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Floor Debate
March 20, 2008

[LB109 LB249 LB766 LB842 LB846 LB880 LB959 LB988 LB1019 LB1094 LB1154
LR283 LR284 LR285]

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for this, the forty-fifth day of the One Hundredth Legislature, Second Session. Our chaplain today is Senator Kruse. Please rise. []

SENATOR KRUSE: (Prayer offered.) []

SENATOR LANGEMEIER: Thank you. I call to order the forty-fifth 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 LANGEMEIER: Thank you, Mr. Clerk. Are there any corrections for the Journal? []

CLERK: I have no corrections this morning, Mr. President. []

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements? []

CLERK: Two appointment letters from the Governor, appointment to the State Racing Commission. I have a notice of hearing from the Transportation, Telecommunications Committee, signed by Senator Fischer, as Chair. A report of registered lobbyists for this week to be inserted in the Journal, and have received one report from the Department of Roads. That will be on file in the Clerk's Office, available for member review. That's all that I have, Mr. President. (Legislative Journal pages 1043-1044.) []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. As we proceed with the agenda, I would ask the body to watch their voices a little bit so we can hear the proceedings before us today. We will return to the agenda, Select File, LB959. [LB959]

CLERK: Mr. President, Senator McGill, I have Enrollment and Review amendments pending. (ER8207, Legislative Journal page 1000.) [LB959]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB959]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB959]

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SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. The ayes have it. They are adopted. Mr. Clerk. [LB959]

CLERK: Mr. President, Senator Chambers would move to amend, FA220. (Legislative Journal page 989.) [LB959]

SENATOR LANGEMEIER: Senator Chambers, you are recognized to open on FA220. [LB959]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, on a bill such as this, it's not best to be first out of the chute because we are still kind of getting our feet on the ground under us, but, nevertheless, I had offered my amendment early on so that everybody would be aware of the approach that I'm taking. This amendment deals, again, with money that would go to the Attorney General's Office for the purposes of handling the OPS litigation. I had offered on General File an amendment to double the amount that the Appropriations Committee has allowed. That amount is \$600,000. My belief is that the amount of \$600,000 may not carry that litigation until an additional appropriation can be made to cover any shortfall. We know that a deficit appropriation can be made. I don't want to see legal action carried on in that manner. Senator Nelson argued effectively, although not nearly as passionately as somebody might expect, against doubling that amount this year. His argument carried weight with me and I'll tell you why it carried so much weight with me. He won; my amendment, trying to double that amount in this first year, lost. So I asked Senator Nelson if he would see his way clear to support leaving the \$600,000 this year and then putting in \$600,000 for the second year, and he said he could live with that. And let me tell you all what I'm really concerned about in this whole thing. If we put the \$600,000 and you're going to have to do something in next year's budget, that budget may not pass until some time in May. And if there had been a shortfall, we've got that time lag during which inadequate money is available. We know that the state can be made to pay any legitimate debt. This litigation is being handled by lawyers in the Attorney General's Office and outside counsel. The Attorney General's Office has lawyers who have put in hundreds of hours, literally, on this litigation as a part of their work. The additional money is going for outside counsel. Unlike some of my colleagues--and here's where Senator Nelson may stand up, point that finger at me and say touche--I do not believe that the fact of money being available is going to encourage outside counsel to manufacture the opportunity to plunder that money. There is going to be a lot of work that has to be done in connection with this lawsuit because OPS is able to control what is going on. OPS is the plaintiff. The lawyers in the Attorney General's Office can be directly controlled by the Attorney General. That office has actively monitored the work of the outside counsel and no exorbitant amount of money is being charged, no billable hours are being manufactured. Thus far, as of March of last year, OPS had outspent the state by \$4 million. They have offered a fifth amended complaint or petition, OPS has,

