'll take you back to a couple years ago when I believe Senator Dierks was still in the Legislature and we have a healthy discussion in the Ag Committee about the actions of the Appropriations Committee. They actually raided the noxious weed fund at that time. And here's where they took the money: They took the money from the noxious weed program to help fund the livestock waste management program. They also took money from that same program, as I understand it, and transferred it to the weights and measures program. There is no connection at all. They are both within the Department of Ag, whether it's money going from weights and measures to the noxious weed program or money going from the noxious weed program to the weights and measures program, they're both in the Department of Ag. They were done in the budget. There

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was no connection whatsoever. Now under this amendment, I have demonstrated to Senator Heidemann that there is a connection between the Commercial Feed Act and the transmission and transfer of noxious weeds and their seed to other areas of our state and throughout the country, but it is a known connection, it is known nexus. And we have done an interim study that outlines all of these potential solutions or connections. This is one of them. It made sense to the committee. And I'm asking you is, is that is it appropriate for us as a Legislature to take a known problem, and that is that this noxious weed program, this grant fund, is going to run out of money. Do we put the money into it as we did in 2004 from a fund that has excess resources but is still connected to it to help make sure that there is funding available throughout the state? And I don't know what area of the state Senator Stuthman is in as far as these different entities, but I have entities from all over the state that are receiving in excess of \$77,000, one year it was \$90,000. And in fact, in 2007, the amount of the money that was distributed to this grant program, just the grant program, was \$90,000. And I've got the name of all the entities that have received grant funds, and I don't know if they are in Senator Stuthman's district or not, but they go throughout the state. And that's what we're trying to do, is we're trying to solve a problem that we know is there with a solution that has a connection to the funding source. It does not address the underlying need to fund the noxious weed program that's in the Department of Ag. This is simply one program, one grant fund. And as a committee we advanced this bill 8-0. If the Legislature decides that they don't want to do this, that is fine, but I don't want you to vote against this amendment because you think there is no connection. But if that was the standard, then the Appropriations Committee shouldn't have made those two transfers when they did previously, under the budget, out of Department of Ag programs into other Department of Ag programs that have no connection whatsoever. This is not the unprecedented action, that was. This bases the decision that we're making on some logic about why this is being utilized, and I hope that you'll see that in this discussion. And I continue to stand willing to try to answer your questions if I haven't already. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Those wishing to speak are Senator Burling and Senator Wallman. Senator Burling, you are recognized. [LB961]

SENATOR BURLING: Thank you, Mr. President. I won't speak long because Senator Erdman has explained it very well. I just want to say that I spent six years on the Agriculture Committee prior to this last term, and the noxious weed program was always the whipping boy, as has been said. It was always a good place to get money. We could pass that problem off to the counties and raise property taxes to deal with it. We talk a lot here about property taxes. The noxious weed problem is very important to the number one industry in this state, and I think the state needs to put more money into that program. And here we have a situation where there's funds...in a fund...money in a fund that's not being used but could be used better if it was transferred. And I support this amendment and I urge you to also. Thank you. [LB961]

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SENATOR LANGEMEIER: Thank you, Senator Burling. Senator Wallman, you are recognized. [LB961]

SENATOR WALLMAN: Thank you, Mr. President. Being a member of the Ag Committee, we discussed this at length in different ways, how to fund this, and we came up with this solution, and I would urge you to support the amendment and also support the bill. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Erdman, your light is next. Again, there are no other lights. You can wish to...choose to talk or to close. [LB961]

SENATOR ERDMAN: Mr. President, I'll go ahead and choose to close. [LB961]

SENATOR LANGEMEIER: You are recognized to close on AM2427. [LB961]

SENATOR ERDMAN: I was visiting with Senator Stuthman about some of the funding that I believe might end up in his area, and it's...he's going to check on this, as well. But if it is in his area, the grant award alone in Senator Stuthman's area is \$145,000 over the last four years. Now that includes both the grant money that was generated from this program, as well as the matching funds that come from either local funds or from federal funds. And we have done a very good job, I think, in the state of Nebraska of trying to provide for those types of opportunities to maximize the ability to manage our noxious weeds. The other part of this program that I think is essential to point out is that all of these commodities that we're talking about that are being inspected under the Commercial Feed Act have some logical connection or nexus, and again it depends on where they're grown, to water. And we're using the noxious weed program, and in fact some of these specific grant funds to help facilitate the growing of those crops by managing the noxious weeds in those areas. There is a connection. There is a nexus. I don't know that that's the barrier that we have to cross today. Whether or not you want to do this is probably the right question that you have to answer. I firmly believe it is. I believe that the committee has, over the interim, worked very tirelessly to try to find a way to provide cash funds for this program. And when we do provide the cash funds under AM2427, the Department of Ag will actually go in and lower the fees, as well. So in addition to what we're doing here, they're going to have the ability to go out and do as Senator Stuthman pointed out, and that is to lower the fees that these individuals are paying because of the increased amount of commercial feed that has to be inspected. That's all part of the solution. This is simply an opportunity for us to fully fund the grant program, and next year whoever is left standing will have to come back and actually look at funding the noxious weed program--not the grant fund, but the program. And what has happened in the past is, is that the noxious weed program has been offered up as a zero dollar budget item in the budget by the Governor. The Appropriations

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Committee restored half of the previous amount, so that was their new number. So say it was \$50,000 one year, and this year it's \$25,000. Next year it will be \$12,500. The year after that it will be \$6,250. The year after that it will be \$3,125. That's the game that keeps getting played, and that's the issue that has to be addressed next year. But the issue before you today is we need funding in this grant program to continue to allow weed management areas and weed districts throughout the state to be able to partner with local divisions, state government or federal government in managing noxious weeds for the benefit of the entire community, for the benefit of the agricultural industry, and candidly, for the benefit of those that are raising these commercial feed products. AM2427 transfers \$250,000 of excess funds from the Commercial Feed Act to the noxious weed grant program. I would encourage your adoption of AM2427. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Erdman. You have heard the closing on AM2427. The question before the body is, shall AM2427 be adopted to LB961? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB961]

CLERK: 25 ayes, 7 nays, Mr. President, on the adoption of Senator Erdman's amendment. [LB961]

SENATOR LANGEMEIER: AM2427 is adopted. Mr. Clerk. [LB961]

CLERK: Mr. President, the next amendment I have to the bill, Senator Erdman, AM2400. (Legislative Journal page 1004.) [LB961]

SENATOR LANGEMEIER: Senator Erdman, you are recognized to open AM2400. [LB961]

SENATOR ERDMAN: Thank you, Mr. President, and to continue the conversation, there are funds being utilized to manage noxious weeds throughout the state, so to Senator Howard and Senator Schimek for their vote on that amendment, I do thank them. AM2400 does what I said we could do on Senator Fischer's bill. Unfortunately, we didn't have the opportunity to debate Senator Fischer's bill before the budget came back up. Now this amendment has two logical problems with it. One, it isn't something Senator Fischer probably likes because she's counting on the budget including a gas tax increase so she may not have to put it in her bill. The second part of this is, is that it transfers that amount that would have been generated by the 1.2 cents from the cash reserve to the Roads Operation Cash Fund. Now what the practically does is that keeps the gas tax where it's projected to be, and funding the needs of the Department of Roads operations out of the cash reserve. If you go back and look at what the Governor proposed in his budget, he proposed funding this portion this \$15 million out of the General Fund or out of the cash reserve. It's the same money, just in different funds.

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But he proposed funding this out of the state so we wouldn't have a gas tax increase for this provision. What I had offered to you on General File of LB959 was to take these provisions out of the budget and put them into Senator Fischer's bill. So this is kind of backwards and I'll do my best to explain this and try to make sure that you understand what we're doing. This amendment would have come on Senator Fischer's A bill. But because technically we have the cash fund transfer bill ahead of the mainline budget, it's backwards. If this amendment is adopted, I have another amendment filed to the budget to take the gas tax increase out of the budget because we wouldn't need it. We would be funding it out of the cash reserve. So what this amendment gives you the opportunity to do is, just like we did last year, you'll have an opportunity to fund the needs of the Department of Roads from the cash reserve without voting to raise the gas tax in the budget. If this amendment fails, we can still strike those provisions out of the budget and still have this discussion on Senator Fischer's bill. It's not going to go away. I am going to keep offering you the opportunity to not raise the gas tax. And if you keep voting it down, then you better be ready to vote for an override because the Governor is going to veto it. We can accomplish the goal, and again, this is going to be opposed by the Appropriations Committee, I'm convinced of it, but this is a decision that the Legislature as a whole has to make. I believe the money is available. We have \$480 million end-of-year balance in the cash reserve. This reduces that to \$465 million. Still a healthy cash fund balance. Still a \$100 million more than the proposed shortfall. And depending upon what we do with state aid to schools and other things, it may still provide a significant cushion over the minimum reserve. But simply put, AM2400 funds the obligation of the Department of Roads to pay salaries and benefits out of the cash reserve instead of relying on the gas tax to pay that. It's cut and dried. That's as simple as I can explain it. I wanted to give you a little bit more background because of the fact that the budget came up in advance of Senator Fischer's bill where I offered to you, we could have had this conversation. Since that bill has yet to come up, I felt it was important for us to at least have another opportunity to have this conversation today. Thank you, Mr. President. [LB961 LB959]

SENATOR LANGEMEIER: Thank you, Senator Erdman. You have heard the opening on AM2400. The floor is now open for discussion. Those wishing to speak are Senators Heidemann, Fulton, Friend, Fischer, and Loudon. Senator Heidemann, you are recognized. [LB961]

SENATOR HEIDEMANN: Thank you, Mister...members and fellow...thank you, Mr. President and fellow members. It's another way to think, there's no doubt about that. Raising the gas tax is one of the hardest things that we can do, I think, I've determined since I've been in the Legislature now. This is my fourth year. And there's never a good time. Some people have come up to me and said, how can you do this? Gas is just going...skyrocketing. How can you put more tax on it now? So the question would be, if gas dropped 50 cents, would that be a good time? There's never a good time. What I'm going to talk about here though now more than anything else, and this goes back to the

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situation that we're in. You can look at your green sheet, and that's what I'm going to work off as I talk here in the next couple of minutes. You can see that we're \$59 million, and that's on line...should be 31 or...32. You can look at the out year, \$379 million shortfall. We did pass LB988 this morning off of General File to Select. Even if that passes, as it stands now we're still going to have, I think, a \$9 million to \$10 million shortfall. We, over the next two to three years, are going to have some difficult times to pass through. The cash reserve is going to be a very important part of getting us through those tough times. I am so proud of this Legislature about how they handled the cash reserve last year. We allowed ourselves, when we hit the tough times, and we're starting to go into them, we allowed ourselves because we were very prudent last year with our cash reserve, to possibly see us through those tough times without making major cuts, without having to raise taxes and having to do the things that we don't want to do. If we start to do things like this, I'm afraid that down the road, if our economic slowdown, our revenues coming in go down deeper than what we already anticipate, we will not make it out to the other side to the two or three years of economic downturn and revenue shortfalls. We will probably at that time then have to make those cuts that we don't want to or raise taxes. I ask this body to be prudent like we were last year. I ask this body to be very cautious when you start to bring money out of the cash reserve. There will be that time. There will be that time that the money is going to have to start coming out of that cash reserve, and I will support that. I will support that, to bring that money out of that cash reserve so that we can fund the programs that we have to fund to help the people in the state that need our services and to continue on with the operations as we see fit. The other thing, and I'll end with this, is that we have to remember that it seems like this is an easy target. The thing that I want to point out though, this is General Fund money. It started out as General Fund money. That was over revenue forecasts. That takes that General Fund money and puts it in the cash reserve. [LB961 LB988]

SENATOR SCHIMEK PRESIDING [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR HEIDEMANN: This is income tax and this is sales tax. So even though it's in the cash reserve money, this is considered to be General Fund money. So it's no different than taking it away from the General Fund. Thank you. [LB961]

SENATOR SCHIMEK: Thank you, Senator Heidemann. The next speaker is Senator Fulton, followed by Senators Friend, Fischer, Loudon, Wightman, and others. [LB961]

SENATOR FULTON: Thank you, Madam President. The Cash Reserve Fund is finite and it would be a one-time transfer, as I understand it. So if we were to take a one-time transfer to cover this Roads Department shortfall presently, what will happen next year? I would assume that same shortfall would exist. Would we then go back to the Cash

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Reserve Fund and put another \$14 million in next year and another \$14 million in the following year? We have to recognize that when we fund governments, I said it yesterday, it's like a Chia pet--it doesn't get smaller, it continues to proliferate. And so whether one is for or against the gas tax, what we're considering here is using a Cash Reserve Fund transfer to put a Band-aid over year one, recognizing that we haven't created a wound in year one. It's actually an ongoing expenditure. Cash Reserve Fund will solve this problem and make us feel better for one year, but afterward we're going to have to go back into the cash...if this is the mechanism by which we're going to cover roads funding, then recognize we're going to have to go into that Cash Reserve Fund every year in order to make it consistent with the expenditure that it's going to heal. Would Senator Erdman yield to a question? [LB961]

SENATOR SCHIMEK: Senator Erdman, would you yield to a question? [LB961]

SENATOR ERDMAN: I will. [LB961]

SENATOR FULTON: Senator, is that...I don't know if you heard what I said or not, but is that an apt explanation of what would be going on here? [LB961]

SENATOR ERDMAN: I can only surmise what your point was because I was being talked to by the Chair of the Appropriations Committee, the Chair of the Transportation Committee, and the Speaker, so you might have to succinctly rephrase that. [LB961]

SENATOR FULTON: This would be a one-time Cash Reserve Fund transfer to cover a present shortfall within personnel of the Roads Department. What happens next year? [LB961]

SENATOR ERDMAN: Well, I am informed, Senator Fulton, that Senator Fischer's bill is needed. And the A bill on Senator Fischer's bill is needed to address that issue long-term. So that's a question probably for the Chair of the Transportation Committee. I'm not focusing on that problem. And in fact, if you recall, the amendment that you voted against on General File would have placed this discussion within that bill and we could have had this conversation on one bill. [LB961]

SENATOR FULTON: Okay, understood. Thank you, Senator Erdman. The merits of this particular amendment, we need to bear in mind that this doesn't solve the problem in the long-term. This would be a Cash Reserve Fund transfer here in this year, but the problem continues, the shortfall is going to continue through years forward. So this actually...this is something that we did consider in Appropriations, but we didn't consider it for very long because this...again, a Cash Reserve Fund transfer is to get us through in tough times. This shortfall is something that's going to be ongoing, and something I've learned here in the short time I've been here, again, is that once there's something within government, it doesn't go away. The Cash Reserve Fund does not replenish. In

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short years...or in short...in down times, in down economic times the Cash Reserve Fund gets spent down. So what I would like to advocate for here is two things. Number one, this is short-term. This does not solve the problem. It probably creates more problems in the future. Number two, please use that Cash Reserve Fund...let's not use the Cash Reserve Fund this year. Let's set it up such that next year after we've had our October revenue forecast, if that forecast is very bad we'll have a Cash Reserve Fund to go to. But if we start taking money out now to assuage whatever spending urge that we have now, recognize that it will only multiply. We'll create new spending and have to go back to the Cash Reserve Fund twice as much for the new spending that we create now. [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR FULTON: We're going to need that Cash Reserve Fund, I am convinced of it, in the coming years. Let's not touch it yet. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senators Fulton and Erdman. Senator Friend, you are recognized to speak. [LB961]

SENATOR FRIEND: Thank you. Thank you, Madam Chairperson. Madam President, I would...as you can probably imagine, I would rise in support...I will rise and I am rising in support of AM2400. And not just because I...I always find it amusing when Senator Erdman gets up and offers an amendment, because it is amusing to me. He sits right behind me and he likes to perform cat calls and everything else. I like to do the same to him. Not for those reasons. We're into a shell game now. I remember it must have been four years ago now. I don't really feel like I had a great grasp of what was going on, but I remember we raised taxes to the tune...we as a legislative body raised taxes to the tune of \$250 million, \$275 million, something of that nature, and I don't have it in front of me. But funny enough, you know my mouth and you know how it gets me in trouble, and I stood up probably a day later and lit into my colleagues, and said it was a mistake. I said it was a huge mistake and we're not going to feel the mistake tomorrow, we're not going to feel the mistake two years from now. We're going to feel it five years and ten years from now. A lot of that, I think, is coming home to roost, but we can deal with that subject matter later. I'm going to say the same thing now. There is inside politics and there's outside politics. The people don't understand why we would go out and raise a gas...diesel is at four bucks a gallon, folks. They don't...they can't figure that out, and it's not that they're stupid. They don't understand why we as citizens, as well, would think that that's normal or that's fair or that's understandable. They can't figure that out. And, quite frankly, I can't either. I don't necessarily love AM2400. Do you know why? It's a shell game. What we did the other day was the mistake. This is trying to fix the mistake. You don't attack spending, overspending from the appropriations side. You attack it from the revenue side. We haven't done that. But the unorthodox part about this is, and it happens once in awhile, we'll have a tax increase on the appropriations side so it puts

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us in an unorthodox position when we have to go attack a tax hike in the appropriations measure. The reason that previous Erdman amendment was so logical is because the majority of the people in this state, I will guarantee it, felt it was logical. Felt like we didn't have to raise a gas tax when OPEC and everybody else is gouging us like...and we have no control over that. This is something we have control over. This is something we can say no to, and we didn't do it. I'm not mad at...I'm not mad. I wasn't mad four years ago at anybody. I mean, I consider everyone in here, friends. I'm not mad now. I just don't get it. I didn't get it then and I don't understand it now. When we march around to our districts and we tell people we want to be fiscally conservative and we tell them I will not raise your taxes, what do we tell them now? What do we do? Did you see how big the type was in the World-Herald the other day? They're trying to make us look bad. Well, I've got news for you. We're making ourselves look weird. I would tell you this, one thing Senator Erdman is right about....maybe not on everything...but one thing. This is going to get vetoed out, and then what happens if Senator Fischer's bill does not pass? Do we have 30 votes to go in and do what we need to do? As a unit, I don't believe we do. So I would say this: Call this a short-term fix, call it a shell game, call it whatever you'd like. I think it's a way out. I think it's a way to tell the people... [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR FRIEND: ...that we communicate with on a daily basis that we came here and we can't understand. I heard a couple years ago, well, it's a small increase. I don't think they care, do you? Maybe I'm a person who doesn't belong in a place like this. Maybe I'm a person that should be sending e-mails to folks like you. (Laugh) And going and saying, how did one start off at... [LB961]

SENATOR SCHIMEK: Time. Thank you, Senator Friend. Senator Fischer, you are recognized. [LB961]

SENATOR FISCHER: Thank you, Madam President and members of the body. Senator Friend, I always appreciate your comments and the manner in which you deliver them, but I would have to respectfully disagree with you. I agree on one point. We are in a shell game now, but you and I view it differently because the shell game we're in, we're still using taxes, folks. What do you think general reserve money is? What do you think cash reserve is? That's sales and income tax. So we're willing to use sales and income tax, but in my opinion we are not willing to stand up to the plate and use a gas tax, which is a user's fee which is how we fund roads in the state of Nebraska. Those who use the roads, pay for the roads. I have pledged to many of you in this body in our discussions that I will not support the use of cash reserve money for roads in the state or at the city or at the county level. I have pledged to many of you in this body that I will not take General Fund dollars for our roads at the local and the state level. That is unwise, in my opinion. It is a short-term fix. Infrastructure is a responsibility of government. Infrastructure is long-term. We are not going to solve any problem with

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infrastructure that we currently are at a crisis with in this state by putting a Band-aid over it and making ourselves feel good because we can go home and say we didn't increase the gas tax. If you vote for this amendment, are you willing to go home and say, I used your sales tax for roads, I used your income tax for roads? And in a year or two when the bad times come, that will be raised. But I didn't raise your gas tax. This is a tough decision. This is a tough job. We were all elected to make those tough decisions. General Fund money has many, many demands on it, whether it's K-12 education, whether it's higher education, corrections, Medicaid, everything else in this budget that's under discussion, that is General Fund money. I will not support taking that money for roads, because we have a system for funding roads in this state through user fees that works and it works well. Other states are having a funding crisis just like we are, but they are in bad shape because they have used General Fund money. They have bonded, they have tolls that don't pay anything because they're afraid to raise their gas taxes any more, even though in Colorado they're talking about raising it 13 cents--13 more cents. You know, last year when we had this discussion we reached a point...and the papers all had the headline: Nebraska is number one at the pump in the price of gas. And we all got scared. We all got scared and backed off. Right today I didn't say a headline saying, Nebraska is twenty-fifth in gas tax, because that's where we're at. And we are... [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR FISCHER: Thank you, Madam President. And we are one of the few states that fund our roads with user fees that are almost entirely dependent upon the gas tax, and we are still twenty...only, in my opinion, only twenty-fifth. We should be higher because that's how we fund roads in this state. We don't raid General Fund money. We don't go after cash reserves. We don't use credit cards and bond. We have people who use the roads pay for them. That is a user's fee. And let's be honest, cash reserve and General Fund money are tax dollars too. Thank you. [LB961]