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and they've expanded the scope of the lawsuit. This, in and of itself, creates additional work to be done because the state cannot turn away from a filing by the plaintiff, OPS, which attempts to raise additional claims on which relief can be granted. As I said on General File, and everybody with a nodding acquaintance of this type of litigation is aware, the stakes are very, very high. When we talk about work that has been generated, and maybe it's legitimate, when it comes to discovery, that is where one side or the other can demand the production of documents, even question people who may be a part of the litigation. OPS has served 975 requests on the state for the production of documents, 975 requests which may be legitimate, but it generates work that must be done. Thus far, over 1 million pages of documents has been generated, 1,831,600 pages of documents. This is material which is a part of the litigation. It requires addressing by the state. The plaintiffs, meaning OPS, have designated 18 national experts. When you have expert testimony being offered in any form, it must be rebutted, it must be met. Otherwise, you concede the field to the plaintiffs because you'd be acknowledging that everything their experts has alleged is valid. One of the experts said that an extra \$750 million per year must be spent on K through 12 education in Nebraska. That would be \$750 million additional dollars every year spent on K through 12 education if OPS and their minions prevail. There are other problems with this type of litigation. If OPS should prevail, obviously, the state is going to appeal. These appeals take a long, long time, sometimes years. I believe New Jersey and Texas have been experiencing such a set of circumstances and the courts have become involved in legislative action when it comes to state aid or aid to education. I do not know what the outcome of this litigation is going to be. If I knew that, brothers, sisters, friends, enemies and neutrals, I would not have to worry about where my income will derive from once I leave this Legislature. Thus far, Senator Carlson, leaving this Legislature will move me from poverty into deeper poverty. But at any rate, I'm asking what I think is a reasonable action to be taken. We would leave the \$600,000 as is, intact, untouched by this amendment. That second column that you see where a zero exists, we would strike the zero and insert \$600,000. There is nothing that this money can be used for other than this litigation. If that original \$600,000 is not utilized or if it is completely exhausted and we get into next year and additional money is needed, it will be there. But if after all is said and done there is money left over, it cannot be used by the Attorney General's Office for any other purpose. It is similar to saying that this money is in the bank or escrow, but some place where it cannot be touched except for the specified purpose. If I were not completely convinced that this is necessary, I would not be doing it. I had a bit of frivolous fun on General File flaying the Attorney General for various things. That having been done, I'm not going into that at this point. I want to just focus on this money that I'm asking for, and I will answer any questions to the best of my knowledge and ability in terms of why... [LB959]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR CHAMBERS: ...I think this money is necessary and why the Legislature is

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justified in doing this. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Chambers. (Visitors introduced.) Returning now to floor discussion on FA220 to LB959, those wishing to speak, we have Senator Heidemann, Wightman, Fulton, Carlson, Nelson. Senator Heidemann, you're recognized. [LB959]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. Just a little background information: Last year the Legislature put in \$2.5 million for school litigation cost. Of that \$2.5 million, as of January there's \$1.1 million left. There was a request from the Governor's Office to put in an additional \$1.2 million. When we looked at this and tried to decide what we wanted to do or we should do, it was determined, at least by some people on the Appropriations, and in our initial recommendation was \$600,000. The \$600,000 would take it back to \$1.7 million. This amendment that is offered by Senator Chambers would offer another \$600,000, which would take it to \$2.3 million. There are two ways to look at it. One way is if we don't put this \$600,000 in there and there is additional cost, I do believe that they could probably come back for a deficit request next year and that would work. Another way that you could look at it, if you put it in there and it's not needed, the only thing that this can be used for is school litigation so it would lapse back into the General Fund if it wasn't used. I do believe that \$600,000 that was initially appropriated would be sufficient. There's argument on the other side. The \$1.1 million, being as the original \$2.5 million was for two years, as it stood before we added the \$600,000, there would be \$1.1 million left for the next 18 months. After we added the \$600,000, there would be \$1.7 million. If we add another \$600,000, what this amendment would do, there would be \$2.3 million for the next 18 months. The thing that everybody needs to realize, that if we do do this, this is General Fund money and it will make a difference to the General Fund financial status, line 32, will pop that from a minus \$59 million to a little over a minus \$60 million. With that, that will be it. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator Wightman, you are recognized. [LB959]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I, too, rise in opposition to FA220. And as Senator Heidemann has told you, we currently have \$1.1 million that's still available for that litigation. We would be talking about adding \$600,000 by LB959. We had a great deal of debate on this. We had members of the committee, the Appropriations Committee, that were not in favor of funding this at all. We looked very hard to try to determine what level it might take, and I think the members of the committee were convinced that \$600,000 would fund the litigation, at least until the start of the session next year and probably through the session next year. I know there's also been a lot of negotiations with Omaha. My school district, Lexington school district, also is involved in that litigation, and I believe that South Sioux and Grand Island are the