SENATOR SCHIMEK: Thank you, Senator Fischer. The next speaker will be Senator Louden, followed by Senator Wightman, Chambers, Kruse, Harms, and others. Senator Louden, you are recognized to speak. [LB961]

SENATOR LOUDEN: Thank you, Madam President and members of the body. I oppose this amendment and I...and part of the reason I oppose that is because I don't think we should be taking money from the cash reserve to be put into an operations fund for some department unless there's a real dire need. And at the present time there is probably a need over there, but there's been some...to me there's been some bad management. First of all, how many noticed that our gas tax dropped four cents the first of January? If I remember about that time, gas around Lincoln here was selling for about \$3 a gallon, and it dropped the four-cent tax, and I don't know if anybody noticed, but now it's more up to about \$3.20 a gallon, so consequently where did that four cents

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go and did anybody hardly notice? I don't think so. When they did that four cents drop, my question is, is how come that went...we had to take the four cents off of there? We heard all of this discussion about how the Department of Roads was being underfunded and they were going to be short on cash and everything. And so consequently somewhere along the line, why, I guess they took in less cash, so they would be. But part of that is, is the way it was managed. The...whatever they did for their projections on how much revenue they were going to get, I remember sitting on the Transportation Committee, and they were telling us that as the price of gas goes up, why, they're going to be burning less gas, there will be less tax money, and consequently we won't take in as much. Car sales have been down, we won't get as much revenue, so consequently we will have less revenue so we'll have to cut our projections down for our expenses. And that's kind of probably what they did, and the result was that when it came in there was more gas burned and there were more cars bought and revenues were up. And the way it's set up in law, we had to lower that tax. Now there's two ways of looking at that. You can either say we saved the consumers four cents a gallon all that time, which amounts to about one cent, amounts to about \$1 million a month, so I guess we saved them about \$4 million a month. Or did we walk off and leave \$4 million a month laying on the table? Well, if you figure it that way, here three months later, it's about \$12 million, and you're talking about taking \$14 million out of the Cash Reserve Fund. So where did we gain anything? With better management...and that's what I think, the management needs to be tightened up a little bit on how we project our income and our expenses on this Department of Roads. If you think of any of you were working for a private corporation, and you were doing a calculation and you came up and was costing them 4 million bucks a month, where would you be? You would probably be served upon a silver platter. I can assure Senator Friend working for a bank over here, if he cost them 4 million bucks a month, I'm sure he wouldn't be working on the twenty-second floor; he would be working on a lower floor in that big bank building. But nonetheless, this is, I think, the problem with some of this is, and I think we probably have enough money. I think we have a system in there with our taxing system on our gasoline that needs to be more attention paid to and taken care of how we manage it. The money was there. It's just that we didn't manage it right. So I am opposed to taking it out of the Cash Reserve Fund because this is money that, as Senator Fischer pointed out, comes from your sales tax, other means, and I don't think the Cash Reserve Fund should be dipped into without serious consideration. Thank you, Madam President.
[LB961]

SENATOR SCHIMEK: Thank you, Senator Loudon. Senator Wightman, you are recognized to speak. [LB961]

SENATOR WIGHTMAN: Thank you, Madam President, fellow members of the Legislature. I, too, stand in opposition to AM2400. I agree that this would be a quick fix. All of those who were foresworn not to raise any taxes will obviously look better in the eyes of their constituents, but I...what we're proposing to do is cover, as Senator Fulton

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suggested, an ongoing expense with a one-time withdrawal, and we're going to have to address this problem sooner or later. And I think now is the time to address it. I know everyone wants to talk about how people can't afford this increase in the gas tax. And of course if we debate this long enough and if we tell them how bad it's going to...tell the public how bad it's going to be, they're certainly going to believe that part of the discussion and the debate that we have here. But I think we have to address the Department of Roads funding with something that's going to be sustainable. And certainly it's not sustainable to take the money out of cash reserve one year, come back the next year and we're still short in the roads and for our transportation system. So I do not believe that it is the responsible thing to do here, to remove the money, to transfer the money from the Cash Reserve Fund. Senator Friend, in response to his statements about it not being fiscally conservative and that the fiscally conservative action would be to take it out of the cash reserve, Senator Friend, I would suggest that fiscal conservatism does not always equate to fiscal responsibility. And I think we are called upon here to make a hard choice. It is going to be a tax increase if we're keeping score on how many times we vote for an tax increase. I suggested on the floor before, I think I did earlier this week, when you get down to calculating the amount, if your constituent drives 20,000 miles a year, gas....he gets 20 miles to the gallon, that this would equate into about \$12. I equated that to what a carton of cigarettes would cost, and it's approximately one-third of the cost of a carton of cigarettes. So nobody likes to increase taxes. No constituent out there likes to have his taxes increased. But I still think we have to take a responsible position. As Senator Fischer said, we've always used gas taxes to fund roads. We've not typically taken any of it. I can't speak for the entire history of the use of money to support the Department of Roads, but certainly the primary fund has always been the gas tax, and I think we should continue to do that. And if that requires an increase in the gas tax to maintain roads at their current standards, I think that's the source we should look to, and I think that is a fiscally responsible course. So I urge your opposition to AM2400. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Wightman. Senator Chambers, you are next in line to speak. [LB961]

SENATOR CHAMBERS: Thank you. Madam President and members of the Legislature, I've listened to the debate that has occurred this session with reference to the Department of Roads, what it is doing, what it is supposed to do, how what it is doing will be funded, whether or not the department is underfunded, as Senator Loudon said...oh, he's not even there...Senator Loudon said there is a defect or flaw in the management, the handling of funds, which might be there already. All of that can be said, but I think there's something more basic and fundamental. This is a state which has been governed by people who don't use good sense. They are emotional. They are under the dominance of these road-building firms when it comes to road building. What you have to look at when you talk about "infra" structure, how much more infrastructure are you going to create anew when you cannot maintain what you have now? The roads

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that Nebraska has now, cannot be properly maintained. Maintenance of roads is as important as construction of roads. You don't need to construct anymore roads when you cannot maintain what you have, and that's what nobody on this floor talks about except me. I railed last session. Nobody paid attention. You're not going to pay attention this session. But you are under the control and dominance and influence of the road builders, the big companies, the ones who have lobbyists, the ones who contribute to your campaigns, the ones who set the road-building program for this state. All they want to do is build roads. You tell them, I got a little town in my area and we want to put a stretch of expressway there. They say, by God, if that's what you want, we'll get those knuckleheads in the Legislature to appropriate the money, and once the knuckleheads put the money there we will build it. We will build a road from nowhere to nowhere. (Singing) Nowhere from nowhere leads nowhere, leads nowhere. That's what you all will look at. If you drive between Omaha and Lincoln, you see pitches and patches. You see areas of the road which are undulating, and if you drove on it long enough you would go to sleep. It's like riding the waves--over the bounding main. And you call that good road building? These companies have you all under their thumb. You drive these roads, and you cannot see the inferior quality? And then you're talking about building an expressway because there are little towns that say, well, we're entitled to a good road too. Little towns are dying. They are not gaining population. You all don't pay attention from one bill to the other. Senator Carlson brought us a bill because there are towns which are not gaining in population, and because they are gaining in population there are certain grants that ought to be made available to them so they can try to lure people to their towns. I pay attention to all this. You only got 16 more days to put up with this from me, and you won't have people who can look at one issue over here at point A that may impact another issue over here at point B. You can only look at one thing at the time--one thing at the time. And they can be conflicting, but because you don't put them together, you don't see the conflict at all. Nebraska is a sparsely populated state. Why do you need all of this road building? Because these large companies tell you they need it... [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR CHAMBERS: ...and you are an easy mark. You are one of the easiest legislatures to knock over that will exist anywhere in this country, and they're going to take you to the cleaners. You are up here talking about whether you ought to pay with sales tax or the cash reserve. Ask the question whether or not there needs to be as much building as is going on. But you're not going to ask the question, I will ask the questions. I will state what I've got to state. And what is it like? What's the answer? The answer, my friend, is blowing in the wind. That's all I'm doing, blowing in the wind. But there will be a record of what was said, which nobody will read. It's like a song that's written which nobody sings, a book that was written which nobody reads, music that is played to which nobody listens. But that's the nature of how a legislature works. [LB961]

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SENATOR SCHIMEK: Time. [LB961]

SENATOR CHAMBERS: I'm going to support Senator Erdman's amendment. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Kruse, you are recognized to speak. [LB961]

SENATOR KRUSE: Thank you, Madam President and colleagues. I oppose the Erdman amendment, but I'm speaking really to a more serious problem on the floor. I hear people talking about tax increase. This is not a tax increase that he's trying to replace. If it is, I wish you would have praised us last year for a tax decrease. This is to correct last year's budget. We have agree on this floor and the Governor has supported that the gas tax ought to be 27 cents. We were trying to make 27 cents last year. We missed the figure. Somebody gave us the wrong figure. But we were not cutting the tax at that point. We're not raising it now. We're still trying to hit 27 cents. And, you know, we can add that that will help with the budget and all that kind of stuff. That's beside the point. Twenty-seven cents has been the allowable amount for the tax, and we're trying to get back to it. Second, I would certainly endorse Senator Fischer when chides us, and I hope we all understand and the public understands this is all tax money. We don't have a tooth fairy, and if so, we would be out of teeth. We haven't gotten this money from any other place than taxes. And then the other point that's been made well by Senator Heidemann, but I want to emphasize, we use the reserve only when necessary or wise. It's there to be used. It has that purpose. Going back in history a little ways, after I had served in this body for a couple of years I finally had my head around the budget, I looked at the cash reserve and saw 125 at that time--125. At that moment, with only two years' experience, I picked out the figure 500, because that would be two months' budget. I thought no responsible business would try to go ahead with...and feel they're doing a good job of going ahead without two months' operating costs. I did not dream we would ever get to it. So as our Chairman has pointed out that we all deserve some accolades because last year we go to it. We actually got to 500. I didn't think I'd live that long. No comments about how long I might have to live. I lived long enough to see 500. That's two months. Now put that against the next biennium, folks, and help the Appropriations Committee think about it. That is two years. That means one month a year. If you all go behind one month a year for two years, you will be down to zero. That's how thin that 500 is. And losing one month, cutting back, is only 8 percent loss on what you were hoping to get per year. That is a serious threat. So again I emphasize we ought not to be raiding that fund. We can use it, that's what it is there for. But also we are not trying to correct a tax increase here. We're simply trying to get the gas tax back to 27 cents. Thank you. [LB961]

SENATOR SCHIMEK: Thank you, Senator Kruse. Senator Harms, you are recognized to speak. [LB961]

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SENATOR HARMS: Thank you, Madam President and colleagues. Senator Chambers, would you yield for a second? [LB961]

SENATOR SCHIMEK: Senator Chambers, would you yield? [LB961]

SENATOR CHAMBERS: Yes, I will. [LB961]

SENATOR HARMS: Well, thank you very much. I appreciate that. Senator Chambers, when you were talking about the roads, let me ask you just a couple questions about roads. Do you believe that having the right infrastructure is the key to economic development? [LB961]

SENATOR CHAMBERS: It all depends on what you mean by infrastructure. Are we talking about just the roads here? [LB961]

SENATOR HARMS: Let's talk about roads to start with. [LB961]

SENATOR CHAMBERS: Okay. Without trying to be evasive, it depends on where the roads go and how they facilitate those activities that would lead to economic development. [LB961]

SENATOR HARMS: Well, let's look then at...let's go a little further west then, okay? [LB961]

SENATOR CHAMBERS: Okay. [LB961]

SENATOR HARMS: Let's go from Interstate 80 to Scottsbluff, Nebraska. We have an expressway that's been 20 years, it's never been completed. Now do you think that has any relationship to economic development or not? [LB961]

SENATOR CHAMBERS: Not sufficient to justify the building of it. [LB961]

SENATOR HARMS: Well, it's already built. We're just trying to complete it. [LB961]

SENATOR CHAMBERS: So it's there already and it needs improvement. [LB961]

SENATOR HARMS: Well, no. What it needs, Senator...let me get more specific, and this needs to go around the city of Kimball and then it's completed. And my point here is, and I thank you very much. [LB961]

SENATOR CHAMBERS: Okay. [LB961]

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SENATOR HARMS: I see we're not going to go any further so let's move on to what I want to talk about, and that is the fact that I think that the infrastructure is critical to economic development, and I think the road system is critical to economic development, I don't care where you're at. And I think it's important for us to understand this. Even though I think where I come from, this has been a battle for 20 years, we haven't completed this highway. I am not really in favor at all, even though I think it would be great to have the money coming out of reserve so we could complete that portion of the highway, I don't think we should touch the reserve. I think that we're asking for difficulty. And when Senator Chambers and Senator Erdman and all these people who have a pretty good handle on the politics of this structure, of this body, leave us next year, we're going to be confronted with a massive issue, and that is we're going to be short at least a minimum of \$200 million, maybe over \$400 million in two years. By touching that reserve now places this body and whoever is going to be here, whoever is going to be on the Appropriations Committee, under very, very tense times. And I would just urge you to think about that, think about what's going to happen to us next year, think of what is going to happen in the second year. And when we hear what the results will be in the Forecasting Board in October, we're going to find out that we might be in worse position than we are now. And for every dollar that we take out of that reserve, it's going to be more difficult for us now. And let me just give you several examples. When we start to look at this budgeting process next year and you start taking on the University of Nebraska, you start taking on the Roads Department or other...the Health and Human Services, and whatever the issues might be, you haven't even begun to see the issues and the problems that we're going to be confronted with. And it's going to take courage for every one of us who is coming back to stand up and address this issue. You can't just follow the Appropriations Committee. Every one of us who's in this room that's going to return, and all the new senators that are going to come here, are going to be under a great deal of stress. I've been on the other side when we've been cut 10 or 15 percent, and I saw how much pressure we put on the Appropriations Committee to try to get that money refunded. Well, when you have as big a deficit as we're going to have, the issue is going to be huge. And I just want us to understand that now, no matter what we do today, no matter how we deal with this budget, for every dollar you take out of reserve, it's going to be more difficult for us next year. And I don't want to be able to deal with that... [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR HARMS: Thank you, Madam President. I don't want to have to deal with that when we could have prevented some of this now. So I would really ask you not to be taking dollars out of the reserve, and understand what we're looking at it is the future and being able to balance and keep government's doors open and provide services for people who need it and to try to continue our infrastructure as best we can until we get through these difficult times. Madam President, I thank you. [LB961]

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SENATOR SCHIMEK: Thank you, Senator. Continuing debate on AM2400, Senator Heidemann, followed by Senators Howard, Erdman, Hudkins, and others. [LB961]

SENATOR HEIDEMANN: Thank you, Madam President and fellow members of the body. I just want to point out...I'll be, hopefully, fairly brief...that is we do this, it not only has a Cash Reserve Fund impact, it has a General Fund impact, because by law the interest money from the cash reserve goes back, flows back into the General Fund, and it would be part of line 15, "General Fund Net Receipts," I believe. So if you pull \$14.1 million out, it's approximately 5 percent as you see the interest market go down. It is decreasing some. But you could say approximately \$700,000 of General Fund revenue loss if we transfer this \$14 million out. So if we do this, I believe even as fast as tonight you will see line 32 change from \$59 million to over \$60 million. And it will have a General Fund impact. That's more informational than anything. I wanted you to be aware of that. If you vote for that there will be a General Fund impact. Actually there were bills in the Appropriations Committee this year that would have transferred money out of the cash reserve for various purposes. One of them was for roads. And if you look at those bills, they had a fiscal note, because there was a General Fund loss because of interest money not flowing in. I'm going to make one more point and that will be it for me. People seem to want to do this so that we don't have a tax increase in the gas...gas tax increase. I might put a point in here that it's a possibility if we start seeing money being pulled out of the cash reserve and we have tough economic times like we see coming at us, and we don't make it out the other side, and the cash reserve isn't there to help us out, when we pull money out of the cash reserve like this, we very well might be voting for a sales and income tax increase right here. It's something to think about. Thank you. [LB961]

SENATOR SCHIMEK: Thank you, Senator Heidemann. Senator Howard, you are recognized to speak. [LB961]

SENATOR HOWARD: Thank you, Madam President and members of the body. I rise to support Senator Heidemann. I also want to thank Senator Fischer. I know her concern for Nebraska's roads is equal to my concern for Nebraska's children. I wasn't here in 2003, but that was the year that the Legislature ran into a serious budget shortfall. And searching for funds, a tax on services, on home repairs, was passed. This resulted in an additional tax burden for my district, which is inner-city Omaha. When I ran to represent District 9, I pledged that I would work to remove this tax, but it was no easy task. With the help of the Revenue Committee and this body, I was successful the second year I was down here. I never want to be put in the position where I have to vote for a tax to cover a budget shortfall. I didn't come down here to spend money, and I feel it is my responsibility to protect our funding and to use it wisely. And I would like to give the remainder of my time to Senator Fischer. [LB961]

SENATOR SCHIMEK: Thank you. Senator Fischer, you have 3:01. [LB961]

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SENATOR FISCHER: Thank you, Madam President. I would like to compliment Senator Heidemann for putting it into perspective that what we do on one issue, on one point does have ramifications in other areas. As he said, if we take this money from the General Fund, under Senator Erdman's amendment that he is proposing, then we're going to basically lose more revenue because we will lose interest. And we need to keep that in mind, sometimes things sound good to us in here at first blush, and that's just like at home in our districts and across the state, sometimes things sound good at first blush. I've been traveling my district since June and I've been discussing roads at every county commissioner meeting, I have 13 counties, every county commissioner meeting, every rotary club meeting, every listening session, every hospital tour when I'm with the board and staff of hospitals, every time I meet with school districts I talk roads. And I've explained how we fund roads in this state and why they are needed. And it's not too hard of a sell to explain to rural people why we need roads. It's a hard sell, though, to explain how we fund roads. And when we go around it's always easy to say, well, do you support a gas tax increase? I wouldn't raise my hand. None of you would raise your hands because I can't believe anybody here is going to stand up and say I support a gas tax increase or I support any kind of tax increase. But when you explain how we fund roads, what's at stake, how cities and counties benefit from the state gas tax, cities and counties get 46.666 percent of that, then people sit up and take notice because they know when their cities and counties are getting that money for roads, they're getting property tax relief. And when people at least in my district talk about taxes I don't hear about the gas tax, I hear...I do hear about price at the pump, but we all know after the experience in January with gas tax dropping 4 cents and nothing happening at the pump except it went up, there's not too slick of a relation there... [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR FISCHER: ...anymore. What we hear in our districts is property taxes. So there is that correlation there, too. And you need to keep that in mind. Senator Chambers, I...you know, sometimes you leave me speechless. You talked about Nebraska can't maintain the roads they have now. I'm sure you get this magazine, it's called Governing, Measuring Performance, we all get it. Nebraska is one of the states that received some of the highest marks overall, and an area that we experience truly our highest mark is on maintenance of our infrastructure. As you know, there was also a World-Herald article on the state of the states. They, too, mentioned that, that Nebraska, we aren't facing a lot of the concerns with our infrastructure because we have had the foresight to... [LB961]

SENATOR SCHIMEK: Time. [LB961]

SENATOR FISCHER: ...fund it and maintain it. Thank you, Madam President. [LB961]

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SENATOR SCHIMEK: Thank you, Senator Fischer. Chair recognizes Senator Erdman.
[LB961]