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other schools that are involved in the litigation. So I think it's quite possible that there will be a settlement reached, but obviously that's speculative on my part and on the part of anybody in this body probably. But I would certainly submit that the money that's available now, plus the \$600,000, will be adequate to fund any litigation expenses up to the time that this Legislature next might be required to act. So I would urge the body to vote against FA220. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Fulton, you're recognized. [LB959]

SENATOR FULTON: Thank you, Mr. President. I won't repeat what my colleagues have said, just to remind the body that we presently have a hole right now and we hope to fill that hole through our work on LB988, potentially. But this would add another \$600,000 to that hole. And we did...we did talk about this at length on the committee and we believe that \$600,000 was appropriate, considering the existing cash balance that is in that account now. And so I rise in opposition to FA220 and I ask my colleagues to do the same. Thank you, Mr. President. [LB959 LB988]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Carlson, you're recognized. [LB959]

SENATOR CARLSON: Mr. President and members of the Legislature, I want to direct some comments to Senator Chambers, and then ask him to respond. Senator Chambers... [LB959]

SENATOR LANGEMEIER: Senator Chambers, would you yield? [LB959]

SENATOR CHAMBERS: Yes. [LB959]

SENATOR CARLSON: Senator Chambers, it's obvious from discussion and remarks that you've made in the past, that you do not have the utmost regard for the Attorney General and, therefore, in my thinking, you've got a very, very serious reason for the doubling of appropriations from \$600,000 to \$1.2 million. And you have indicated you believe it's a very, very negative situation for the state if OPS prevails in this lawsuit, and you said, didn't you, that if OPS wins, the state would probably appeal. [LB959]

SENATOR CHAMBERS: Yes. [LB959]

SENATOR CARLSON: Okay. If the state wins, wouldn't it also be true that OPS would probably appeal? [LB959]

SENATOR CHAMBERS: They may, but I can't speak for them. [LB959]

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SENATOR CARLSON: Okay. Well, in a way, it seems that either way the real winners in this are going to be the attorneys. But you've heard what Appropriations has said and so I'm going to yield the balance of my time to you and help me understand the seriousness of doing this now versus an appropriation in the next session. [LB959]

SENATOR LANGEMEIER: 3:40. [LB959]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Carlson. Members of the Legislature, I'm well aware that when I undertake something like this, I start out with nine votes against me--the Appropriations Committee. They take it personally when the body feels that a decision they took is not necessarily the best one. You heard Senator Fulton talk in terms of the budget being in such and such a set of circumstances, so he's looking at only dollar signs. You need to take with a grain of salt anything that a member of the Appropriations Committee will say, not that they're being venal, not that they're being evil, not even that they're being wrong, but they are incorrect. This is an issue which goes beyond dollars and cents. Senator Carlson, what I would like personally, more than anything else, is to stick this in the face of the Governor and the Attorney General. The Governor had asked for this amount of money. Look at the fun I could have railing against both of them and mocking them and saying: You offended the Legislature, now the Legislature is going to fix you; we're going to show you that we control the money and we can make things even by withholding money which may be needed but which may not be needed. I'm looking past that, Senator Carlson, in the same way I did when I managed to persuade the Legislature to give a raise in salary to all the constitutional officers, and I had had disputes with practically every one of them. But I look beyond those things when it comes to the duty of the state and of the Legislature. I wanted those increases because the responsibilities of the office ought to justify annexing a salary to those offices which would be commensurate with the responsibilities. In this case, this suit and the ramifications are so grave that I doubt that the members of the Appropriations Committee will seriously consider this incident or this item as I am because they have a lot of others to contend with, others that relate to every bit of funding that will accrue based on anything done by any state agency or official with duties that cost money to carry them out. I have focused on this particular matter and I am convinced that we need to have this money. OPS has out spent the state by \$4 million. One of the claims they made was for attorneys' fees and the judge dismissed that, saying they failed to state a claim. They are trying to outspend the state and hope that the political pressure will cause the state to fold. If OPS, after having spent millions of dollars--somebody said \$10 million, maybe upward--the people in Omaha may reach a point of saying: No more expenditures of this amount on a suit that you lost; it's a political issue, resolve it in that forum. Maybe the public in Omaha will say it; maybe not. But while I'm a member of the Legislature, I have to behave in a way that I think is appropriate, deliberative, and justified. So in presenting this, I started by subtracting nine votes from our total number because the Appropriations Committee... [LB959]

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SENATOR LANGEMEIER: Time. [LB959]

SENATOR CHAMBERS: ...has to oppose it. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Nelson, you're recognized. [LB959]

SENATOR NELSON: Thank you, Mr. President, members of the body. I'm going to be very brief because we have a lot of things to do. I'm going to take a page from Senator Chambers' book and I'm just going to talk a little bit about the vote yesterday on spending the \$250,000. It wasn't a matter of winning and losing, as far as I was concerned. If I won, you know, in my objection, fine; then on the reconsideration, why, Senator Chambers prevailed, and that's fine. I just want to serve notice that I'm going to watch the spending of that \$250,000 very closely in the next couple of years and see what actually comes of that. And I can tell you right now, if nothing comes of it in the long run, I'm going to bird-dog cash funds and see if...where people are accumulating too much. Senator Chambers, you made the statement that you're probably never are going to agree on anything, the two of us, and I disagree with that. I think we can agree to disagree and we can do it courteously. We're both passionate about some of the things we feel strongly about, of course. I don't like to spend money unnecessarily. Yesterday I said I wouldn't go to Mexico. Well, what I should have said, I wouldn't go to a resort in Mexico. Nothing wrong with Mexico; I just wouldn't take a cruise or spend the money just because the money was there. I'm not going to object to this bill or your amendment. I'm probably not going to vote for it, will just abstain, because I have a feeling that this is going to get settled fairly soon and the money is not going to be spent in any event. And I'd just second what Senator Heidemann said. Hopefully, it will all go back into the General Fund. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Raikes, you're recognized. [LB959]

SENATOR RAIKES: Thank you, Mr. President and members of the Legislature. I am in support of this amendment, strongly in support of this amendment. This is a very important issue for the state. It has a big financial impact. I'm talking about the litigation involved. The state, in my view, biased it may be, is absolutely correct in its position on this issue. And I will also tell you that the state has been very successful in its pursuit of its issues in this litigation. It would be absolutely the wrong thing for us to short ourselves, in terms of supporting the litigators. I think we absolutely need to do that. In addition, we need to send the signal to the plaintiffs and to anyone else that we believe we do have the correct position and we are going to stand behind that position and support it however much we need to support it. So I am very much in favor of the Chambers amendments...I would urge you...or amendment, rather. I would urge you to