SENATOR ERDMAN: Madam President, I'm going to give you some new arguments for this amendment. This amendment is for the kids. That work? (Laughter) All right, I got another one for you. This is economic development. Still not working. National security? All right, just thought I'd try those out. Last year we were told, and I will attribute this to Senator Fischer because she said this, Nebraska was number one in our gas tax. And we got scared about raising the gas tax. Oh excuse me, price at the pump was number one, and we got scared about raising the gas tax. I'm letting Senator Fischer speak through me, but I'm not channeling her. But I'm just saying at one point there was a big headline "Nebraska is number one, price at the pump." And the members of the Legislature that were voting for a gas tax increase decided, you know what, when the Governor vetoes this, because it wasn't a matter of if, it was when, that they weren't going to move to override the Governor on that. Wasn't it the right thing to do? By not voting for that you left the state \$19 million short on projections, plus some now, but we could have avoided that if you would have adopted a similar amendment that I offered you last year. I'm...I realize that these types of conversations are difficult. They are difficult at some point to understand because people have been working, for the past 45 days, trying to determine what their position will be. And all of a sudden a new idea comes up and it either undercuts the work that they've been doing prior, or it changes the discussion significantly. So now they're trying to figure out how to justify whatever position they're going to take. There are different ways of accomplishing the goal. This one is one of them. If you don't like it, I'll offer you some other ones. It's not going to go away. But the fact is that I said in my opening Cash Reserve funds are General Funds in a different fund. Now you all want to pick on me for, oh this is General Fund, sales and tax; you know what? The different is that we don't have to reach our hands into someone's pocket to get the money to do it. We already have it. You've already levied the tax. It's in an account of \$500 million on top of \$200 million of a minimum reserve. Explain to me how the difficult decision here is not to raise the gas tax? I don't know about you, but I don't go get a loan, if I have money in my checking account, to pay the bill. Now some will say, well, you're borrowing money from future decisions. You know what? You can't save enough money to prevent the Legislature from looking at funding in the future, you can't. And if you came to the Legislature saying, I want to horde as much money as I possibly can to prevent us from ever raising taxes, you should quit now because it is irresponsible. You can't do that. We have a study. Senator Langemeier presented this at the Revenue Committee hearing. You cannot save your way out of a recession. And if you raise taxes during a session, there is no guarantee it's going to fill the gap. The states that reduce the taxes or the state that figured out ways to avoid raising taxes weathered the last recession more effectively than the states that raised taxes. Those are facts, those are studies. But that's not what we're talking about here. If our funding is so great for our roads, why do we need to fix it in

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LB846? Again, we could be having this conversation on that bill. I'm going to stop (laugh) before I'm further behind, I won't say while I'm ahead. But listen to what you're saying. You're saying we can't do something because we want to be more responsible and... [LB961 LB846]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR ERDMAN: ...raise peoples taxes when we have \$680 million in excess of our budget in the bank. And we don't know, and I will quote from the Journal-Star, I believe this is, we don't know if LB988 is going to balance the budget. But even if it doesn't, we're told by the Chair of the Appropriations Committee, that we possibly could use Cash Reserve funds to balance that. If you won't raise your hand at a town hall meeting to support a gas tax increase, then why would you press green on the floor of the Legislature when you don't have to? I'm just trying to connect the dots here. Help me understand better the rationale for not doing something that I believe is responsible short-term because we're not convinced that Senator Fischer is even going to go forward with her A bill on LB846 to make a long-term solution? Thank you, Madam President. [LB961 LB988 LB846]

SENATOR SCHIMEK: Thank you, Senator Erdman. Senator Hudkins, you're recognized to speak. [LB961]

SENATOR HUDKINS: Thank you, Madam President and members of the body. We've been hearing over and over and over, gas tax increase, gas tax increase, gas tax increase. Well, think back a few years. We were in tough financial times then, too. And there were state agencies and the University of Nebraska were all crying because they were going to have their budgets cut. No, none of them had their budgets cut, they just got less of an increase. They asked for the moon and they got halfway there. And so they were upset their budgets were cut. No, they got less of an increase. Same thing here. From July 2007 to December 31, 2007 the gas tax was 27 cents a gallon. At the end of the year it went to 23 cents a gallon. That's a savings of 4 cents gallon. Let's say that you have a car that has a 16-gallon tank and you run it down to fumes and you fill it up. You have saved a whole 64 cents. Let's say you have an SUV, your tank is bigger, or a pickup, 20 gallons, you have saved 80 cents. Did any of you go out and rejoice because you had saved 64 cents or 80 cents that week? Probably not. Did you even notice a change in the gas prices? Did they go down? Ha! And who do we have to thank for that? Who owns the gas stations in town? You might look a little farther. If you didn't see a savings when you filled up your tank the first week of January, somebody else was getting all the profits. And you say gas is expensive. Compared to what? How many of you buy a bottle of two of water a day? What does that cost? One dollar a bottle, two dollars a bottle. Have you ever seen the bottled water Avian, Evian. Spell that backwards. What does it spell? Have you bought a can of pop today? What is it? Seventy-five cents a day? How about a can of V-8, that's my favorite. Those are a buck,

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but at least you get your vegetables for the day. I was just looking over there at the Cheetos and the Freetos and I heard one...at least one person over in that line has at least two a day. We don't know for sure what the price is, but we guessed 25 cents a bag. That's 50 cents a day. And you're griping over 80 cents a week? How about a pack of cigarettes. I don't smoke, so I had to ask someone--\$4 a package. And maybe a pack a week, some people a lot more. How about a beer? I don't drink beer either, so I had to ask. Three dollars a beer, and you're complaining about 64 cents. How about a can of cat food. I don't even know what that is. My poor cats eat the bulk, dry stuff. Gas tax is a user fee. If you drive on the highways you are contributing to their wear. Nebraska has 10,000 miles of improved surface roads... [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR HUDKINS: ...in the state. That's economic development. If you don't have decent roads, you might be paying even more for the products that are delivered to you. We either are told lower taxes or cut spending. I received an e-mail today from an employee, from HHS. They...he told me that he can highlight millions of dollars of unneeded spending. Well, you know what? I wish they would. They don't dare, it would be their job. I wish they could document this stuff, get it to us, get it to Senator Heidemann; we could save all kinds of money. And we wouldn't be fussing over a few cents a week for a tank full of gas. Thank you, Mr...Mrs...Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Hudkins. Next in line to speak is Senator Friend. [LB961]

SENATOR FRIEND: Thank you, Madam President. I think where we left off is that I actually had quit, and I was going to start e-mailing. Ha, not true, I'm still here. I know. Hey, I have respect. It goes without saying, I've known Lavon now for a while, I know the members of the Appropriations Committee. I understand it. I have respect for the work that they did. I respect the decisions that we had made the other day as a body on this particular...this subject matter. All I'm simply saying is that, first of all, I enjoy doing this, this is fun. Second thing I'm saying is that I still think it was a mistake. I think it was bad for this state. And I think that this gives us a chance to revisit it. So let's revisit it. Increasing the gas tax, I don't care if it's a minimal amount, increasing any tax doesn't necessarily mean that we're going to increase revenue, I think we all know that. All of us amateur economists...as amateur economists we understand that. It could effect citizens purchasing power. Accompanied with all the other things that Senator Hudkins eloquently pointed out, we are adding on top of a purchasing power problem. Right? It could decrease revenue during the biennium. All I'm saying is that I think that AM2400 will lead us closer to where we need to go, if we choose to do that. It offers us an option. It offers us an option, and you can consider it an option for taxpayer sake. (Laugh) She's right, cigarettes are expensive. I saw a guy buying them the other day, I couldn't believe it, I almost choked. I almost choked on the Pop-Tart I was eating, or whatever it was.

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That was expensive too. LB959 later, the amendment to LB959 later will take us the rest of the way. I was complaining to Senator Erdman the other day as I said, hey look, I'm sorry I'm not adding more to this; I'm sorry I'm not part of the solution. He goes, well, just vote red, you'll be part of the solution, or vote (laugh)...I think he said vote red, depending on what we were talking about. I don't even remember now. We're all part of this solution because eventually we're going to make a decision on an item that is going to effect the purchasing power of the taxpayer. The key point is, what I brought up earlier, the key point is it is a shell game. Senator Fischer and I were going back and forth on this, sort of. It is a shell game. And Senator Erdman, and I was talking off the mike to a couple of others, this is so true, the money is already here. We are...this is irresponsible public policy. If we don't take the money that we've already gotten from the taxpayer and transfer it accordingly I think it's irresponsible. We're going to make that decision pretty soon. You know, obviously, I'm not complaining or whining. Obviously, I'll abide by what we decide. What other choice do we all have in the environment that we're in? But I have...and no offense, but I have not heard yet a good justification for increasing the gas tax, not one good argument. Nothing that's even come close to swaying me. As Senator Fischer might say, Friend, nobody could sway you out in front of a truck like that if, you know, they held a Pop-Tart out in front of it. I don't know. But maybe she's right. I try to stay open minded and I have not heard a good argument yet. I've heard better arguments for not transferring... [LB961 LB959]

SENATOR LANGEMEIER PRESIDING [LB961]

SENATOR LANGEMEIER: One minute. [LB961]

SENATOR FRIEND: ...funds between accounts. I've heard better arguments from people in the Legislature regarding that. But in regard to the tax hike I haven't heard a good argument justifying it yet. No offense to anybody out here. Please, somebody educate me. Why do we have to increase the gas tax? Other than because the Department of Roads has told us that they need it? Uh-huh. I say they want it. And there's a huge difference between want and need, isn't there? Where are those blood pressure pills? Senator Pedersen offered me some blood pressure pills. You know, I'm going to need them. I don't get it. I'm never going to understand...no, not the Mountain Dew. (Laugh) You know, I'm trying to be serious about this. I'll sum up by saying this, we're going to do what we got to do, but I'm telling you,... [LB961]

SENATOR LANGEMEIER: Time. [LB961]

SENATOR FRIEND: ...it's red. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Friend. [LB961]

SENATOR FRIEND: Not on this. (Laughter) [LB961]

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SENATOR LANGEMEIER: Those wishing to speak, we have Senator Wallman, Chambers, Fischer, Ashford, and Hudkins. Senator Wallman, you're recognized. [LB961]

SENATOR WALLMAN: Thank you, Mr. President. There used to be a song, Senator Chambers, see the USA in your Chevrolet. And you travel across this country and we do not have the best roads. We have some good roads, but we don't have the best roads. And I agree with Senator Chambers on repair. And repair is of tremendous importance. If you want to have good roads, keep them up. You know, Homestead Expressway, just a few years after it was built they had to work on it. And I don't know the formula for building new roads. I don't know why that happened? And they really couldn't explain it to me. But I'm not for Senator Erdman's amendment here. I don't think we should be taking money out of General Fund when we just talked about we couldn't help education anymore. Teacher pay is on the table. Aid to dependent children or disabled is on the table. Lots of issues where I think our General Fund we may need. And so I think a gas tax is a user tax. I voted for it the first time last time. I didn't vote for the override, and that was my fault. So the Department of Roads, did they waste some money? Sure. I'd like to ask Senator Fulton a question, please. [LB961]

SENATOR LANGEMEIER: Senator Fulton, would you yield? [LB961]

SENATOR FULTON: Gladly. [LB961]

SENATOR WALLMAN: Do you know how many engineers we have on staff at the Department of Roads? [LB961]

SENATOR FULTON: A lot more than we have on staff in the Legislature, Senator Wallman. [LB961]

SENATOR WALLMAN: (Laugh) Thank you. Here's the point, I'm sure they can save money. If we're not building new roads, we don't need so many engineers. Repairing doesn't need engineers, as such, and so I cannot support this amendment. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Chambers, you're recognized. [LB961]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I'm not an engineer of any kind, but I drive the highways, I can read, I can observe and I understand things. I fought for years, even when the federal government said that were a state to raise the speed limit on the interstate above 55 miles per hour, money would be taken away. I persuaded the Legislature to raise it to 60, then 65, and I said,

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Nebraska is in the middle of the country. You going to let a piece of the highway in the middle of the country become a pothole? You're going to take highway money from Nebraska because they raise the speed limit? Then they started softening their position, other states did the same thing. My argument was that when these roads were built and engineered they were constructed for the purpose and with the intent of accommodating traffic at 75 miles per hour. And you can actually drive faster than that safely on the highway. So that was a way to facilitate the movement of commerce. When vehicles can move faster, goods can be moved more rapidly. And I had to fight against governors and some members of the Legislature. But when it was done, everybody was happy. Nebraska was in the forefront. I was even called to New York to be on the "Today Show", and I gave them a little formula--long way to go, times short time to get there equals jet propulsion. And that was a headline. And I told them that you have all these U.S. senators from these little highly congested northeastern states saying, keep the speed limit low for safety. I said, no. Their traffic is so heavy that they cannot drive above that rate, so that's why they are talking so much about not raising the speed limit. But when you're in a state like Nebraska and you can look on a straight stretch and it goes so far that you see the curvature of the Earth, you need to move more than 55 miles an hour to get anywhere. And that's what was happening. You all don't know that I raised the speed limit, do you? How little do you know? Then somebody is going to tell me about economic development simply because you build roads that go nowhere or that bypass little towns. If you bypass a town, what does that mean? That town dies. Nobody is going to go through that town. And they'll be sitting there, up in a church, what do they call that? The belfry, looking at all the traffic going by. They'll say, Senator Harms and everybody told me that if we got this expressway built around the town then we would have all this economic development, and nobody is here but me. And all the traffic is going around the town. They're going somewhere, but they're not coming here. There are certain statements made because they seem to make sense. But you have to look at what people call the demographics. Nebraska is not a state that is growing population wise. You're not going to increase the population of Nebraska by building more roads. Nobody can name me a single economic venture which is going to be benefitted by more road building to such an extent that the cost of that road building will have been justified. You cannot show that in Nebraska. Why is Nebraska becoming communication oriented? Because that's where people are going to be able to get jobs and they're not all high paying jobs. So you going to have more of these communication operations set up... [LB961]

SENATOR LANGEMEIER: One minute. [LB961]

SENATOR CHAMBERS: ...where people make telephone calls all over the country by building more highways? You can't maintain the ones that you have. There's one stretch going to Omaha and there's concrete. Then you veer off to the right and you're on blacktop for a half a lane, but at night because you're now on blacktop and concrete the line that separates them makes you think that is the lane line, but it's not, it's the line

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between lanes. Part of the lane is concrete, part of it is blacktop. And if you don't know that, you'll be driving down the middle of the lane...I meant straddling two lanes when you think you're driving down the middle of it. And that's wise road building? Drive it yourself and you'll see it. And you want to do more building and you can't maintain what you've got. You all don't listen, but I'm going to keep saying it over and over and over. And you all can talk... [LB961]

SENATOR LANGEMEIER: Time. [LB961]

SENATOR CHAMBERS: ...about these taxes any way you cut it, but is a tax is a tax is a tax. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Fischer, you're recognized. [LB961]

SENATOR FISCHER: Question. [LB961]

SENATOR LANGEMEIER: There has been...the question has been called. Do I see five hands? One, two...I do see five hands. The question before the body is, shall debate cease on AM2400? All those in favor vote yea; all those opposed vote nay. Have everyone voted that wishes to? Record, Mr. Clerk. [LB961]

CLERK: 26 ayes, 2 nays, Mr. President, to cease debate. [LB961]

SENATOR LANGEMEIER: The motion to cease debate is successful. Senator Erdman, you are recognized to close on AM2400. [LB961]

SENATOR ERDMAN: Mr. President, due to the rudeness of Senator Fischer, no, I'm just kidding. Senator Ashford would like a minute, since his light was next and he would have had the opportunity to speak, I would yield him that time. [LB961]

SENATOR LANGEMEIER: Senator Ashford, you're recognized. [LB961]

SENATOR ASHFORD: Thank you, Senator Erdman. I would rise just very briefly in support of this amendment, AM2400. I think we have an opportunity here to address what is one of the issues of the session, clearly one of the issues of the last two sessions, and that's the issue of infrastructure. I understand Senator Fischer's argument about the...her desire not to use General Fund dollars to pay for roads and infrastructure. But I think we have been reminded very correctly by Senator Erdman and others that we have \$700 million in the kitty here, dollars that have been taxed, that our...that citizens have already paid tax on. We have a specific issue this year and last year with rising oil prices. But I am convinced, and I believe that it is that the price of oil, the price of gasoline will go down, that we aren't going to be living at \$110 barrel of

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gasoline, and that we have stopgap problem here. We also have other issues that might...that we can address with incremental one-time-only payments, I think, helping Roads get past this issue...the issue of...well, the lack of demand or the loss of incrementally of demand over the last several months is a legitimate use of the reserve. I don't think there's any question, especially when we have a reserve and a cash balance which is so...it's exceedingly high. Remember, we have already taxed our fellow citizens for this money. A \$15 million transfer to deal with what is an issue in our state, and that's infrastructure and roads, is not an inappropriate use of that money. It does not mean that we are committing the General Fund into the future for this purpose. We're dealing with an economic circumstance that has been created by forces, quite frankly, outside of the borders of our state. And to raise taxes again on our citizens to address that issue when we can address it very easily with this \$15 million transfer, I think, is not good policy. And with that, I'd return the rest of the time to Senator Erdman. Thank you. [LB961]

SENATOR LANGEMEIER: Senator Erdman, 2:20. [LB961]

SENATOR ERDMAN: Thank you, Mr. President. Thank you, Senator Ashford. I appreciate your comment. Just so that you're clear, AM2400 would replace the intent language or would add intent language that we transferred the same equivalent amount that's currently in LB959 into the Roads operation Cash Fund to pay for those salaries and benefits of the employees at the Department of Roads. I will have an amendment on LB959, AM2401, that will strike the same language out of the budget, which would then in turn take the gas tax increase out of the budget. I want to thank my Jedi knight friend, Senator Friend, for his mind tricks of doing the reverse psychology of telling you to vote no, because I hadn't thought of that one on this amendment. I did everything else, but in all seriousness, I mean, Senator Ashford's been around here, I've been here for eight years, this is not unprecedented. The question is, if we have this money, when can you use it? It's General Fund money, that's a fact. If you look at the status, if you make this transfer and say it costs us \$15 million, we're going to add \$21 million back in, in the next biennium. So your actual balance of the Cash Reserve Fund, the Cash Fund is actually just as high, if not higher after the next biennium, assuming you don't have to raid it next year. I mean, think through what you're doing. If you want to vote no, go for it. But recognize that this is the second opportunity, probably of three, that will make it clear that we didn't have to do what evidently a majority of you would like to do on the budget. Let me address one final thing. [LB961 LB959]

SENATOR LANGEMEIER: One minute. [LB961]

SENATOR ERDMAN: When I was a member of the Legislature...as a member of the Legislature, excuse me, my third year in the Legislature I heard the same thing, we can't do this, we can't do that, we can't cut the budget, this is it. That's not true. We don't have the will. And what we ended up doing that session, had we adopted amendments

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that were offered on the floor would have funded K-12 higher, would have given Senator Harms a community college in western Nebraska more money than what the Legislature actually gave, and we ultimately did it with less of a tax increase than people thought was possible. This isn't a matter of whether we can or whether we can't. This is a matter of whether we have the will to do the right thing. I think this is the right thing. And most of you know that... [LB961]

SENATOR LANGEMEIER: Time. [LB961]

SENATOR ERDMAN: ...I'm not very shy with my opinions. I would encourage your support of this amendment. I would ask for a call of the house, please. [LB961]

SENATOR LANGEMEIER: There's been a request to put the house under call. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB961]

CLERK: 32 ayes, 1 nay, Mr. President, to place the house under call. [LB961]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Wallman, White, Preister, please check in. Senator Engel. All members are present or accounted for. Senator Erdman, how do you wish to proceed on the vote? [LB961]

SENATOR ERDMAN: Board vote. [LB961]

SENATOR LANGEMEIER: There's been a request for a board vote. You have heard the closing on AM2400 offered to LB961. The question before the body is, shall AM2400 be adopted? All those in favor vote yea; all those opposed vote no. Have all those voted that wish to? There's been a request for a record vote. Senator Erdman requested the record vote. Record, Mr. Clerk. [LB961]

CLERK: (Record vote read, Legislative Journal page 1022.) 16 ayes, 26 nays, Mr. President, on the amendment. [LB961]

SENATOR LANGEMEIER: AM2400 is not adopted. With that I raise the call of the house. Mr. Clerk, next item. [LB961]

CLERK: May I read some items, Mr. President? [LB961]

SENATOR LANGEMEIER: Items for the record. [LB961]

CLERK: Senator Chambers has a motion to LB280A to be printed. Senator Preister offers LR282. It will be laid over. Reference report. And your Committee on Health and

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Human Services, chaired by Senator Johnson, reports LB48, LB830, LB928, LB1104, and LB1120 to General File with amendments attached. (Legislative Journal pages 1023-1029.) [LB280A LR282 LB48 LB830 LB928 LB1104 LB1120]

Mr. President, the next amendment to LB961, Senator Erdman, AM2389. (Legislative Journal page 1006.) [LB961]

SENATOR LANGEMEIER: Senator Erdman, you are recognized to open on AM2389. [LB961]