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support as well. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Raikes. Senator Chambers, you are recognized. [LB959]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I am duly chastened by Senator Nelson, but in contesting my statement that we'll never agree on everything, he had to start by saying, I disagree with that. But then, after having disagreed with that, he pointed out that he agrees with this. Members of the Legislature, I am not trying to create a slush fund for the Attorney General. Six hundred thousand dollars is not going to harm our budgeting activity at all. If the biggest problem we have with the budget is \$600,000, we don't have a problem at all. This amount is not going to be noticed that much. And although I won't be in the Legislature, I'm going to be doing what Senator Nelson mentioned--watching how that \$250,000 we voted yesterday for the study will be spent and what we'll get from it. But in touching on that briefly, without a bunch of us being here who are familiar with some of the starts and stops, missteps and good steps that have been made in the realm of juvenile justice, when this study is completed you will have, in a sense, in a repository, in one place, a wealth of information relative to the juvenile justice system, how it operates, any failings, any shortcomings, and you won't have to do a lot of gathering from here, there and everywhere. That document, the report, will be something that can serve as a starting point and I think it will be appreciated when a lot of us who are here now, and may seem to be somewhat annoying, bothersome, troublesome, exasperating, when we're not here and decisions have to be taken it will be nice to go to one location and at least have a starting point--information which more or less was objectively developed. Now back to this matter at hand. Senator Raikes made a very strong point which I regret that I did not mention originally. If the Legislature indicates anything in the way of a lack of will, an unwillingness to push forward with this litigation zealously and aggressively, that can embolden the plaintiffs, which primarily is OPS. I'm telling you they recently offered a fifth amended complaint where they are expanding the lawsuit even further. I want to ask Senator Wightman, not as a question, is this the conduct of somebody who's trying to find and reach an accord? You're talking about negotiating, and one side is continuing to wield the brick bat and saying, by what they're doing and their filings in court, I'm going to batter you into submission. Now I have talked about racism, but that is one of the charges, that the Legislature and Governors have been racist; that they have intentionally and deliberately created a system of funding designed to discriminate against minority children. I have criticized certain things the Legislature has done, but I haven't gone that far and have said that laws were intentionally put in place with the design to discriminate. That is something which I'm not prepared to allege. If I thought that were true you know that I would have been bringing it up over and over and over. But since OPS is in the posture of the plaintiff and controls the direction of this litigation, they can raise any allegation they choose, even if it is preposterous. [LB959]

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SENATOR LANGEMEIER: One minute. [LB959]

SENATOR CHAMBERS: But the state still must meet it. What they could allege, if they choose, is that Senator Chambers was bribed by the Attorney General's Office, offering him a job to try to get some additional money for the Attorney General's Office. They can allege that. It's frivolous. An action could be taken against them. They're not going to do that, I don't think, but I give that as an example of what can be done within the context of a lawsuit, and the other side must meet it. So when you look at the numerous requests for discovery, almost 1,000, with the generation of almost 2 million pages of documentation, and OPS continuing to make additional filings, raising additional claims which I feel are specious but they must be met, it indicates to me... [LB959]

SENATOR LANGEMEIER: Time. [LB959]

SENATOR CHAMBERS: Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator McGill is passing around banana bread, and I think you've all got it already, in honor of her birthday tomorrow. And Senator Schimek is passing around apples in honor of her birthday tomorrow, March 21. Happy birthday. (Visitors introduced.) Returning now to floor debate on FA220, offered to LB959, those wishing to speak, we have Senator Kruse, Lautenbaugh, and Pahls. Senator Kruse, you're recognized. [LB959]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I would be glad to honor our "Toni Twins'" birthday at this point. It is fun to see that and thank you for the treats. I will not be voting for or against this amendment, but I want to endorse what Senator Chambers has said. Senator Chambers has been absolutely accurate in everything that he's saying about this and I assure you the committee is not going to have heartburn whichever way you vote. So do what you see best. The only place I'm going to quarrel with Senator Chambers is in what the committee is thinking and how we go at these things. We're not going lockstep. We have made no pledge to be lockstep. We are all engaged, we're all here on the floor, we're listening to the debate, we follow along. Yesterday I voted with Senator Chambers on his amendment before it was reconsidered. We look at the issues and consider them as they go. We also, within the committee and I speak to this with confidence because we talked about it long enough, we are not resisting paying for that lawsuit. Do understand that, folks. Do understand that the Appropriations Committee is not trying to control a lawsuit by weaning it off of money. Our debate was whether they needed it now or next winter, and we decided it would help our budget a little bit by putting it off till next winter. That's also a signal that Appropriations Committee, and, you know, each can speak for themselves, and yet as a group we all agreed if they come in with a deficit next winter the Appropriations Committee, which will have new members and all that you can't really commit, but the Appropriations Committee will look with favor on a deficit because we do not want to

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control this lawsuit that way. The final point that I would make is--and especially in response to Senator Chambers' nine votes--if we had not passed, so far, LB988 or if we had put a delay on that, I would be voting for Senator Chambers' amendment because these lawsuit communities have been hurting for awhile. And if we postpone healing that for two more years, we are just feeding that lawsuit. If we can pass LB988 in its present form, it takes a lot of the punch out of that. That's something that we can't really evaluate here, but it is obvious to those of us living in those communities that LB988 affects that lawsuit and affects what we should be planning. So we're saying, well, maybe we won't need it. You may vote with Senator Chambers, saying, well, maybe we should put it in there. Again, that's not going to give any of us heartburn. Some may be joining you in it. We see it as an area where we need to affirm clearly that there will be no action of the Legislature to turn off the spigot or to turn this down. That's not warranted at all. We want to make sure the Attorney General's Office has the funds needed to do their work. Thank you. [LB959 LB988]

SENATOR LANGEMEIER: Thank you, Senator Kruse. Senator Lautenbaugh, you're recognized. [LB959]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. As is often the case, I rise in support of Senator Chambers' amendment. I think he is dead on here, and everything he said about the litigation process is absolutely true. We are defending a lawsuit and we can't control where it goes. We can't really control a lot of how much it's going to cost or how much we have to do. By not appropriating this fund...these funds, I should say, I just worry that we may be unilaterally disarming ourselves down the road, and that's the last thing we want to do. I won't belabor the point because it was eloquently stated previously, but these are needed funds and I would ask you to support Senator Chambers' amendment. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. Senator Pahls is recognized. [LB959]

SENATOR PAHLS: Mr. President, members of the body, I do also support Senator Chambers' amendment and I do this from past history. It is my past history, dealing with the OPS school system. I can remember arguing with them in the past on the open meetings law and their violation of that. I can remember reading on this floor not too many sessions ago, I read directly from their brief, and the people who were supporting them were telling me, gee, basically implying that I was a racist, and I said, no, these are not my words; I'm reading from the brief that is coming from the OPS school system. So in my heart there still is some distrust of what they are all about. I'm also concerned of their willingness to spend the millions of dollars in the past in this area. So I do support Senator Chambers' amendment. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Stuthman, you're

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recognized. You waived your time. There are no other lights on. Senator Chambers, you are recognized to close on FA220. [LB959]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I do really appreciate the comments of those who support this amendment. I'm not going to say anything further because I believe everything that needs to be said has been said. I will ask, however, for a call of the house and I will accept a machine vote. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Chambers. There has 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. [LB959]

CLERK: 22 ayes, 0 nays, Mr. President, to place the house under call. [LB959]

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 Stuthman, would you please check in? All members are present or accounted for. There has been a request for a machine vote. The question before the body is, shall FA220 be adopted to LB959? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB959]

CLERK: 25 ayes, 12 nays, Mr. President, on the adoption of Senator Chambers' amendment. [LB959]

SENATOR LANGEMEIER: FA220 is adopted. With that, I raise the call. Mr. Clerk, next item. Speaker Flood, for an announcement. [LB959]

SPEAKER FLOOD: Thank you, Mr. President and members. Good morning. In light of the fact that we have eight more amendments on LB959, I have spoken with as many of you as I can. I do intend to, if this bill remains unresolved at noon, to recess at noon, return at 1:30, and work until we have to, to finish this bill off today, the reason being on Tuesday we're going to start debate at 10:00 on the death penalty. At 9:00 we're going to have some Final Reading as we get things started, move to the death penalty. I don't want this bill, LB959, the last of the three budget bills, and the state claims bill from the Business and Labor Committee to be languishing until next Wednesday when we can finish them up, in light of the fact that the Rules of the Legislature say we have to have this budget process finished by day fifty. That's why I'm asking and I appreciate your interest in staying as late as we have to today. If you have a question on the budget and it can't be resolved on the floor, simply go up...and it can be resolved off the floor, please go up and ask somebody on the Appropriations Committee or another member of the Legislature. But we'll stay as long as we have to, to finish LB959. Hopefully we're done by noon. If not, we'll be back at 1:30 and work until it's done. Thank you, Mr.