SENATOR ERDMAN: Thank you, Mr. President. Wrong amendment. AM2389 is a revision of LB1109. LB1109 was introduced before the Appropriations Committee. It was well attended. If you...I don't know that there's a committee statement, but if you had one you would know that there was one proponent, myself. And all the recipients of these funds were opposed to it. And here's the key distinction as to how this amendment is drafted versus how the bill was introduced. And it kind of goes back to where we were in this last...this situation last time. In 2001, after we passed the budget for that year, within six months we were back in a special session. And we were looking at a scenario in which the revenue forecast and the actual receipts were far below projections. And essentially, at the time that we passed the budget, in 2001, we actually had less money than we had already appropriated. We didn't know that until later, but then that began this process that a lot of you followed from the outside and some of us experienced on the inside of looking at ways that we fund the priorities of the state of Nebraska. One of the areas that was off limits, if you will, is the area that's addressed by this amendment and by LB1109. At that time there were a number of ideas to fill the gap. Senator Redfield, at the time, had an amendment that would have lowered the sales tax rate and eliminated all of the exemptions. There was other discussion about eliminating the earmarks from the cigarette taxes and other areas, so that way all revenue that was generated by the state was available for the state to determine what the priorities were. We got into that conversation and found out that there wasn't specific authority for the Legislature to be able to transfer the money that we had given to those that receive the cigarette tax revenue, the earmarks from the cigarette tax, back into the General Fund if we wanted to. So the way that LB1109 was introduced it would have said that all cigarette tax revenue gets deposited in the General Fund. And then for each of these entities that has a fund in this amendment, they would have to have their money reappropriated. We had a very good discussion at the hearing, both with the members of the committee, as well as those that testified. And they were concerned about the ability for them to continue to receive their funding. They wanted a stable source of revenue. And I can't blame them for that. And we heard some very, I think, encouraging stories and facts about what they're doing with the money. Whether it's cancer research at the University of Nebraska Med Center, whether it's the public communication system throughout the state, there's a lot of good thing that is being used by those dollars. So at the hearing we discussed some possible alternatives. And

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one of the alternatives that came up was that it's implied that the Legislature can transfer money from one fund to another implicitly. We have that authority. But generally, and we confirmed this with the staff in the Fiscal Office, generally there is language, if not specifically, that says that that action may be taken by the Legislature. So what you have before you is an amendment to those funds that specifically provides that in the event that the Legislature would choose to transfer money from these funds that are listed, and I believe there are nine of them: Municipal Infrastructure, the Primary Class Developmental Fund, there's a whole bunch of them, that if we need to we could then them to be a part of a future solution. This is probably a preemptive action. This sets us up as a Legislature, whether I will be here or not, which I won't, for more flexibility in budget discussions. And that's why I presented it to the Appropriations Committee because in that 2001-2002 and the years that followed, Senator Redfield and others, including myself, had conversations about providing ourselves more flexibility in accessing the revenue that the state is currently receiving. Just so that you're clear, if this amendment is adopted, there is no practical impact on the funds that those...on the funds that those entities currently receive. It simply provides the same language that is available in most other funds that says we could transfer it. If we don't have to, they continue to get the money, there's no change. The second part of this amendment that I'll direct your attention to says that if an entity chooses or attempts to bond that revenue source they have to have authority from the Legislature before they do it. Right now, the city of Lincoln and the city of Omaha have bonded against their \$1 million, that's the city of Lincoln, and Omaha is bonded against their \$1.5 million. We can't impair that bond. So we're not going to take their money away, even though the language is there. That would happen after 2017. But for anyone else that would choose to try to use this stream of revenue to bond they would have to come back to the Legislature the exact same way that the University of Nebraska has to come to the Legislature to be able to bond that revenue. In LB959, the University of Nebraska has at least three projects, if not four, where they are given explicit authority, or they're given the direct grant of authority to bond revenue to build facilities. So this amendment does two things--it provides flexibility in those funds--if we need it we can take it; but if we don't need it, we won't touch it. The second part of it is that before an entity can tie the hands of the Legislature in the funding that we give them, we have to give them that authority. And that's the exact same language that we provide to the university. That's the same responsibility that they have as an entity for any revenue source that they receive, regardless of whether it comes directly from the state. They have to go through a process and we have mirrored that process. LB1109 is still in committee. However, I have offered two amendments, and this was one of them, to Senator Heidemann and asked for their consideration. As you can imagine, their focus probably isn't on something like this, it's on how do you get the budget balanced and how to you get a bill to the floor. I offer this for your consideration as a possibility. I think it makes sense. I think it provides the Legislature flexibility and I think it gives us as a Legislature in future years as an entity the opportunity to have more flexibility than we had in the past. It's not a lot of money, but it's at least one barrier that goes against those arguments that we

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heard that we can't do this in the budget because of X. We get rid of that and we simply provide what people perceive to be the current practice in statute so that it's clear. Thank you, Mr. President. [LB961 LB1109 LB959]

SENATOR LANGEMEIER: Thank you, Senator Erdman. You have heard the opening on AM2389 offered to LB961. The floor is now open for discussion. Those wishing to speak, we have Senator Preister, Heidemann, Kruse, and Fulton. Senator Preister, you're recognized. [LB961]

SENATOR PREISTER: Thank you, Honorable President, friends all. I first extend my apology to Senator Erdman because I'm not going to speak about his amendment. Today, March 19, is an important day and it relates directly to the budget as well because we fund the National Guard, the Air National Guard, and we fund the Army Reserves. It was five years ago that the war in Iraq was started. I think it is appropriate to at least take a moment to think about what that involves as it relates to our budget and the cost that we pay not only in Nebraska, but in the country. I was really disappointed when I saw the headline in yesterday's Journal-Star. It said, many have Iraq apathy, the numbers show. So much of it just seems like it's the same thing every day, he said, talking about one of the interviewees. Another bombing, more troops killed, it's just mostly negative what you hear. Maybe it's too complicated or too distant or just too depressing. Probably all I would say. But whatever the causes, Americans are paying a lot less attention to the Iraq war than they were a year ago. According to a recent study at the Pew Research Center, just 28 percent of adults can name the number of Americans who have died in the Iraq war. It is nearly 4,000 Americans that have died. In August, 54 percent identified the fatality rate correctly. Awareness of the number of troop deaths has declined substantially among every demographic group, including the well educated, the report stated. The numbers alarm David Rapkin, a UNL associate professor of political science. It's not just the troop fatality count that most people don't know, Rapkin pointed out, there's also the Iraq civilian deaths, the millions of displaced refugees, the cost of the war on the national debt. How many of us know those numbers exactly? Well, there are estimates of 650,000 Iraqi deaths, civilians, 650,000. Almost a half a trillion dollars have been spent to this point. And our U.S. intelligence states that there are more terrorists now than there were before. Noted economist, Joseph Stiglitz, and Harvard economist, Linda Bilmes, estimate that the total cost of this war could be \$3 trillion. They state that even \$1 trillion could pay for 6 to 8 million housing units, or 15 million school teachers, or 1 years healthcare for 530 million children, or university scholarships for 43 million students. We have the choice in how we spend money. I certainly support the military, but I think we have poured a tremendous amount of money into a whole lot of death and destruction for very little to show for it. I know that is a subject of some discussion. But it is my view that we are going to be paying for this war for a long, long, long time. We have saved a lot of lives, but many of those are traumatic head injuries, many of those are young people and even middle-aged people now that we don't have a draft and we're taking all different

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age groups, many of those people are going to be back in society with those serious wounds, and they're going to be in our veterans hospitals,... [LB961]

SENATOR LANGEMEIER: One minute. [LB961]

SENATOR PREISTER: ...they're going to be in our healthcare systems, and those people are going to be with us for a long time. Our medical attention has been much greater. We're saving more lives. When Senator Johnson and I were in Viet Nam, for every four people injured we were saving three. Right now for every nine people injured we're saving eight. There are going to be more serious injuries, more post traumatic stress injuries. We're going to be paying for a long time. I would just like to take a moment to thank Senator Bill Avery, who served in the Air Force; Senator Ernie Chambers, who served in the Army; Senator Cap Dierks, who served in the Air Force; Senator Pat Engel, who served in the Air Force; Senator Ray Janssen, who served in the Army; Senator Joel Johnson, served in the Navy; Senator John Nelson served in the Navy; I served in the Army; Senator Stuthman served in the Air National Guard; Norm Wallman served in the Army National Guard. We must never forget the cost that we paid... [LB961]

SENATOR LANGEMEIER: Time. [LB961]

SENATOR PREISTER: ...for freedom and when we go to war. And we must find diplomatic solutions to political problems. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Preister. Senator Heidemann, you're recognized. [LB961]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. Addressing AM2389 to LB961. I think it was stated that general authority is usually...this language of general authority is usually given. There are over 200 cash funds. I believe this authority is only given on 14 of them. The ones that Senator Erdman is talking about, some of them at least I'll touch, is the MIRF Fund, which is a \$540,000 earmark, which does actually expire after 2008-2009. Another one is the City of Primary Class Development Fund, it's a \$1 million earmark, which expires in the year 2015-2016, and that amount is distributed to the city of Lincoln, which uses it as a source of revenue financing for the Antelope Valley Project. Another fund is the City of Metropolitan Class Development Fund, it's a \$1.5 million earmark, and it expires also after the year 2015-2016, and it's distributed to the city of Omaha, which uses it as a source of financing for the Missouri Riverfront Redevelopment Projects. The Nebraska Outdoor Recreation Development Fund is a \$1.3 million of annual earmark. Has no statutory expiration, is utilized by the Game and Parks Commission to support development, operations, and maintenance areas of the State Park System. The Nebraska Capitol Construction Fund, actually is a fund under existing law, no cigarette tax receipts are

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available to be credited to this fund, and none are anticipated to be credited to the fund in the future under existing law. Building Renewal Allocation Fund, which is...I call it the 309 Task Force money. There's \$9.2 million as an annual earmark, has no statutory expiration. This is one that I believe has a lot of interest to people in this body and across the state, because a lot of this money is taken and used in the university and the state college system on state buildings across the state of Nebraska. They use it for maintenance, and it's a very useful program that I would be very hesitant to, and I think a lot of other people are very hesitant to go in and take money out of that fund. The last one that I will address is the Nebraska Public Safety Communications Cash System Fund, it's \$2,050,000. We had...there was a determination, I believe, in the last year or two in the Legislature that we were going to build a public safety communications system. It will be funded using this source fund. This will be, as it's constructed and maintained, and periodically replaced, such as radios and such, will be an ongoing expense. If this was ever...if there was money ever accessed out of this fund, because it is an ongoing cost, we would actually probably have to make it up with General Fund. So you would be taking it to put it in the General Fund, but you'd have to take General Fund money to put it back to replace that money. There wouldn't be a whole lot of gain there. What I want to point out is that I can say it every once in a while during very tough times, and it's not since I've been here that we don't access funds like this, to put them back in the General Fund if we absolutely, positively have to go there. We can still do that. When those times come we can still do that. And I think there are safety nets put in with these cash funds probably for a good reason. And it would be my determination it probably be best just to leave it as it is. And if that time ever comes, we can make that determination and make those changes at that time to access these funds, if it's so needed. Thank you. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator Kruse, you're recognized. [LB961]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I stand in opposition of the amendment and would pick up where Senator Heidemann has left off. We can look into these funds at any time and Appropriations Committee has done it, did it big time in 2002. When you do that you need to look at all the funds. There are only 15 funds really that are available, and this adds another 9, so we're at 24 funds out of 200 different. And we get into subdivisions, we've got about 400 different cash funds that are floating around. My...so we can do this. We certainly need the reminder that there are cash funds out there and they are under continuous review. My greater objection to the amendment is that these funds were a commitment of this body when they were put there. And we can't just come back and say, well, we're changing the purpose of that. Now in all fairness, Senator Erdman is not suggesting we change the purpose of that. But by the style in which we operate, when money has been given for a particular purpose we do not divert it to another purpose, even if we are not prohibited from doing that. We try to play fair to the reason for that cash fund being there. And this again picks

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out just a few, and they're not the greater few. I'd remind the body that we are picking up \$20 million in cash fund this year, so we could go out looking and we know the places to look for it and can find it. It is appropriate that we look at future bonding and that kind of a thing. But the heart of this is to make available some funds that I think have other commitments. He said nothing will change on this. Well, one thing (laugh) will change, Senator Erdman. You'll make a lot of people nervous and I'm afraid some bonding authorities nervous because it sounds like we could come in on their territory. Though that's not what you're saying, that's the way it feels and sounds. And we are backing away from some original commitments or at least appear to be if we would adopt this. Thank you. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Kruse. Senator Erdman, you're recognizes. [LB961]

SENATOR ERDMAN: Mr. President, I want to clarify, this is not the bill that was introduced in front of committee. I don't think Senator Heidemann or Senator Kruse grasped that. The bill that was in front of the committee would have taken their money away from them. This bill simply provides the ability to transfer it. We can do that now. We've done it this afternoon, 25 of my friends decided to let us do that on another fund. Here is the key difference, in those funds they are specifically targeted for those funds. Those cash funds, those 200 and some funds, are some tax, some fee, designed to pay for a specific purpose. All of the other revenue that is generated from this tax, which is the cigarette tax, goes already to the General Fund. And if it weren't for those programs they would be in the General Fund. All we're saying is that for taxes that are levied on the public for general use we, as the Legislature, should have the ability to transfer them. And we're not going to transfer the money from Lincoln, and we're not going to transfer the money from Omaha because that will impair their bond. We are not going to do that, we are not, in case I wasn't clear the first three times I said it. But let me step back and explain what I may have misspoken on in the opening. Unless, and as Senator Heidemann has pointed out, we give the explicit authority in the section that the fund is created for it to be transferred, you have to introduce legislation to do it. That doesn't mean it's hard, it just means that it has to be done differently. It can be done within the same bill that we're debating today. We've done it already, as I've already pointed out. What we're simply talking about here is the ability to ensure that the Legislature, without anymore difficulty, has the ability to direct the funds that we would ordinarily have in our General Fund to the General Fund in the event that we believe there are other, more important decisions to be made by this Legislature for that fund. What Senator Kruse is essentially arguing is that we bind the hands of future Legislatures. We can't do that. It would be great if we could in some situations, because then I would pass bills that none of you could repeal when I'm gone. But every Legislature is new. The promises that have been made by previous Legislatures generally are looked upon very favorably by future Legislatures. But again, the arguments so far against this bill have absolutely nothing to do with this amendment,

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they are about the bill as introduced. And I think those talking points are appropriate. So let's be clear again, this puts in the fund that gets money, that ordinarily would be in the General Fund, the ability for the Legislature to transfer it. And Senator Heidemann is right, we can do it if we wanted to otherwise. The fact is why would we want to make it harder on ourselves if we wanted to? And you know as well as I do, because I sat through the hearing on LB1109, that if you try to move this money that there will be people that receive that money that will be watchdogs, and they should be. But they should be accountable, and they are. But the point is that we're not necessarily accountable to these specific groups that are getting these 14 programs of cigarette tax revenue. We're responsible to 1.7 million people. And in crafting a budget shouldn't that be our vision? And if we decide in crafting that budget to not put this money in the General Fund, but to rather directly appropriate the tax to them, fine, that's what we're doing now. The second part of the bill deals with bonding, the second part of this amendment, or the middle provision, I guess, because it's kind of sandwiched in between. And it says that before an entity can bond that revenue, in other words, before that entity can actually do what the Legislature can't do to itself, in other words prohibit us from taking action, we have to say that they can. We can go in and take the money away from the 309 committee, we can go in and take the money away from MIRF or whatever, as long as it's not bonded against. [LB961 LB1109]

SENATOR LANGEMEIER: One minute. [LB961]

SENATOR ERDMAN: The provision in law now actually allows outside interest to bond and to tie the hands of the Legislature. Would we not as a Legislature want to protect our flexibility by ensuring that before some entity decides, whether we would agree initially with them or not, that they would have to get authority from the Legislature to tie our hands in future years, no matter what the money is? Because all those other cash funds, as Senator Heidemann and Senator Kruse talk about, they don't have that authority and they can't do it as far as bonding. And if this is not acceptable, so be it. But I want to give you the opportunity to decide to do it so that way when you look at this, in two years, and say, man, I wish we had more flexibility, that you can't say you didn't have that option. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Senator White, you're recognized. [LB961]

SENATOR WHITE: Thank you, Mr. President. I rise in support of this amendment and I do so because I am deeply interested in more transparency in the budgetary process, as well as more flexibility and more responsibility. Would Senator Erdman be kind enough to yield to a question? [LB961]

SENATOR LANGEMEIER: Senator Erdman, would you yield? [LB961]

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SENATOR ERDMAN: I'll yield. [LB961]

SENATOR WHITE: Senator Erdman, if your amendment is adopted would it make easier...it easier for future Legislatures to see what cash funds actually are available for reappropriations if we are in a position where shifting resources and shifting needs require that we change the policy of previous legislators? [LB961]

SENATOR ERDMAN: It would allow the Legislature to transfer funds without the additional language or requirement of going in and amending those sections that have those funds. Because if we were going to transfer funds, we would have to essentially do what's in this amendment. So we would say, we're authorized to transfer these funds, we're going to do that in that section. Right below it we'd say how much money we're transferring. Senator Kruse is correct. Right now the Appropriations Committee and, as we pointed out earlier, the Ag Committee, any other committee that has jurisdiction over these agencies has the ability to examine those funds and determine whether they're being appropriately spent and to put proper safeguards. The current process requires more than I believe should be necessary to accomplish the same goal. It's simply a matter of I don't want to say ease, but it's a streamlining process that we could have done otherwise, it just simply provides that process up front than after the fact. [LB961]

SENATOR WHITE: Are there any additional reporting requirements to further that ability? [LB961]

SENATOR ERDMAN: Not directly. But the fact that in theory the potential is that money could be transferred, as it could be now, individuals would have to appear before the committee to justify it. And in fact, those entities that are currently receiving these funds did appear before the committee. And from my conversations with the committee members, they learned about things that are being spent that they greatly appreciate that they weren't even aware of. So the potential of introducing LB1109, if nothing else, provided not only accountability, but education for the Appropriations Committee members. It by itself doesn't necessarily increase accountability, but provides flexibility to the Legislature. [LB961 LB1109]

SENATOR WHITE: Thank you, Senator Erdman. Mr. President, I'd yield the rest of my time to Senator Erdman, should he wish it. [LB961]

SENATOR LANGEMEIER: Senator Erdman waived the time. Thank you, Senator White. There are no other lights on. Senator Erdman, you are recognized to close on AM2389. [LB961]

SENATOR ERDMAN: You'll get a reprieve from the Erdman amendments after this one, I promise. I know some of you have just been anxiously awaiting to offer yours. I

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apologize that mine were first. But I do think, and wouldn't have offered any of these amendments this afternoon if I didn't think that they were appropriate. And in fact, I went as far on this one as to offering a bill to the Appropriations Committee on the exact topic. This had a public hearing. We brought the groups in. I listened very intently to what their concerns were with the way that the bill was written. But I also listened to them say, we'll part of the solution, we just want to be treated fairly. I think this amendment does that. I think it balances that. But I think it also provides an appropriate check, and that is that we as the Legislature will control the revenue that we have and the appropriation of that funding, if we say so, and not be tied by the actions of outside groups that are capable and successful in receiving this revenue, in other words, bonding and preventing the Legislature from making these transfers. I think that's essential. We do it to the university, why shouldn't we do it to others that would choose to bond against the revenue of the state of Nebraska? That's what the amendment does. It allows for transfers from the fund that would ordinarily go to the General Fund to happen, and it would provide for a check and balance to ensure that individuals or entities that receive this funding, beyond the effective date of this budget, would not be able to bond without a vote of the Legislature or if the Legislature was in recess a vote of the Executive Board, which is again the exact same responsibility we have and place upon the University of Nebraska, as we'll find out in LB959. Thank you, Mr. President. [LB961 LB959]

SENATOR LANGEMEIER: Thank you, Senator Erdman. You have heard the closing on AM2389 offered to LB961. The question before the body is, shall AM2389 be adopted? All those in favor vote yea; all those opposed vote nay. Senator Erdman, for what purpose do you rise? [LB961]

SENATOR ERDMAN: I'd request a call of the house, and after all members are here I'd take a roll call in regular order. [LB961]

SENATOR LANGEMEIER: There's been a request to put the house under call. The question is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB961]

CLERK: 30 ayes, 0 nays, Mr. President, to place the house under call. [LB961]

SENATOR LANGEMEIER: The house is under call. All senators please return to the Chamber. All unauthorized personnel please leave the floor. The house is under call. Senator Carlson, please check in. Senator Cornett, the house is under call. Please return to the Chamber and record your presence. All members are present or accounted for. There has been a request for a roll call vote. The question before the body is, shall AM2389 be adopted to LB961? Mr. Clerk, please call the roll. [LB961]

CLERK: (Roll call vote taken, Legislative Journal page 1030.) 18 ayes, 26 nays, Mr.

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President, on the amendment. [LB961]

SENATOR LANGEMEIER: AM2389 is not adopted. With that I raise the call. Mr. Clerk, next motion. Items for the record. [LB961]

CLERK: Thank you, Mr. President. Senator Johnson has an amendment to LB928 to be printed. And I have a communication from the Governor to the Clerk. (Read re LB619, LB755, LB756, LB768, LB851, LB855, LB898, LB914, LB939, LB962, and LB1056.) (Legislative Journal pages 1030-1033.) [LB928 LB619 LB755 LB756 LB768 LB851 LB855 LB898 LB914 LB939 LB962 LB1056]

Senator Hudkins would move to amend LB961 with AM2394, Mr. President. (Legislative Journal page 1010.) [LB961]

SENATOR LANGEMEIER: Senator Hudkins, you are recognized to open AM2394. [LB961]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. This amendment, AM2394, will provide for a one-time funding of a study in the amount of \$250,000 to analyze the juvenile legal defense and guardian ad litem systems in Nebraska. The executive branch and the judicial branch of our state have already examined many of the different concerns raised in how we handle juveniles who are involved in the juvenile system either through abuse or neglect or delinquency. The studies have looked at the effectiveness of the Department of Health and Human Services in providing for permanency for children, either through reunification with the family or through termination of parental rights and adoptions. They've also looked at how well the judicial system handles these types of cases. They look at the timeliness and the effectiveness of the system. The one area that has been left to guesswork is the effectiveness of juvenile court representation of the juvenile and the guardian ad litem system as they currently exist in Nebraska. Last year, Senator Schimek and I both introduced legislation that would have taken the cost of these appointed individuals from the counties and paid for them through the state. The bills would also have provided for statewide accountability as compared to the court-by-court system that is currently in place. While the Judiciary Committee killed those bills, the issues still remain. Now this amendment does not replicate last years bills, rather it provides needed information to next years Legislature on what the shortcomings of our current system are and what may be the possible remedies available to strengthen the system of court-appointed counsel for juveniles and the appointment of guardian ad litem for children who have been subjected to abuse or neglect. The Public Advocacy Commission has the funds available in their cash fund to make this study possible without impacting the General Fund. We talked to people at the Public Advocacy Commission. They are not in opposition to this amendment. They said, we have the money now, next year we may not. How does the Public Advocacy Commission get their money? Money comes in

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slowly through court fees, so they don't get a big chunk all at once, it accumulates slowly. What do they use the funds for? The Public Advocacy Commission is instrumental in looking at appeals of death penalty cases or any high profile legal cases. Right now they have not had many of those in the recent past, and so they do have money available to do this study. As I said, that commission is not opposed to our borrowing or using this money. Also the bar association is in support. As I said, there is no promise that the funds from the commission will be there next year. And they...these funds certainly should not be used for a program that needs sustained revenues. This is a one-time thing. However, the funds are available now and the project is a one-time project. This has the opportunity to provide very much needed data for guidance on how to best protect the juveniles in our juvenile court system. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. You have heard the opening on AM2394 offered to LB961. The floor is now open for discussion. Those wishing to speak, we have Senators Ashford, Chambers, Heidemann, Lathrop, and Schimek. Senator Ashford, you're recognized. [LB961]

SENATOR ASHFORD: Thank you, Mr. President. And, Senator Hudkins, it was upon great reflection that we were unable to advance those bills. I hate to use the word killed, but they were thoughtful efforts on Senator Hudkins' and Senator Schimek's part, though. Let me just make a couple of comments. I'm going to support this. I think Senator Hudkins and Senator Schimek do care a great deal about the delivery of services in the juvenile court system and the role of guardian ad litem and others. But I'm going to take a little bit of a different tack. I don't...I'm interested in seeing what the study says and I certainly do not foreclose any conclusions that they may come up with. I am dubious about creating a state office for guardian ad litem. I, personally, don't think that is the way to go. But the study may prove me wrong. I am convinced that we already have in place a juvenile court system. And we have courts across the state that provide judicial services to juveniles--county attorneys, guardian ad litem. I have no objection to creating standards or continuing to find standards that are suitable for the administration of the guardian ad litem program. But I am...I believe, and there are...there is some language in this amendment which will focus the attention of the study also on not so much what additional services can be provided but, how can we make the services that we currently provide better, especially dealing with status offenders, first-time offenders, truancy issues? Because I do think in my experience in dealing with the juvenile system that the earlier we can intervene as a court, as county attorneys, as school districts in the lives of troubled youth the quicker that we can resolve their issues. And it's my hope that we can continue to work on finding ways to better interface between the court system, the schools, and other services that are provide to these juveniles. So I'm dubious, skeptical of creating a state office. I think the counties, generally, do a good job. I know there's an expense involved in administering juvenile justice on the county level, but I worry about...philosophically about removing

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the counties from these functions. But I certainly don't oppose standards being applied. The study is a good idea. I am hopeful...and the amount of money...and I understand the committee, Appropriations Committee did look at this and opted not to approve the or put the money into the study. And I appreciate that conclusion as well. But I think it's worth it, Senator Hudkins, that we look at this, at least the message being that, at least for myself as Chairman of the Judiciary Committee, is I hesitate to create a new level of administration. Let's try to make the system that we have work better. I think we can do that. And if this study will help us in that regard, it's worthwhile. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Ashford. Senator Chambers, you're recognized. [LB961]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I also support this effort. I think it is greatly needed. And there is an area of concern that I have, naturally guardians ad litem should be competent, they should be concerned about the welfare of these juveniles, they should be learned in the law, familiar with court processes. There are a lot of things they need to know. The way the contract for guardians ad litem are let in Douglas County leave a great deal to be desired, in my opinion. So the nature of the study as structured, I think, can look at how these appointments are made. But I have another area of concern that I'd like to ask Senator Hudkins about. [LB961]

SENATOR LANGEMEIER: Sorry, Senator Chambers. [LB961]

SENATOR CHAMBERS: That's all right. [LB961]

SENATOR LANGEMEIER: Senator Hudkins, would you yield? [LB961]

SENATOR HUDKINS: I would answer questions, yes, it's not my time. [LB961]

SENATOR CHAMBERS: Will you answer a question if I ask you? [LB961]

SENATOR HUDKINS: Yes, I said I would. [LB961]

SENATOR CHAMBERS: Oh, okay. Senator Hudkins, I don't see anything specifically in the language of the study that relates to considering when and under what circumstances a juvenile will be referred to adult court to be tried, charged and tried as an adult. So would you object to me putting another provision in there so that we would look at the circumstances under which juveniles are charged as adults? Currently...oh, I'll see what your answer is first. Because whether you like it or not, I'm going to attempt it. (Laughter) But I'm...it's giving...it's alerting you to what I'm going to...what I'd like to do. And then I'll explain why I want to do it. [LB961]

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SENATOR HUDKINS: Senator Chambers, at this point I don't think that I have an objection. I guess, I hadn't even thought about that. But at this point, probably, I don't have an objection. We'll talk off the mike. [LB961]

SENATOR CHAMBERS: Thank you. But I'm going to tell why I'm going to do it, because I'm going to have to get it drafted. There is no rhyme or reason that a person who observes the way juveniles are handled in this state that will allow you to predict which juveniles are going to be charged as adults even in the same jurisdiction. It does seem that those children who come from families with means don't wind up being charged as adults, even if they've committed very, very serious offenses. Other children, based largely on complexion, maybe ethnic origin, maybe the language spoken will often be charged and tried as adults. Under the laws of this state a juvenile can be sentenced to prison for life without the possibility of parole. There are horrendous punishments that can be inflicted on juveniles who are charged as adults. There seems to be, in some societies, a great anger toward young people, so that might be reflected in the types of charges that are brought by certain prosecutors. If there is arbitrariness, a type of ad hoc, willy-nilly, helter skelter methodology, if you can even call it that, of charging some children as adults and others not as adults, if that can happen within a single jurisdiction, you can be sure that from county to county there will be these differences and variations. And if there is going to be this kind of study and that... [LB961]

SENATOR LANGEMEIER: One minute. [LB961]

SENATOR CHAMBERS: ...very important element is not specifically addressed, I don't see the basis for this study. These other things are important, but they're tangential, as far as I'm concerned, to how the criminal justice system, through these prosecutors, will deal with these children. And judges who ought to say that this child is not going to be referred to the adult court when this one, who committed a worse offense, went to juvenile court, so this one is not going to go to adult court but will go to juvenile court too. That doesn't happen. And I want to see at least a study undertaken, and that's why I'm going to draft some language, unless Senator Hudkins will show me that it's unnecessary. And I see her approaching. And whenever "Wonder Woman" approaches, I would rather stop doing...I'll tell you what I'd rather do than turn my back...you said, time? I'd rather... [LB961]

SENATOR LANGEMEIER: Time. (Laughter) Thank you, Senator Chambers. Those wishing to speak, we have Senator Heidemann, Lathrop, Schimek, Nelson, Hudkins, Lautenbaugh, Nantkes, Ashford, and Chambers. Senator Heidemann, you're recognized. [LB961]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. This came before our committee very late in the process. We did have some good

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discussion on it. Senator Nelson actually is very well versed in this more so than I, so I would like to give him the rest of my time. [LB961]

SENATOR LANGEMEIER: Senator Nelson, 4:40. [LB961]

SENATOR NELSON: Thank you, Mr. President. Thank you, Senator Heidemann. I am standing in opposition to this amendment. I agree with many of the things that Senator Ashford said. I agree with some of the things that Senator Chambers said. But I just, in my opinion, this is a study that we do not need at this time. As Senator Hudkins referred or mentioned, this goes back to a couple of bills, and they were heard by the Judiciary Committee in February of 2007. One was LB68, which would have created a State Office of Guardian Ad Litem, and it would have established a guardian ad litem program in judicial districts, there are 12 of those judicial districts and, of course, they could decide whether they wanted to participate. But one district alone would have cost the state \$194,000. And if all 12 had gone in, then we're talking about \$2.3 million. At the committee hearing the Nebraska Bar Association was opposed to that and it was indefinitely postponed by the committee. LB535, which was introduced by Senator Schimek, would have shifted the funding of juvenile justice services from the counties to state control and therefore to state cost. The fiscal note on that showed initially \$5.2 million for '07-08, and \$10 million for '08-09. And that was supported by the Lancaster County Public Defenders Office, but it was opposed by the Douglas County Public Defenders Office and also by the Nebraska Commission on Public Affairs, which coincidentally is now where the proposed \$250,000 is coming, out of their cash fund. I simply want to say that we can study things to death. And I think maybe we've done that already in a variety of ways. Our Supreme Court has already set out guidelines for guardian ad litem, guardians ad litem rather. And I want to talk a little bit about the juvenile court system as I know it from Douglas County. I go back to the days when we had one juvenile justice, and that was Colleen Buckley. I remember being in court many times. Colleen Buckley, Judge Buckley ran a tight court. And if she did not feel that you were doing a good job of representation, whether it was for a parent or a guardian...as a guardian ad litem, or an attorney for a juvenile, you heard about it. And if you persisted in your ways, you were simply not reappointed. My point is this, that we have five justices, and I'm only speaking about Douglas County, and they are excellent justices...judges rather, not justices, they're judges. They're all very competent. And I think it's the job of those judges to monitor and supervise what goes on in their court. I don't think...and I don't think we...I certainly agree with Senator Ashford, we don't need a public guardian ad litem. We don't need to take the juvenile court system out of the counties, although perhaps they would like that, and transfer it to state, where we're going to be spending millions of dollars. And I just have to believe that if we do have a study, this is exactly what we're going to come up with. We're going to recommend this sort of thing. And I don't know what else we can study in the system? Do we need another study? We may have \$250,000 available, but in my opinion it would be better spent on training for guardians ad litem that we presently have in the system, and

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perhaps for attorneys that are appointed on a regular basis. If there is a continuing concern that there is a... [LB961 LB68 LB535]

SENATOR LANGEMEIER: One minute. [LB961]

SENATOR NELSON: ...problem in juvenile representation, then let's readdress it with another bill next year, let's hear it before the committee, and let proponents and opponents come in and give us some new information as to where we have some deficiencies in the juvenile court, and tell us why we need a study at that time, and then fund it at that time. Let's craft some improvements at that time that will not have an impact of \$12.5 million to \$15 million in the long run. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Nelson and Senator Heidemann. Senator Lathrop, you're recognized. [LB961]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I am pleased, I am pleased that Senator Nelson went just immediately before me and had an opportunity to visit, because in some ways he's kind of set the table for me to talk about some of the things that came up in Judiciary Committee. If this amendment is intended to further the attempts to take us from a system where the counties are responsible for defense in the county juvenile courts and the guardian ad litem then to a statewide system, I do have a problem with it. We did hear in the Judiciary Committee proposals, primarily from the Lancaster County Public Defender, to move public defenders and the responsibility for public defenders for juvenile court and the guardian ad litem to a statewide office. And I can tell you the price tag is staggering, as Senator Nelson just pointed out. It is very, very high. Now I read the amendment. It doesn't appear that it is focused on...is focused on whether we should have a statewide system or continue with a countywide system. But when it was introduced, Senator Hudkins made reference to these two bills, offered by herself and Senator Schimek, that were killed in the Judiciary Committee. And if that's the end game, I can tell you I believe, and I join Senator Nelson, I think we're wasting \$250,000 on a study because we're not going to go there. I really don't think this state can afford to pick up the cost and essentially relieve the counties who are paying this expense and pick up the cost of defending juveniles in the juvenile courts. So I suppose I'm going to listen. I expect Senator Hudkins will have an opportunity to visit after me, or speak, and address whether this is the first step in bringing us to a statewide guardian, statewide public defender for juveniles. But I can tell you, we listened to this in the Judiciary Committee and I saw no compelling reason. In fact, what I saw is a shift in policy that would turn this expense over to the state with no guarantee that those who pay property taxes in Douglas and Lancaster County and elsewhere in the state would receive any benefit. We'd just simply be relieving a responsibility of these counties. And I can tell you that there were a number of bills that we saw that came to and through the Judiciary Committee that started out, it seemed to me at least, as an opportunity. I think we were going to pay some clerks from the state, put them on

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the state payroll, there's a number of things that have come from Lancaster County that seemed to be an attempt to shift from their responsibility, shift their responsibility for running the courts and the defense of juveniles to the state. And if that's the end game, we're wasting money. So I'll look forward to Senator Hudkins' remarks. Thank you. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Schimek, you're recognized. [LB961]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I just turned on my light to say that I am supportive of the amendment. And I'm glad I have the opportunity to respond to Senator Lathrop, because this is not, from my perspective anyway, Senator, an attempt or an end run around anything. This...I mean, I've read, since you've said that, I read through the amendment again, which I read when it was being put together. And I don't see anything in that language that would say that. So from my perspective at least I wanted you to know that that is not what we're trying to do. It doesn't say anything about any statewide office or organizational attempt. It is just to look at the whole system. But I think Senator Hudkins needs to respond as well, so I'll give her the rest of my time, if I might. [LB961]

SENATOR LANGEMEIER: Senator Hudkins, 3:50. [LB961]

SENATOR HUDKINS: Thank you, Senator Schimek and Mr. President and members. Senator Lathrop and Senator Nelson, please listen closely. This is not an end run to do away with the counties paying for the guardian ad litem. This is not an end run to do anything. This amendment is not even close to the two bills that were heard by the Judiciary Committee last year. That was something entirely different. Senator Nelson, you are familiar with what goes on in Douglas County. Not every county or every juvenile court system works like Douglas County. Maybe they should, but they probably don't. So what this is, is a study, and this...well, let's back up. There has never been a study on juvenile representation in the court system. There has never been a study showing the relationship of the educational system of these children in the court system. We are looking at a study, if you would care to read the amendment...and that didn't come out right. But it says in the amendment how this is going to be done. These funds will be used for a study of the juvenile legal defense and guardian ad litem systems. The University of Nebraska will be...the Public Policy Center at the university will create the study, they will administer it, and they will also find a research consultant that's qualified to provide a sound and objective assessment of Nebraska's juvenile justice systems. There are 16 items, and when Senator Chambers introduces his amendment, there could be 17 items that they will be looking at. I'm going to mention just a few of those: Gathering of general data and information about the structure and funding mechanisms for juvenile legal defense and guardian ad litem representation; a review of caseloads; is there adequacy in juvenile court facilities? Is there access to education officers,

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teachers, educational staff and truancy officers? The children, the youth that are involved in juvenile court don't have the kind of upbringing that Senator Nelson, your children and mine, did. It's different. They don't have the home style, the home life, the parenting... [LB961]

SENATOR LANGEMEIER: One minute. [LB961]

SENATOR HUDKINS: ...that our children had. Another thing to look at is, how much time is there between the time these kids are...between the time in permanency and the time in court, especially when there's a guardian ad litem appointed? And the final one I'll mention is the coordination of representation for those juveniles, that may have been appointed, an attorney in a juvenile delinquency matter. So this is not trying to get the state to pay for these, this is not an attempt to have a state office or a state system. It is a study to show the relationship of the education, of the times involved, the adequacy involved, and that's all we're trying to do. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Hudkins, and thank you, Senator Schimek. Senator Hudkins, your light is next. She waives her opportunity. Senator Nantkes, you're recognized, followed by Senator Chambers. [LB961]

SENATOR NANTKES: Thank you, Mr. President and good afternoon, colleagues. I just wanted to provide for the body a little bit of historical perspective, in terms of where these funds are transferred from, and what their original intent is. And basically these program funds that Senator Hudkins is addressing in AM2394 originates with court fees, and this body over time has had great debate and great dialogue on the level and adequacy of court fees, and then later, how those are allocated to fund various aspects within the judiciary, from judges' retirement and into this fund, which really is meant to provide direct services, in terms of legal representation for low-income populations. So I can definitely understand Senator Hudkins and Senator Schimek making what is clearly a germane argument as to the propriety of using these funds to conduct a study of this type, but I just get a little nervous as we move forward, away from the original mission that these funds were created to carry out, and you know, studies aren't direct services. And the bar association--admittedly these statistics are little bit outdated--but you know, I think their most recent information indicates that about 15 percent of low-income and moderate-income Nebraskans' civil legal needs are being met right now in Nebraska. My friends, that is not access to justice, and any diversion away from direct services addressing some of those issues, I think bodes for further dialogue, and I think that's what we're having here today. Again, I commend Senator Hudkins and Senator Schimek as they try and bring attention to this critical area of juvenile services, but I guess a diversion of funds at this stage in the process, that isn't exactly square with some of those original intents, makes me a bit nervous. So with that, I'd yield the balance of my time back to the Chair. Thank you. [LB961]

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SENATOR LANGEMEIER: Thank you, Senator Nantkes. Mr. Clerk, for a motion. [LB961]

CLERK: Senator Chambers would move to amend Senator Hudkins' amendment. (FA235, Legislative Journal page 1033.) [LB961]

SENATOR LANGEMEIER: Senator Chambers, you are recognized to open on FA235 to AM2394. [LB961]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, one thing that I want to add additional emphasis to: This is not something I'm supporting because I think it will create a state guardian ad litem system. If there's anything in the language of this study that would lead to that conclusion, I would be willing to strike it. Whatever that language is could be stricken without harming the part of what I want to see done with this study. My amendment says by way of another addition, on page 1, line 7, I believe it is, there would be a new number five which would say, charging and referral of juveniles...I forget exactly how I worded it. But at any rate, it goes to the referring of juveniles to adult court for trial. There is no discernible methodology by which that decision is made. If a child does something which is deemed at the time to relate to what might be called a hot-button issue, that child is referred by a county attorney to juvenile court. Sometimes if the family can afford a lawyer with some moxie or some clout, the child's case will be put in juvenile court where it belonged in the first place. But not every child's family has means, and not every guardian ad litem is dedicated to what he or she should be doing. I didn't hear everything Senator Nelson said, but he has far more confidence in people who practice law than I do. I have observed guardians ad litem who did not take an interest in the child, whether it has to do with that child being accused of a crime, other rights that the child would have which need to be protected, whether you're terminating the rights of adults or giving visitation or anything where the rights of a child might be involved. Many times these guardian ad litem opportunities are political plums, no matter what Senator Nelson says. I've had to file charges against Douglas County judges. I had to get a judge kicked off the bench that Senator Nelson and every judge in Douglas County knew about. Judge "Deacon" Jones--they all knew what he was doing. They won't go after these judges. I got another judge disciplined because he told a female lawyer in chambers in front of other people, f--- you! He used the word, and I got him disciplined. You know what I had to do? A complaint had been filed with the Judicial Qualifications Commission. They threw it out, and that was put in the paper that they had already considered it, and I said, I don't care what they've considered, they were wrong! And they're going to redo it, and they're going to do it right. That judge was disciplined, he got a public reprimand, and he said it did him a lot of good. So when you have these lawyers giving a blanket approval of what other lawyers are doing, you take that with a grain of salt. This study is needed. I have seen incompetency, outright wrongdoing, in my opinion, by lawyers appointed by the court to represent juveniles and various guardians ad litem. And this study will give

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us the opportunity to look at the entire juvenile justice system. There are different items related to juveniles which may be scattered here, there, and other places, and maybe it should remain that way, but when a system grows by leaps and bounds in a fashion that could be called pitching and patching, there is no comprehensive view taken of what that system ought to be. And the first question to be answered, in terms of what it ought to be is, what is its purpose, what is the goal, what is the aim? And if its aim, purpose and goal are to see to the best interest of our young people, then we have to adopt means as a part of that system to achieve that goal, and it cannot be for the purpose of making a lucrative, easy job for some lazy, incompetent lawyers, friends of judges, friends of county board members, and in some instances, not all, that is happening, and not just in Douglas County. I've even had lawyers bring me complaints, Senator Nelson, about what guardians ad litem have done, and the lawyer was not a part of the case at all, but had observed it in the court. What harm can there be in studying what is befalling our young people? Who on this floor or any place else in the system can look at every one of the items to be studied and give a meaningful explication of what is being done in that area right now? I would say in the word of that old spiritual song, "No, not one." If we have the information, how can it be hurtful? Knowledge is power. We don't have that knowledge; we don't have that information. As Senator Hudkins pointed out, courts in different jurisdictions operate differently, and I say within the same jurisdiction courts behave differently, judges behave differently. Judges scratch each other's back. One hand washes the other. You don't tell on me, I don't tell on you. How am I going to get a judge kicked off the bench, and I don't practice in the courthouses of Douglas County? So how could I get enough to get him kicked off the bench? And if I showed you the document I prepared and you see the complaint laid out by the Judicial Qualifications Commission, and the findings by the Nebraska Supreme Court when they kicked him off the bench, you'd see they followed almost to the letter the work that I had done and the charges I had put together. I'm not a practicing lawyer. You know where I got the information? People brought it to me--lawyers, private citizens, employees in the courthouse, other judges--other judges, Senator Nelson. And I asked, why didn't you all bring this stuff before? They said, we filed complaints with the Judicial Qualifications Commission and nothing was done, but we think you will get something done. And I said, you'd better believe I will. If you give me the information, this will be Captain Ahab versus Moby Dick. Written in a revisionist fashion by Senator Chambers it will be Captain Ahab Chambers, and he will not be shown going under water, dragged by Moby Dick with his lifeless arm waving. You'll see that whale harpooned and beached, and that's what happened. We are not condemning everybody in a system when we say it should be studied. We are trying to get that system to do what it is designed to do, and if I thought this was a boondoggle I would not support it. If I thought using this money for this purpose in any way hindered what that public advocacy agency is to do, I would not support it. Ordinarily I, in the same manner as many of my colleagues, would be skeptical of studies. I have said the very thing Senator Nelson has said with reference to other studies. What is there to study? What is going to be developed? What will we learn... [LB961]

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SENATOR LANGEMEIER: One minute. [LB961]

SENATOR CHAMBERS: ...that we don't already know? This is an area which does merit study. Remember: I want you to be aware that I'm aware that I'm one person--I have one vote. But I hope that you will accept my amendment, because if we're studying this system, one of the keys should be coming to an understanding of how the decision is made to refer a child to adult court, by way of the charges brought and the decision by the county attorney. Thank you, Mr. President. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Chambers. You have heard the opening on FA235. The floor is now open for discussion. Those wishing to speak: We have Senator Howard, Nelson, Ashford, Hudkins, and Lautenbaugh. Senator Howard, you're recognized. [LB961]

SENATOR HOWARD: Thank you, Mr. President, members of the body. I do support Senator Chambers' amendment and his concern for the criteria for transferring juveniles from adult court to juvenile court. For all the years I worked in that system through Health and Human Services, I've questioned this myself and I've never been given a clear answer to what were the factors involved. But I will agree with Senator Chambers and say that having the money to pay for a private attorney does make a difference. I had originally put my light on to speak on Senator Hudkins' bill, and I'm going to digress and return to that. In Douglas County, court services for juveniles are awarded through contract. Currently, three law firms are providing this legal representation, and I've worked with many of these attorneys and have always been impressed by the level of commitment and diligence that they display. It appears to me that there are a number of areas in this bill that is very concerning, and I'm going to really hone in on one. As I read the bill, this study would be awarded to the Center on Children, Families, and the Law. If this is the case, it's in direct contradiction to what I understand is our bidding process and the way the state awards contracts, and I have a real problem with that. With that in mind, I would have to stand opposed to this bill because it appears that in granting this, in awarding this to one entity, the Center on Children, Families, and the Law, this appears to display a favoritism. And if Senator Hudkins would be good enough to yield to a question or two. [LB961]

SENATOR LANGEMEIER: Senator Hudkins, would you yield? [LB961]

SENATOR HUDKINS: I would answer the question, yes. [LB961]

SENATOR HOWARD: Thank you, thank you. I wanted to ask this of you on the record, so that I clearly understand and that we have this down. You mentioned the Center on Children, Families, and the Law would do this study. Would we be paying them directly, or would there be a bidding process, or how would that work? And let me clarify. If this

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is not specifically the Center on Children, Families, and the Law, is this a segment of their operation, or why would one entity be singled out to do this? [LB961]

SENATOR HUDKINS: All right. Senator Howard, I'm confused, because the amendment says that the money will be transferred to the University Cash Fund. They will utilize the University of Nebraska Public Policy Center. There's nothing in here about family law, unless I'm missing it. They are not the ones doing the study. The university Public Policy Center is equipped to do things like that. What they will do is to administer the...whatever needs to be done, and they will review requests for proposals, and they will, yes, review a request for proposals to select from a national search a research consultant. So the university is not doing this study. They are just managing this request for proposal, and that research consultant must be qualified to provide the methodological, sound and objective assessment of Nebraska's juvenile justice system. [LB961]

SENATOR HOWARD: The...thank you. I...let me be more specific. The Center on Children, Families and the Law is under the university system. That is the body that you were referring to. It's more commonly called the Center on Children, Families and the Law. But I'm...if I understand this correctly, this...the money would be placed with the university system... [LB961]

SENATOR LANGEMEIER: One minute. [LB961]

SENATOR HOWARD: ...to be--thank you--to be handled by this entity within the university system that is more commonly known as the Center on Children, Families and the Law. That agency, that division, would be awarding the contract. Is that...that's the process that...am I correct in that? [LB961]

SENATOR HUDKINS: Well, first of all, the Nebraska Public Policy Center is not the same thing as the Center for...whatever you said, the family law. They're two different things. [LB961]

SENATOR HOWARD: That's not my understanding, but we don't want to argue about that on the... [LB961]

SENATOR HUDKINS: We won't argue that now. [LB961]

SENATOR HOWARD: We can settle that at another date, but your vision is this money would be through the university system and then through this division of the... [LB961]

SENATOR LANGEMEIER: Time. [LB961]

SENATOR HOWARD: Thank you, sir. [LB961]

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SENATOR LANGEMEIER: Thank you, Senator Howard. (Visitors introduced.) Returning now to floor discussion on FA235. Those wishing to speak, we have Senators Nelson, Ashford, Hudkins, and Lautenbaugh. Senator Nelson, you are recognized. [LB961]

SENATOR NELSON: Thank you, Mr. President, members of the body. I don't see Senator Chambers on the floor. I don't need to ask him questions, but... [LB961]

SENATOR LANGEMEIER: Senator Chambers, would you yield? [LB961]

SENATOR CHAMBERS: Yes, I will. [LB961]

SENATOR NELSON: Well, I...thank you very much, but I'm not asking him to yield, Mr. President. I just...I wanted to be sure that he was listening this time, because I know he was engaged in conversation before, and I think probably he missed the point that I was making, that I think our judges, our good judges, especially in Douglas County, are fully capable of handling practically all 16 of these items that are on this proposed study. Now I'm well aware, because I went through that. I knew Judge "Deacon" Jones. I knew him in county court, I know a lot of the parties involved, and I know what Senator Chambers was able to do, and in other cases around the state. But that was county court. We're talking about juvenile court, and I feel confident that if Senator Chambers was made aware of malfeasance on the bench up in juvenile court, that he would certainly do something about it. I just happen to have the confidence and belief that we've got some very good judges there, and I just have to say that the courts that are being affected here in the juvenile justice system, are basically Douglas County, Lancaster County, and Sarpy County. And outstate, of course there are juvenile cases, but there are public defenders in many of the larger cities that handle that, and also, if there's a conflict of interest, then there are appointments. But that's monitored basically by county judges out there. What are we going to show with a \$250,000 study? My point is that it can be handled by the judges, all of these things that we're concerned about, and they can make the changes and they can do the things, and we don't have to have a study, because they well know what should be done. I have confidence in those judges. Now I will say I think there is a definite need for what Senator Chambers is proposing there. I think it would be good to have a study on the assignment of juveniles to adult court or keeping them in juvenile court. I'm not sure that we need \$250,000 to do that. He has already stated that most of the 16 items here that are proposed for study are not of that much consequence. So I guess I would have to argue against his amendment. I think it would be perfectly appropriate next year or over the interim to have a study of the very thing that he would like to have studied and funded in some manner at a much less cost. And therefore, I would respectfully have to say I would oppose his amendment and also the AM2394. Thank you, Mr. President. [LB961]

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SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Ashford, you are recognized. [LB961]

SENATOR ASHFORD: Question. [LB961]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see five hands. The question before the body is, shall debate cease on FA235? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB961]

CLERK: 25 ayes, 2 nays, Mr. President, to cease debate. [LB961]

SENATOR LANGEMEIER: Debate does cease on FA235. Senator Chambers, you are recognized to close on your amendment, FA235. [LB961]

SENATOR CHAMBERS: Mr. President, members of the Legislature, you all know I like to go to the lyrics of songs. There's one that says, You don't tug on Superman's cape/You don't spit into the wind/You don't pull the mask on the old Lone Ranger/And you don't mess around with Wonder Woman. So I'm going to yield a few of my minutes to Senator Hudkins, for whatever she needs to use the time for, and then I will reclaim the rest of it. [LB961]

SENATOR LANGEMEIER: Senator Hudkins, you're recognized. [LB961]

SENATOR HUDKINS: Thank you, Mr. President, and thank you, Senator Chambers. I respectfully disagree with Senator Nelson when he says that the study that we are asking for, with the inclusion of Senator Chambers' amendment, which I do support, is of little consequence. The last time I spoke I talked about just a few of the things that would be covered in this study. I think it's necessary that I tell you the rest of them, because obviously you're not getting the point. We want to examine issues that are related to the timing of appointment of counsel and guardian ad litem. Is there a short time, is there a long time, is there an extraordinary amount of time? And that is not for the benefit of the child. We want to supervise these attorneys who are serving as guardian ad litem. When you go to law school, Senator White, you probably don't ever anticipate being a guardian ad litem. So therefore, you're not going to spend as much time in that area. So if you do have a change of heart and you do want to be a guardian ad litem, then you should--don't go away--you should probably have a little supervision on this point. How often do the juveniles waive their right to counsel, and under what conditions do they do so? How does a juvenile know whether or not to waive the right of counsel? That is what this study needs to look at. We need also to look at the access to investigators, to experts, to social workers and support staff. It's necessary that all of these people are working for the best interest of the particular juvenile. We need to look at the relationship between a guardian ad litem, the juvenile's legal counsel, and the

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judicial system with the identified educational staff. Maybe there is a personality conflict between these people. Maybe one wants to do one thing, one wants to do another. We look at recidivism. How many times are these kids getting into trouble, and why is that? I'll talk more next time, and I would return the rest of the time back to Senator Chambers. [LB961]

SENATOR LANGEMEIER: Senator Chambers, 2:30. [LB961]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I won't need the full two minutes and a half. This amendment says that a part of the study will relate to referring juveniles for charging and trial as adults. I think that's understandable, so that's all I would have to say. But I would ask for a call of the house, Mr. President, and I will accept a machine vote. [LB961]

SENATOR LANGEMEIER: Thank you, Senator Chambers. There has been a request to put the house under call. The question before the body is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB961]

CLERK: 26 ayes, 0 nays, Mr. President, to place the house under call. [LB961]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Dubas, would you please check in. Senator Erdman, would you please return to the Chamber and record your presence. Senator Engel, would you please check in. All members are present or accounted for. There has been a request for a board vote. The question is, shall FA235 be adopted to AM2394. All those in favor vote yea; all those opposed vote nay. Have all voted that wish to? Record, Mr. Clerk. [LB961]

CLERK: 25 ayes, 4 nays, Mr. President, on the amendment to the amendment. [LB961]

SENATOR LANGEMEIER: FA235 is adopted. With that, I raise the call. We return now to discussion on AM2394, offered to LB961. Senator Hudkins, you are recognized. [LB961]

SENATOR HUDKINS: Thank you, Mr. President and members. Thank you for passing that last amendment. I would also ask you to give a green to this amendment. Why? Well, these are kids that we're talking about. These are kids who have, for one reason or another, been in a mess in their lives. They haven't had the parenting that they needed, they got mixed up with the wrong crowd, whatever the reason, they are in the juvenile system. Maybe it was something very minor. It might have been something pretty serious. But if we can get these kids turned around now, we have a chance of keeping them out of prison when they are adults. That is why we want this study done.

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We want to see where are the good points and the deficiencies of the juvenile system for these youngsters. We want to see where are the good points and where there could be improvements in the guardian ad litem system. As I said before, this is not an end run; this is not to get the state to pay for this, these services for these kids. We want to identify where the direct services are needed, and if you look at the amendment again, it tells you exactly what this study would consist of. We need to have general information. We need to know how many caseloads a juvenile court supporter person, a guardian ad litem, has. Do they have so many cases that they cannot give each one the attention that it deserves? How often have they decided, I don't need help in court. I'll just go, they'll slap my wrists and send me home. No, that's not what it's all about. And again, perhaps Douglas County doesn't have a problem, and we're not saying that the rest of the state does. We're saying we need to find out. We need to know where those kids have access to the experts, to the social workers, to the educators. We want to find out if they are from poverty homes. We want to find out how long they have been in the foster care system. We need to know what kind of education they have had. We have been told by the Policy Advocacy Commission, we have this money available. Policy...Public, I'm sorry, Public Advocacy. What does that mean? They are advocating for the public. They have the money available at this time. They have not needed the money that comes in slowly through court fees to handle high profile cases. They said, we do not oppose you on this. The money is there, you are using it for a good purpose, use the money for your study. The university is the one that will manage and create the program. They will put together the request for proposals. Then there will be someone else, an expert in this field, who will take care of it from there. [LB961]

SENATOR SCHIMEK PRESIDING [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR HUDKINS: The Public Advocacy Commission has said yes. The bar association has said yes. Every juvenile that we can help now they won't have to deal with later. So ladies and gentlemen, you pay now \$250,000, or you pay later, much, much more. It's more decision. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Hudkins. Senator Chambers, you are next in line to speak. [LB961]

SENATOR CHAMBERS: Thank you. Madam President, members of the Legislature, and Senator Nelson, if you'll read some of the cases, you'll see that there have been some juvenile judges who have had problems in Sarpy County and maybe Douglas County, but anyway, at least one of them was removed. And I don't remember if Judge Buckley handled juvenile cases, but there was a point when judges were rotating and handling juvenile matters, and not all of them were trained, not all of them did a good job, and if you have a situation, for example, in Lancaster County, where you're trying to

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see who should have custody of a very cute Latino child, you have the guardian ad litem, you have the judge, you have the prosecutor--all white. The family was suitable to take custody of the child. HHS did the study and said so. The white guardian ad litem continued to push the proceedings back, back, back, and here's what the tactic was, and it was worked. By the family not having any contact with the child, it could be argued, well, they haven't bonded with the child. Why did they not bond? Because the guardian ad litem had made sure that they would never have contact with the child. But the white family did. So that Latino child wound up in a small, white community in Nebraska, in the hands of a white family, and that has happened more than once. White people are not aware of these things, and he can trust judges all he wants to. I have seen these kind of things happen, and they ought not happen. And you don't have many black people who are part of this system, or Latino people who are part of this system. And sometimes the Mexican-American Commission is not allowed to represent a family, because the family is not a party, so it's in the hands of these white people, and more and more nonwhite children are winding up as the foster children of these white families. They're very cute when they're little, and then they catch hell as they grow older, because they're not white, the parents don't understand their culture, and those children have a worse situation. But the white families have the money, they have the clout, and they have the pull with the county attorney who is white, and the guardian ad litem who is white. And these are things that need to be discussed, but they also need to be studied. And when you're going to have people stand on this floor who have no knowledge of a great number of children who come into this system, has no knowledge of how they're treated and say, we don't need a study, he doesn't know what's going on. But what he doesn't know he feels is not worth knowing, or if he doesn't know it, it's not there. On these issues I try to be restrained, modulated in the way I speak. But if you could cut me open, you'd see a fire burning hotter than the one in the Old Testament that was so hot it burned the people trying to throw those three Hebrew boys into that fire. That's what you would see, and you all don't have to contend with that. They're not going to take a white child and put that white child in a family...into a black family or a Latino family. But they'll take black children and Latino children and do that to them. And it's happening in Nebraska. It was so bad with the Native Americans that there was a Native American Child Welfare Act, so they couldn't just automatically snatch these cute, little mascot-like children and give them over to white people who would keep them till they got tired of them. Then they'd become too much of a problem and they couldn't handle them anymore, so now they wind up in the foster care system--ruined. And they had family members who were prepared to take them and couldn't get them, because white people were making these decisions. [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR CHAMBERS: This study is not going to solve all those problems, but it will unearth some of the problems. Then people who are blinded to these things will see that they indeed are happening, and they will know, not just because I'm saying it. But

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I'm sure the consultant will be white, and if your own complexioned people tell you something, maybe you'll accept it. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Lautenbaugh, you are next in line to speak, followed by Senator Nelson. [LB961]

SENATOR LAUTENBAUGH: Thank you, Madam Chair, members of the body. And I'm sorry for the delay, but I was actually discussing this topic. As in the interest of full disclosure, I have represented firms and do represent firms that do this kind of work, guardian ad litem work. I'm also in the happy position now, standing up and speaking against something for the children. This is probably as popular as the time I spoke out against the bullying ordinance or bullying bill awhile back. Here's why you can be against this but not be against the children. What are we doing here? We're asking an entity at the University of Nebraska to then find a national expert, an expert that will do a study, and will have conclusions. And those conclusions will be trumpeted by some and discounted by others. We studied this last year. I was on a task force--I think it only met once, so I don't know if that's a task force--a focus group the Judiciary Committee put together, and we heard all sorts of experts. We do have local experts in this area, people of good will who choose to practice in this area. And the opinions were as varied as you might expect when you get 20 people together. They're experts. They told the Judiciary Committee what they thought. The two bills that were pending at the time were killed. Now we're being asked to spend \$250,000 to go study this again with an expert from elsewhere, and decide what to do about it. No one is saying that any system is perfect. There are no perfect systems. But that's how you can say, should we do this and not be against children? You can question what the value of one outside expert's opinion is going to be, when we do actually have homegrown experts. I don't fancy or hold myself out to be one of them, but we do have such people. Thank you. [LB961]

SENATOR SCHIMEK: Thank you, Senator Lautenbaugh. Senator Nelson. [LB961]

SENATOR NELSON: Thank you, Madam President, members of the body. Senator Lautenbaugh stated that very, very well, and I make the same point. I'm certainly not against children, but what...and I'm not. But what I'm hearing here is that if there are some deficiencies in the juvenile court system, that we're sending children into a life of crime and misery for the rest of their life. That's not what we've got here. Have you taken a look at the amendment? They want general data and information about the structure and funding mechanisms for juvenile legal defense. We already know that. They want to know about the caseloads. We know the caseloads. Our Supreme Court and our bar association know what the caseload is. Issues related to the timing of appointment of counsel and guardian ad litem--the courts have to move things along. Examining supervision of attorneys--as I already said, in a sense--and not in just a sense--the courts, the judges, in Lancaster County and Douglas County and Sarpy County, are charged with the responsibility of making sure that the attorneys or the

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guardians ad litem, they perform their duties in a reasonable manner. Frequency with which children waive their right to counsel and under what conditions do they do so--let me tell you, when you go into a hearing in juvenile court, the courtroom is full and there are countless hearings. You have social workers, you have caseworkers, you have the guardian ad litem, the attorney for the parents, the attorney for the child, foster parents--they all have their chance to say, or they can be questioned by the judge. Where in the world are the juveniles that are in there, where are they lacking care and concern and representation? There has got to be somebody there that is advising them as to whether they want to waive their right to counsel or not. Why do we need to study something like that? Compensation of attorney--I've heard that this...the bills that were considered before were really at the behest of the defense bar, so that there was a guaranteed income. I'm not going to comment on that, whether that's the case or not. We've...experts, social workers, and support staff; coordination and representation of those youths...well, I'm not going to go any farther. I just say that we already have the information which we need, and I would just concur with Senator Lautenbaugh that even if you bring a national expert in and they study all this at the cost of \$250,000, which is not a lot of money, but frankly, I don't spend money if I don't have to. Just because it's there, I don't go out and buy a car or I don't know to Mexico or something like that. That money can be better used for better purposes, and what are the purposes? Why don't we spend that money for training on guardians ad litem? Or for seminars for attorneys that regularly represent juveniles or parents in court, to bring them up to date. The bar association already does some of that. So just because we've got \$250,000 and the people with the cash fund say, well, it's all right to use it for this, let's use it wisely. I come back to what Senator Chambers...his amendment passed. I think that's a good thing, and I don't like to see this go down, or his amendment go down with this, but I just tell the body that I think this is money ill spent. It can be used for better purposes, and I continue to oppose the amendment. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Nelson. Senator Preister, you're recognized to speak. [LB961]

SENATOR PREISTER: Thank you, Ms. President. I would yield my time to Senator Chambers. [LB961]

SENATOR SCHIMEK: Senator Chambers. [LB961]

SENATOR CHAMBERS: Thank you, Madam President. Thank you, Senator Preister. Members of the Legislature, Senator Nelson and I probably would never agree on anything. (Laughter) As for what Senator Lautenbaugh said, if you listen to him you'd see how what he was talking about has nothing to do with what this amendment deals with. What he talked about was not a collection of homegrown experts! They were not experts. They were the warring parties, some in favor of a bill, others opposed to it. So they had to put together this large, unwieldy group, and there was no consensus and

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they were not there to study anything. They were there to fight for their specific agendas. And if Senator Lautenbaugh thinks that is a study by experts, then he is mistaken. If he thinks that's what this is about, he's mistaken. This study is not designed to bring together people who are just going to battle and fight for their agenda and their turf. Senator Nelson keeps saying these judges are going to do this, they can be trusted to do that. Not long ago a young man and his family filed a lawsuit--maybe it was in Plattsmouth or some place--where he was charged with a murder that he did not do. And he said over 100 times he didn't do it. He was pressured and finally somebody else who did it was caught and convicted, but that was the prosecutor. No judge intervened. The prosecutor was actively trying to get a person convicted of a murder he did not commit, which he said over and over--I'm innocent, I don't know what you're talking about. Then we hear people on this floor say you can trust the prosecutors, you can trust the judges. Over 100 people have been taken off death row around the country who were innocent, and you had judges and prosecutors and jurors all saying they were guilty. All we're talking about here is a study. Money is not coming out of the General Fund. The public advocacy agency does not have money to train guardians ad litem, to train judges, to train anybody. They relieve these counties of a lot of expenses, Senator Nelson, because they handle cases which the counties otherwise would have to pay for. On these capital cases that the public advocacy agency handles, counties would have to ante up that money. The counties like that agency there. That agency is prepared to let some of the money they have go, because they see this as a worthwhile study. They deal with people who are charged with some of the most serious of offenses, and then we're going to let one person on the right side of the aisle and one person on the left side of aisle say this study is worthless. They haven't even been here long enough to know whether it's worthless or not, or what can be brought about by means of a study. And there have been studies conducted on the tax system, when there were studies existing, and on business interests. They don't mind studies, then. But when it comes to something related to the children, then all of this concern. Senator Nelson admitted \$250,000 is not that much money, but he says he doesn't want to spend money if he doesn't have to. It's not his money. It's not coming out of the General Fund. This is an agency prepared to ante up this money. How many agencies do you see willing to do that? How many? And you don't see anything unique about this situation? And the entity that's doing it is very familiar... [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR CHAMBERS: ...with criminal law, with constitutional rights, and all of the matters to be addressed in this study. There are courts constantly, Senator Nelson, dealing with grown people and lawyers and even judges, as to whether or not a person who is said to have waived his or her rights actually did so knowingly, intentionally, and intelligently and will find that a judge did not ensure that that was the case. So whatever the waiver constituted will be set aside, and that's because judges did not do their job correctly. And if you don't know of any cases like that in Nebraska, give me a little while

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and I'll find some for you. A study is what we're asking for here. The money is not coming out of the General Fund. It is not coming from an agency which is fighting and scrapping against allowing it. [LB961]

SENATOR SCHIMEK: Time. [LB961]

SENATOR CHAMBER: They see the value. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Wallman, you're recognized to speak. [LB961]

SENATOR WALLMAN: Thank you, Madam Chairman. I wonder if anybody has ever watched Night Court? I actually went to a court when it was about like Night Court, with a juvenile child in a different county. And you think I'd recommend that judge to anybody? No. And the district attorney called me up to represent this child and I did, and I hired an attorney, and the parents paid it up--non-English-speaking students. So if you think this judge was fair, the district attorney called me up, not the judge. So it's ironic here, folks. Attorneys are against this study--attorneys. I find that very ironic, and with that, I'd leave the rest of my time to Senator Chambers. [LB961]

SENATOR SCHIMEK: Senator Chambers, you have 4 minutes and 7 seconds. [LB961]

SENATOR CHAMBERS: Thank you, Madam President. Thank you, Senator Wallman. I want to emphasize once again--I'm not condemning every guardian ad litem. I'm not condemning every judge and every case that the judge may have handled. I'm not condemning every prosecutor who may have handled a juvenile case. But there are enough problems, discrepancies, and other flaws that justify us in commissioning a comprehensive study. Then you don't have to listen to Senator Nelson. You like him better than me, but you know that I'm more correct than he. You don't have to listen to him, you don't have to listen to me. Neither he nor I will be a part of that study. And let me tell you how this works. If a juvenile is charged as a juvenile, that child's name won't appear in the paper. They say because the child is a juvenile, the name is not given, and certainly not a picture. Let the child be charged as an adult, and you see the picture and you see the name. Even if that case winds up being referred over to juvenile court, this particular juvenile now has had his picture and name in the paper, charged with an adult felony, and generally it's a black child. Yeah, I'm concerned about black children, Senator Nelson. I'm concerned about that about which I know the most, and I'm concerned about those children who are the most victimized. And I'll say again, they're not always black children, not always Latino children. There are poor white children, also. When people handle some of the matters the way they do, I have to mention race, ethnicity, and language spoken, because those are the issues that result in decisions that are made. Children are not judged on the basis of the content of their character or the fact that they're children and they ought to be treasured by the society and helped.

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They look at the race, the color, the ethnicity, the language spoken. And beyond that, they look at the parents, and if they don't like the parents and can't get them, they'll get the child. I've seen this and I know what I'm talking about, and there are others who know it, too. Senator Wallman gave an example where the prosecutor called him because the child needed something in the way of representation that was not going to be made available through the court structure that was operating. How many times have we heard people say, if one child is safe, if one life is spared, if one, if one, if one. I'm talking about far more than one, and they are children by definition. We're talking about juveniles. Before the U.S. Supreme Court finally became civilized enough to say you cannot execute a person who is below the age of 18, when a murder was committed that would make an adult execution eligible, the Nebraska Legislature, under my direction,... [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR CHAMBERS: ...and I'd like to say persuasiveness, did that years before the U.S. Supreme Court. And the same thing with prohibiting the execution of the mentally retarded. There were lawyers in the body at that time. There were lawyers everywhere. You couldn't throw a rock without hitting a lawyer. But it takes a nonlawyer, the bad fellow, the devil--and by the way, I don't mind being called the devil; I embrace that. So when you call me the devil, you're not offending me at all. It took the devil to do it. But the devil did God's work, huh? The devil did the work that God's representatives ought to have done but were too busy to do. All we're talking about here is a study. Let the angels of your higher nature take over and agree to this study, for the children's sake. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Lautenbaugh, you're next. [LB961]

SENATOR LAUTENBAUGH: Thank you, Madam President and members of the body. I apologize if in prior remarks I strayed from the topic at hand. But I would like to say this: I was involved in that study group last year, and I do believe those people to be experts, myself excluded. They were the experts, they knew. And we can hear today how they were all there protecting their own turf and fighting for their own turf. Guess who was part of it? Mr. Mowbray, the head of the commission on public advocacy, who is wanting to give up this money now for this study, that's going to come back, that's going to be fair and unbiased and show us the way. That's why I raised this question. There are experts, and there are experts, and there are experts, and they do exist here. I don't believe anyone is in this field to get rich. I don't believe anyone is in that field to protect their turf. I believe they're there because they have the best interests of our children at heart. What we're being asked to do here is to spend a quarter of a million dollars to bring in yet another expert to look at this, someone who is going to take time to, you know, up to speed on our system. That's what we're spending a quarter of a million

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dollars on, and we're going to get a result. And whatever that result is, there are going to be people who say, hey, this is what we must do. I may be new here, but I didn't just fall off the turnip truck. I've seen studies before, and I know what they can do. Some are right, some are wrong, just like some experts. We do have experts here. Not all the judges are experts, not all the judges are perfect, not all the guardians ad litem are perfect, not all the public defenders are perfect. But in general I believe they do a good job, and if there's a study to be had, if there's something really to be looked at here, maybe this could have come up other than today. I feel like I'm piling on this on the floor like I've been laying in the weeds, but I really haven't. This is the first I'm seeing of this, and this is why I'm commenting on it in this way, in this forum. That's why I'm speaking against this. That doesn't make me against the children. I'm just questioning whether we need a quarter of a million dollars for yet another expert in the area. Thank you. [LB961]

SENATOR SCHIMEK: Thank you, Senator Lautenbaugh. Senator Howard, you are next in line to speak. [LB961]

SENATOR HOWARD: Thank you, Madam President, members of the body. It's always good to know that people watch us and do...are concerned about what happens on this floor. I received an e-mail that...informing me that a few years ago, the Legislature created the Juvenile Justice Institute at UNO, and they shared some language with me that was in that original bill. The juvenile justice system at UNO was established at the University of Omaha. It was intended...it is intended that the University of Nebraska at Omaha, upon the approval of the Board of Regents of the University of Nebraska, establish the Nebraska Juvenile Justice Institute within the Department of Criminal Justice. The purpose of this institute is to use applied research to identify the needs of the juvenile justice system, evaluate programs and policies, monitor the overrepresentation of juveniles based upon their race and gender, and advise the Legislature and the Governor on the Nebraska juvenile justice system. It appears to me that this was put in place to address the very things that have been brought to us in this amendment. Whether they've done a good job of this or done what was intended, I don't know. I can't provide you that information. But this is the very reason that I so railed against additional studies on this floor. We...I've seen it over the years in Health and Human Services. Funding was provided to do studies, and studies were completed, but information was never utilized. And as far as I'm concerned, when you put funding into a study and you don't use the results of that study, it's a waste of money. So thank you, and I hope this information is helpful. [LB961]

SENATOR SCHIMEK: Thank you, Senator. Senator Pankonin, you are recognized to speak. [LB961]

SENATOR PANKONIN: Thank you, Madam President. I will yield my time to Senator Chambers. [LB961]

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SENATOR SCHIMEK: Senator Chambers, you have 5 minutes. [LB961]

SENATOR CHAMBERS: Thank you. Thank you, Madam President. Thank you, Senator Pankonin. What Senator Howard may not be aware of is that this study is not going to be done at UNO or by UNO. Those local agencies and entities are affected by the very ones at this study group that Senator Lautenbaugh was a part of. Now some of the members of that group came to me and told me how worthless it was because all they were doing was disputing. They were arguing their agendas, and that's what it turned into. They had no consensus. There will be nobody like Senator Lautenbaugh on this study. He admits he wasn't an expert. He shouldn't have even been there. That's not going to happen here. Mr. Mowbray, whose agency is turning this money over, is not going to do the study. He's not going to do it. Things needs to be kept clear and focused here. Senator Howard, I've probably spoken against more studies than you have, but see, I'm the kind of person who looks at the individual study, its purposes, and to what extent the Legislature is going to have some control or say-so with reference to how the product is going to be utilized. It's not authorizing UNO to do some study, then set up some entity or other, if the Board of Regents agrees to. That's not what this is about. And for Senator Lautenbaugh's edification and Senator Nelson, the Nebraska Supreme Court has had an agency come here that studies courts, to study various aspects of the operation of the courts. That was several years ago. Then they set up some kind of groups, along with the bar association, to look at some specific activities that occurred in the court system. But there are entities throughout the country which have developed expertise. For those who may not be aware of it, there are various groups acknowledged throughout the country who do good work in studying, evaluating, certifying correctional programs, and they have been hired. One was hired by the state. They are recognized, they have the expertise. You don't just get a hodgepodge of people and say, you all go and do this. The study we're talking about here is different from the things that have been talked about by those who are opposing it. I can give you additional concrete cases of what I'm talking about, of abuses by judges, prosecutors, and guardians ad litem. All Senator Nelson can do is tell you he's got confidence in all these. There have been cases, Senator Howard, where HHS had done studies. They had evaluated families of the child. And the guardian ad litem would oppose that, because there was a white family that wanted the child, and HHS backed off. So you can't tell me what these guardians ad litem are going to do, in terms of what's in the best interest of the child. You all are not affected by these things, so you think because things happen for you a certain way, they happen for all people's children that way. That is not the case. I'm not going to be a guardian ad litem, I don't know any people who want to be guardians ad litem, I'm not advocating for anybody to get a job. Senator Lautenbaugh said nobody is in this line of work to get rich. There are people in this line of work of being guardians ad litem, Senator Lautenbaugh, who don't do their job. It's an easy way to make money... [LB961]

SENATOR SCHIMEK: One minute. [LB961]

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SENATOR CHAMBERS: ...with not any real responsibility, and no accountability. There is nobody who really evaluates what these people do. If you've got the guardian ad litem, the county attorney, and the judge, it makes me say what an old West Indian proverb says: When the grasshopper goes to court and all the judges are chickens, the grasshopper doesn't have a chance. Well, that's what's happening. You're sending children as lambs to the slaughter, and when these children's lives are ruined and families are broken up, and I see it happening, I cannot be as blase' as Senator Nelson and Senator Lautenbaugh. But if you believe what they say, if you think this is a waste of money, if you think everything is as it should be in the system, you'll vote accordingly. I think... [LB961]

SENATOR SCHIMEK: Time. [LB961]

SENATOR CHAMBERS: ...the study will be of value. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Lautenbaugh, you are recognized to speak. He waives. We are on the discussion of AM2394. Seeing no further lights, Senator Hudkins, you are recognized to close on your amendment. [LB961]

SENATOR HUDKINS: Thank you, Madam President, and members of the body. We are the state Legislature. We take care of all of the kids. We rely on experts who can tell us--we don't depend upon rumor or innuendo or anecdote. If Senator Lautenbaugh attended a meeting where there were 23 people there and they talked about their experiences and they had 23 different opinions, in my opinion, that's a problem--that's not a solution. We need to have the data, we need to have the case files, we need to have someone analyze the information. The Judiciary Committee had a--one meeting, I believe it was--that's a focus group. That's not a study. It was a very limited study, at that. There were no analyses, there were no cases talked about. And when a child waives their legal rights to have attorney present, that's not right, and it's not because the child is so smart that they know that they can beat the rap, it's because they haven't been told that they do need legal counsel. Maybe their parents are sitting there. Parents don't have the money or worse yet, they've washed their hands of this kid. That's not what we want to have happen to our juveniles. This amendment, again, provides for a one-time funding of a study to analyze the juvenile legal defense and guardian ad litem system in Nebraska. Yes, there have been other studies. They looked at the effectiveness of HHS in providing for permanency in children through termination of parental rights, they looked at how the judicial system handles these cases, and they looked at timeliness and effectiveness of the system. The one area that has not yet been looked at and has been left to guesswork is the effectiveness of juvenile court representation of the juvenile and the guardian ad litem system, as they currently exist

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in Nebraska. Again, this amendment has nothing to do with the bills that were introduced last year. There is nothing to do with who pays for the guardian ad litem. This amendment is a study to show us where we need to be better, where we're doing a good job. The money is available from the Public Advocacy Commission. It comes to that commission by court fees a little bit at a time. They are the ones that handle high profile legal cases--appeals to death penalty, murder ones, murders twos, whatever--high profile things. They have the funds available. We have been told that they do not have the need for those funds at this time, and when you look at the title of who they are, the Public Advocacy Commission, aren't kids public? And shouldn't we advocate for them? This group has said, take the money, do the study. It's a one-time thing. This is not one dime, not one nickel, not one penny, from the General Fund. I have had several people say something to the effect that, well, this takes money from the General Fund. No, it doesn't. This is money that is in a cash fund from the Public Advocacy Commission, who has said, use the money. [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR HUDKINS: This is a worthwhile project. These are kids that we're talking about. We want to help them however we can, as quickly as we can. If this study is done and we find that we're doing a terrific job, good for us, good for our system. But if we find that there could be some things that are done differently or better, don't we deserve to know that, too? Don't our kids deserve to know that? These juveniles that are in trouble, they're not like our kids. They have been kicked in the teeth from the time they were able to walk. Isn't it time that we look into how we can help them? Why wouldn't you want to find out how the system works in Nebraska? Why wouldn't you want to improve that system and give these kids the break that they deserve? Thank you, Madam President. I would ask for a call of the house, please. [LB961]

SENATOR SCHIMEK: Thank you, Senator Hudkins. There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB961]

CLERK: 33 ayes, 0 nays, Madam President, to place the house under call. [LB961]

SENATOR SCHIMEK: The house is under call. Would all members please return to the Chamber and record your presence. The house is under call. The house is under call. Would all members please return to the Chamber and record your presence, please. Yes, Senator Hudkins? [LB961]

SENATOR HUDKINS: (Inaudible)...roll call vote in regular order. [LB961]

SENATOR SCHIMEK: Thank you. Senator Dubas, would you please return to the Chamber. The house is under call. All members are accounted for or present. Mr. Clerk,

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proceed with the roll call. [LB961]

CLERK: (Roll call vote taken, Legislative Journal page 1034.) 19 ayes, 18 nays, Madam President, on the amendment. [LB961]

SENATOR SCHIMEK: The amendment is not adopted. The Chair would call on the Speaker for an announcement. And I raise the call. [LB961]

SPEAKER FLOOD: Thank you, Madam President, members. I have talked to most of you that I can, given the fact that it was my hope that we could continue tomorrow on the budget and make progress on this by tomorrow at noon. I have spoken with many of you, and we are going to continue to remain in session tonight, in an effort to move LB961 to a resolution and then take up the remaining budget bills and the state claims tomorrow. And with that, I don't want to place a definite adjournment time at this point, but I do appreciate your willingness to continue on to make progress on LB961. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Mr. Speaker. Mr. Clerk, do we have other amendments? [LB961]

CLERK: Madam President, Senator Heidemann would move to amend, AM2419. (Legislative Journal pages 1034-1036.) [LB961]

SENATOR SCHIMEK: Senator Heidemann, to open on your amendment. [LB961]

SENATOR HEIDEMANN: Thank you, Madam President, fellow members of the body. This is a technical amendment to LB961, AM2419. This amendment harmonizes Section 3 of LB961 with LB480, which was passed and signed into law in February. This bill changes the restriction that no more than \$55 million may be appropriated or transferred from the Health Care Cash Fund in any one year to no more than \$55,700,000 may be appropriated and transferred to the Health Care Cash Fund in any one year. This needs to be done because we took some money from the Health Care Cash Fund, \$200,000 for the Poison Control Center, and \$500,000 for the smoking cessation match Medicaid funds. Thank you. [LB961 LB480]

SENATOR SCHIMEK: Thank you, Senator Heidemann. You've heard the opening on AM2419. Are there any who wish to speak on the amendment? Senator Chambers, you're recognized to speak. [LB961]

SENATOR CHAMBERS: Madam President, members of the Legislature, there is a bill that's going to come before us to merge parole and probation. After that last vote, where people don't care about children, I don't see where that bill is going to do anything to benefit the system. People need to think about what they do. They have their interests;

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others of us have our interests. That last vote was one of the worst that I have seen, and from people who on other occasions pretend to be so concerned about children. They talk about education, but they're more concerned about roads and highways. They talk about getting money for rural areas, rural areas where the population is not showing any increase, and I've worked with some of these people and helped them. And then we come to something like this that involves children, and an agency willing to give over some money, and they vote no. I'd like to ask Senator Heidemann a question or two. [LB961]

SENATOR SCHIMEK: Senator Heidemann, would you yield to a question or two? [LB961]

SENATOR HEIDEMANN: Yes. [LB961]

SENATOR CHAMBERS: Senator Heidemann, if this amendment is not adopted, what happens? [LB961]

SENATOR HEIDEMANN: Uh, uh... [LB961]

SENATOR CHAMBERS: That's not an answer. [LB961]

SENATOR HEIDEMANN: I would have to think that some place...some of the groups that access money from the Health Care Cash Fund wouldn't be able to access money, and I don't know for sure which one in the group wouldn't get funded, but somebody would be short. [LB961]

SENATOR CHAMBERS: Give me an idea of some of the groups involved, if you have...and this is not to be a trick question. What are some of the groups, even if you don't know all of them? [LB961]

SENATOR HEIDEMANN: If I remember right, last year we actually took the university for some research money, I believe, from \$12 to \$14 million. The University of Creighton accesses money. There's various groups that access money, and I think I'm going to have that right here really shortly. [LB961]

SENATOR CHAMBERS: But they are not groups whose very existence depends on them accessing this money, are they? [LB961]

SENATOR HEIDEMANN: Actually, I believe, if...I think the \$700,000 wouldn't hurt, but if you would...there are various groups that depend very much on this money. [LB961]

SENATOR CHAMBERS: Give me an idea of one other than Creighton, for example. [LB961]

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SENATOR CHAMBERS: Well, there's gambler assistance money that comes out of here. We actually passed a bill last year that...about autism that we fund some autism money. This year is the Poison Control Center, the Parkinson's disease registry is out of here. [LB961]

SENATOR CHAMBERS: What do we need a registry for? That doesn't have anything to do with treatment of Parkinson's, or does it? [LB961]

SENATOR HEIDEMANN: I believe they use it for research purposes, that they track where the Parkinson's is actually happening, I believe. [LB961]

SENATOR CHAMBERS: So they're studying where these things occur, these ailments occur and afflict people, rather than it be a program that provides treatment for these people? [LB961]

SENATOR HEIDEMANN: I believe they're trying to figure out, it may be a possibility, why it's occurring, why it's occurring more in some places than others. They might use that at that time to... [LB961]

SENATOR CHAMBERS: And how much money are they getting for that? Did you say about \$750,000? [LB961]

SENATOR HEIDEMANN: No, \$26,000. [LB961]

SENATOR CHAMBERS: Twenty-six thousand, and that's in the nature of a study, isn't it? We're not researching Parkinson's as such. If I understood you, this is a registry. They want to know where it's happening and why it happens some places and not others. But this is not treatment money, is it? [LB961]

SENATOR HEIDEMANN: No. [LB961]

SENATOR CHAMBERS: It's a study, isn't it? [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR HEIDEMANN: Informational research. [LB961]

SENATOR CHAMBERS: And isn't informational research another way of saying a study? You're studying something to arrive at certain conclusions and you need to gather facts in order to arrive at appropriate conclusions; is that right? [LB961]

SENATOR HEIDEMANN: Researchers access this information to do research on

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Parkinson's. [LB961]

SENATOR CHAMBERS: But it's information that is already existing somewhere; is that true? And they're going to analyze, evaluate it, and act on it? Is that what they're doing? I'm trying to find out. [LB961]

SENATOR HEIDEMANN: This money is probably used to gather that information. [LB961]

SENATOR CHAMBERS: To gather the information? [LB961]

SENATOR HEIDEMANN: Yes. [LB961]

SENATOR CHAMBERS: Okay, then this isn't even a study, is it? It's just accumulating it, then maybe somebody else will analyze it, evaluate it, and make use of it? [LB961]

SENATOR HEIDEMANN: I'd...probably yes. [LB961]

SENATOR CHAMBERS: So we're going to spend \$26,000 to gather information and not even study it. This money... [LB961]

SENATOR SCHIMEK: Time. [LB961]

SENATOR CHAMBERS: Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senators Chambers and Heidemann. Senator Wallman, you are recognized to speak. [LB961]

SENATOR WALLMAN: Thank you, Madam President. I too would like to ask Senator Heidemann a few questions. [LB961]

SENATOR SCHIMEK: Senator Heidemann, would you yield? [LB961]

SENATOR HEIDEMANN: Yes. [LB961]

SENATOR WALLMAN: Thank you. You know, I see here on this developmental people, with ICF/MRs, about three years ago I think we promised them a 3 percent increase, and last year a 1 percent, and this year 1.4 percent. We're still not up to the...is this money to fund that up to that? [LB961]

SENATOR HEIDEMANN: I would have to...I don't believe so. This doesn't have anything to do with that. [LB961]

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SENATOR WALLMAN: Well, I think we have to make sure we pay the people that we promised. A deal is a deal, we said, on some other issues, like on the water issue. But when it comes to developmental disabled, we don't seem to make a deal a deal. And that's all I have, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Wallman, Senator Heidemann. Senator Chambers, your light is next. [LB961]

SENATOR CHAMBERS: Thank you. Madam President and members of the Legislature, a study is a study is a study. I don't see Senator Nelson. Where did he run off to? He hates studies. Oh, I'd like to ask Senator Nelson a question. [LB961]

SENATOR SCHIMEK: Senator Nelson, would you yield to a question? [LB961]

SENATOR NELSON: Yes, Madam President, I will. And I just want to add, I was not hiding behind any pillars. I was in conference over there and decided I should come and answer questions from Senator Chambers. [LB961]

SENATOR CHAMBERS: And Senator Nelson, that's what Senator Wightman called my attention to. I wasn't able to locate you, but I thought if you were at some place and heard me, you'd show yourself like I did when I was under the balcony here. [LB961]

SENATOR NELSON: Absolutely. [LB961]

SENATOR CHAMBERS: If you followed the discussion such as it was between myself and Senator Heidemann, who is interested in this amendment, he pointed out that \$26,000 is...this will make it possible for that money to be accessed to gather information about where Parkinson's occurs and why it occurs some places and not others. In other words, it's to collect information. Do you favor that? Because this doesn't even rise to the level of a study. [LB961]

SENATOR NELSON: Senator Chambers, I wasn't following that conversation between you and Senator Heidemann at all. As I say, I was engaged in a conference. But...and if I understand it correctly, we're talking about \$26,000 here? [LB961]

SENATOR CHAMBERS: Yes. [LB961]

SENATOR NELSON: Is that the entire bill? [LB961]

SENATOR CHAMBERS: That's part of it. There are a number of organizations that will be affected by it, but that's one of those that he could call to mind and tell me what the money was going to be used for by them. [LB961]

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SENATOR NELSON: And so with a little more background, then, will you ask me the question again, and I'll try to answer it. [LB961]

SENATOR CHAMBERS: Well, I'm not going to put you through that. I thought maybe if you had followed,... [LB961]

SENATOR NELSON: Okay, no. I'm... [LB961]

SENATOR CHAMBERS: ...but that's okay. I won't ask you to answer questions about that which you didn't follow. [LB961]

SENATOR NELSON: All right. Thank you, Senator. [LB961]

SENATOR CHAMBERS: Members of the Legislature, I think it ought to be clear, and my good friend Senator Carlson, that I'm smarting under that last vote. And I did work with Senator Carlson on a bill of his, that ordinarily I would have fought against. But Senator Carlson is a good man, and Senator Carlson was doing good work that needed to be done. But one of the reasons I didn't fight it--and I've fought bills of that kind--was because of what I think of him and his integrity, and I believe he means what he says. And I think he voted against an amendment that was designed to give us some understanding about what was happening with children. I vote against bills like Senator Howard's bullying bill, because it really didn't do anything. It told these school boards to put together some kind of a program. That's not even a study, but she was trying to make a point. She was trying to show an area where the Legislature saw a serious problem and something ought to be done, so she was willing to accept from the Legislature what she could get. She knew she could not write in statute an anti-bullying program, so she got what she could, and I voted with her. And I don't vote for those kind of bills. I'm reminding people of some things. And of all people, Senator Howard listened to some of the examples that I gave. Now maybe she doesn't believe I was telling the truth. Maybe she doesn't think there have been HHS occasions when they've backed off because a guardian ad litem wanted to see a child placed with a white family, rather than with the child's own family. She may not believe that, so since she doesn't believe that, I can understand why she voted against that amendment. But you have to look beyond that one case which you may think I'm lying about. You have to look beyond me, whom you may not like, and see what the issue is that is before us. And that is a very, very important issue. [LB961]

SENATOR SCHIMEK: One minute. [LB961]

SENATOR CHAMBERS: We do not have a contention between two agencies. We do not have an agency resisting the expenditure of this money. We have an agency very familiar with the courts--very familiar--familiar with prosecutors, familiar with court-appointed attorneys, even where adults are concerned. And they saw the need of

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this study. Then you're going to have some people on the floor of this Legislature who are experts in nothing persuade enough of my colleagues to say, we don't need this. The study is needed, and I think we may find a way to undo something that ought not to have been done the way that it was. I don't have anything personal to gain from this, other than the satisfaction that will come with knowing that a system which is not being fair to children will at least be examined. Those who administer it will know that somebody is looking at them. We will... [LB961]

SENATOR SCHIMEK: Time. [LB961]

SENATOR CHAMBERS: Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Chambers. Senator Chambers, your light is next. [LB961]

SENATOR CHAMBERS: Madam President, members of the Legislature, I would like to take a moment to go into conference, and I know my time will be running. Madam President, members of the Legislature, Senator Heidemann, where are you? (Laughter) [LB961]

SENATOR SCHIMEK: Senator Heidemann, would you yield? [LB961]

SENATOR HEIDEMANN: Yes. [LB961]

SENATOR CHAMBERS: Senator Heidemann, I wanted to be sure that I didn't say...they call him Heidemann and he is acting in accord with his name now, but I wanted to be sure that you did hear what I said. I'm going to withdraw the questioning that I was doing and the opposition that I may have expressed with reference to your amendment, and you can proceed as you saw fit before I intervened. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Chambers. We are in discussion of AM2419. Seeing no other lights, Senator Heidemann, you are recognized to close. Senator Heidemann waives closing, so the question is the adoption of AM2419. All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB961]

CLERK: 30 ayes, 0 nays, Madam President, on the adoption of Senator Heidemann's amendment. [LB961]

SENATOR SCHIMEK: The amendment is adopted. Mr. Clerk, a motion on the desk? [LB961]

CLERK: I do, Madam President. I have another amendment, but I have a priority

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motion. Senator Erdman would move to reconsider the vote with respect to AM2394, which was Senator Hudkins' amendment. The motion is to reconsider the vote on the adoption of that amendment. [LB961]

SENATOR SCHIMEK: Thank you, Mr. Clerk. Senator Erdman, you are recognized to open on your motion. [LB961]

SENATOR ERDMAN: Madam President and members of the Legislature, I'll give you three guesses, and the first two don't count, as to what I was doing during most of the debate on the underlying amendment. It starts with the word "state," ends with "fair." And so I missed the entire debate and that's why I was present, not voting, because it appeared that there was information that was brought to my attention or at least was part of the discussion that I was not fully aware of, so I was present, not voting. It's my understanding at this point that there are folks that have additional information or have the opportunity or would like the opportunity to discuss that amendment further. The motion to reconsider is now before you. The motion requires 25 votes. If it's adopted, we will then go back to debate on the Hudkins' amendment, but it does require 25 votes. And I would yield my remaining time to Senator Chambers. [LB961]

SENATOR SCHIMEK: Thank you, Senator Erdman. Senator Chambers, you have 5 minutes...no, you have 9 minutes, I'm sorry. [LB961]

SENATOR CHAMBERS: And, Madam President, members of the Legislature, and thank you, Senator Erdman, I'm not going to take that time. We discussed this amendment. I don't have anything new to say on it. I think we should get sufficient votes to pass this amendment. Having invested so much in it from the standpoint of the discussion, I'm going to keep an eye on what is done. I will not be here next year. This study, whether people realize it or not, can provide a road map, a blueprint for people who have not been aware of what has been going on in the juvenile justice system. This is something that will facilitate the adoption of meaningful, focused legislation to benefit children, and I hope we can get enough votes to reconsider that other vote and then adopt this amendment, and that's all I will have to say. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Chambers. On the motion to reconsider, Senator Kruse, you're next. [LB961]

SENATOR KRUSE: I'm going to speak to it. [LB961]

SENATOR SCHIMEK: Senator Kruse, you are recognized. [LB961]

SENATOR KRUSE: Thank you, Madam Chair and colleagues. I support the reconsideration. While you were at work in here I went out to call my wife to say it's

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getting past time when you might think I'm coming home and I'm not going to be home on time. And she said, what are you doing? And I said, we're talking about guardian ad litem; (laugh) do you have any thoughts on this? And she said, well, let me tell you about last week. She was in court, as she often is, watching these kids. The guardian ad litem began to quiz Ruth as to what had happened to this child for the last six months, and Ruth told her the situation of the child for the last six months. And the guardian ad litem was effusive in her thanks and said, oh, thank you, thank you, I didn't have any report and now I've got a report that I can make. I don't know if the study is the way to get at that, but I am sure that some way or other we've got to call attention to the fact that some guardian ad litem, some of them, do a tremendous job; go way beyond their time. But some of these guardian ad litem are not seeing these kids. Thank you. [LB961]

SENATOR SCHIMEK: Thank you, Senator Kruse. We are on the motion to reconsider. Seeing no further lights, Senator Erdman, would you like to close on your motion? [LB961]

SENATOR ERDMAN: Thank you, Madam President, members. I'm going to vote to reconsider. It's my motion, obviously, but I'm going to do that. I have been trying to visit. Again, I was off the floor during the entire debate and working on other issues, but I'm trying to visit to get up to speed, but it sounds like there are others that would like the opportunity to discuss it or have another chance to vote on it and that's simply what my motion here, my priority motion to reconsider that vote, allows. And I would encourage your support of this motion. Thank you. [LB961]

SENATOR SCHIMEK: Thank you, Senator Erdman. You've heard the closing on the motion to reconsider the Hudkins' amendment. The motion is...all in favor...oh, excuse me, Senator Erdman. Senator Chambers. [LB961]

SENATOR CHAMBERS: Call of the house. [LB961]

SENATOR SCHIMEK: There has been a request for a call of the house. All in favor vote aye; all opposed vote nay. [LB961]

CLERK: 34 ayes, 0 nays. [LB961]

SENATOR SCHIMEK: The house is under call. Would all senators please return to the Chamber and record your presence. The house is under call. Senator Rogert, would you check in, please? We are all here. Mr. Clerk, there's been a request for a board vote, so all in favor of the motion to reconsider vote aye; all opposed vote nay. Record, Mr. Clerk. [LB961]

CLERK: 29 ayes, 3 nays on the motion to reconsider, Madam President. [LB961]

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SENATOR SCHIMEK: The motion is successful, so now we go back to the discussion of AM2394, the Hudkins amendment that was discussed earlier. Okay, there are no lights, Senator Hudkins, so would you like to close on your amendment? [LB961]

SENATOR HUDKINS: Very briefly, Madam President, thank you. And, members of the body, thank you for reconsidering. We have talked about this for a long time, really more time than I thought it should have taken. Looks like I didn't do a very good job of explaining, but I think there has been enough communication on the floor that most of us know now what this bill does. I won't go over it again other than it doesn't cost the General Fund any money and it's going to help our kids in the long run. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Hudkins. You have heard the closing on AM2394. All in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB961]

CLERK: 26 ayes, 5 nays, Madam President, on the adoption of Senator Hudkins' amendment. [LB961]

SENATOR SCHIMEK: Thank you. The amendment is adopted. Mr. Clerk. Oh, I raise the call, please. [LB961]

CLERK: Madam President, Senator Erdman would move to amend LB961. (AM2448, Legislative Journal page 1036.) [LB961]

SENATOR SCHIMEK: Senator Erdman, you are recognized to open on your amendment. [LB961]

SENATOR ERDMAN: You thought I was done, Senator Langemeier, and I was. I was, and I extended an opportunity to the members of the Appropriations, some of them, and they thought maybe this was a good idea. If you recall earlier, I had an amendment that would have allowed the state or the Legislature to transfer funds between the funds that were available from the cigarette tax distributions back to the General Fund if we needed to. One of the provisions in there was an issue about bonding, that those entities couldn't bond unless the Legislature had authorized them to do that. And it was pointed out to me that even if we wanted to do that, maybe we didn't want to be in the middle of some of these bonds, and so the amendment before you is pretty clear. It would be an opportunity to simply vote on that provision of that amendment that says that entities that receive aid from the state, that issue bonds after the effective date or, excuse me, money, the cigarette tax money after the effective date of this shall not bond that revenue for repayment...or should not use that revenue for repayment of bonds, excuse me. It doesn't affect any of the bonds that are currently out there from the city of

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Lincoln or others. It just simply protects that revenue from the state from being obligated long-term to some other project or entity, and it allows the Legislature flexibility to review those appropriations. I visited with Senator Heidemann and the Fiscal Office about how to do this. We believe this is the cleanest way to do it. I believe they're open to it and would encourage your support of AM2448, and would do my best to answer questions you may have. Thank you, Madam President. [LB961]

SENATOR SCHIMEK: Thank you, Senator Erdman. Senator Kruse, you're the first light on, on this amendment. [LB961]

SENATOR KRUSE: Thank you, Madam Chair and colleagues. I give support to this and I think that this will help us to be clear about other people's commitments on the money that we provide. Thank you. [LB961]

SENATOR SCHIMEK: Thank you, Senator Kruse. Senator Heidemann, you are recognized next. [LB961]

SENATOR HEIDEMANN: We did work with Senator Erdman on this amendment. I consider it to be okay and I will be voting for this. Thank you. [LB961]

SENATOR SCHIMEK: Thank you, Senator Heidemann. Seeing no further lights, Senator Erdman, you are recognized to close on AM2448. [LB961]

SENATOR ERDMAN: Madam President, I appreciate the support of Senator Kruse and Senator Heidemann, and would encourage your adoption of AM2448. Thank you. [LB961]

SENATOR SCHIMEK: Thank you, Senator Erdman. You've all heard the closing on AM2448. The question is the adoption of the amendment. All in favor vote aye; all opposed vote nay. Have you all voted who wish to vote? Record, Mr. Clerk. [LB961]

CLERK: 29 ayes, 0 nays, Madam President, on the adoption of Senator Erdman's amendment. [LB961]

SENATOR SCHIMEK: The amendment is adopted. [LB961]

CLERK: I have nothing further on the bill, Madam President. [LB961]

SENATOR SCHIMEK: Thank you. Senator McGill, for a motion. [LB961]

SENATOR MCGILL: Madam President, I move LB961 to E&R for engrossing. [LB961]

SENATOR SCHIMEK: Thank you. You've all heard the motion to advance LB961 to

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E&R for engrossing. All in favor say aye. All opposed, nay. The ayes have it and the bill does advance. Mr. Clerk. [LB961]

CLERK: Senator McGill, with respect to LB960, I only have Enrollment and Review amendments. (ER8209, Legislative Journal page 1000.) [LB960]

SENATOR SCHIMEK: Senator McGill. [LB960]

SENATOR MCGILL: Madam President, I move the E&R amendments. [LB960]

SENATOR SCHIMEK: The motion is to adopt the E&R amendments to LB960. All in favor say aye. All opposed vote nay. The ayes have it. [LB960]

CLERK: I have nothing further, Madam President. [LB960]

SENATOR SCHIMEK: Senator McGill. [LB960]

SENATOR MCGILL: Madam President, I move LB960 to E&R for engrossing. [LB960]

SENATOR SCHIMEK: You've heard the motion to adopt or to advance for engrossing. All in favor say aye. All opposed, nay. The ayes have it and the bill does advance. Mr. Speaker, you are recognized at this time. [LB960]

SPEAKER FLOOD: Thank you again, Madam President, and thank you, everybody, for your work and your willingness to stay late. It didn't end up being as late as I had once thought. We will continue with the budget bills tomorrow and hopefully be able to finish the budget and the state claims. One additional note: In light of all the bills we have to process, effective next Tuesday and thereafter, every first day of the week, we will be starting at 9:00 a.m. instead of our usual 10:00 a.m. start. That will be reflected on your agenda. Thank you.

SENATOR SCHIMEK: Thank you, Mr. Speaker. Items for the record, Mr. Clerk?

CLERK: Madam President, I do. Thank you. Amendments to LB959: Senator Rogert, Senator Heidemann, Senator Erdman, Senator Kruse, Senator Rogert, and Senator Erdman. (Legislative Journal pages 1037-1041.) [LB959]

Madam President, a priority motion: Senator Carlson would move to adjourn until Thursday morning, March 20, at 9:00 a.m.

SENATOR SCHIMEK: There is a motion to adjourn. All in favor say aye. All opposed, nay. The ayes have it and we are adjourned.