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President. [LB959]

SENATOR LANGEMEIER: Thank you, Speaker Flood. Mr. Clerk, next item. [LB959]

CLERK: Mr. President, Senator Erdman has AM2171. I have a note that he would like to withdraw AM2171 and offer, as a substitute thereto, AM2434. (Legislative Journal page 1037.) [LB959]

SENATOR LANGEMEIER: That is correct? [LB959]

SENATOR ERDMAN: That's correct. [LB959]

SENATOR LANGEMEIER: Are there any objections? Seeing no objections, so ordered. Senator Erdman, you are recognized to open on AM2434. [LB959]

SENATOR ERDMAN: Mr. President and members of the Legislature, AM2434 is an amendment that I have worked on with the ag organizations of the state, as well as the University of Nebraska-Lincoln, and I will explain where the money comes from and where the money goes, and that everybody that's involved in this process is in agreement that this is acceptable. Obviously, that stands your input as well, but I would hope that you would concur with the amendment. Last year, the Agriculture Committee introduced LB109. LB109 appropriated \$30,000 to the University of Nebraska for the system to go through a process of doing actuarial studies or gathering information to ensure that, if an opportunity that arose out of one of Senator Preister's interim study for speciality crop insurance that was under a Section 508(h) of the Federal Crop Insurance Act was allowed, that Nebraskans could take advantage of that. And one of the requirements was that you had to have done a study in your state about the potential impact, and prior to last year, the university had the opportunity to join into a consortium or a coalition in which the cost of that study would have been paid for. They had missed that opportunity, that window, and so we as a Legislature decided, and the Appropriations Committee gracefully agreed, to add that \$30,000 to allow that study to be conducted. That study was not able to be conducted because after we adjourned the risk management association, or RMA, excuse me, Risk Management Agency, or RMA, which is a federal agency, said that the previous program had been transferred to them and the previous rules no longer applied. And so, even though we had gone through the process of trying to get qualified for our producers in the state of Nebraska to be able to get this speciality crop insurance opportunity, we had missed that opportunity. The money was appropriated to the university specifically for this study and no other study, and so when they could not perform that study, they were unable to spend that money. What we're doing with AM2434 is reallocating those funds from that cash...or, excuse me, from that program, which is 781 at the University of Nebraska, to the Department of Agriculture, and specifically the Agricultural Products Marketing and Information Cash Fund. The step in between is that that money comes back to the General Fund and then

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we transfer it over. But what that allows us to do then is that in the state of Nebraska right now we have a program that's called the Nebraska fed state program, and what this program is, is a market news program that compiles the data of feeders, cattle, that are sold at livestock auctions throughout the state. That information then is used to provide information to our producers in the state about what the local markets are, and in the world of agriculture, if you're selling products, you're either selling them at the local price, which is the board price minus the basis, or you're speculating at some point on the board as to what the board price would be. But generally, you still have some basis, which is the difference between what you're able to get at the board versus what you may get locally after you subtract out transportation costs and some other things. What this reporting program allows is information for producers to know what is going on in the area of price discovery or price reporting for feeders in Nebraska. We are a part of a 12-state consortium or 12-state entity that reports this information to the Chicago Mercantile. They use this data to formulate their market reports, and so if you've heard the Chicago Mercantile's feeder cattle index, that information that is compiled from these livestock markets in the state of Nebraska goes into this program. Each auction that participates in this program pays \$50 per sale. The Department of Ag provides the staffing. The Chicago Mercantile Exchange provides the laptop computers, as well as the contract reporters to collect and disseminate the data. The USDA Market News Service provides training and supervision for those reporters and, again, those reporters are paid for under a contract with the Department of Agriculture. That information provides unbiased information for public use and, specifically, it allows for ranchers and farmers and feedlot operators, it allows for the Chicago Mercantile, the National Ag Statistics Service, televisions and newspapers and radio stations, as well as colleges and universities, to have unbiased reporting on the livestock market for feeder cattle. What this amendment does is it transfers that \$30,000 to the Department of Agriculture and authorizes them the corresponding amount for an annual appropriation or an annual allowance to spend that money, because there is a shortfall currently in the program. And because this fund was not able to be utilized to benefit farmers at the university side of things, the university agreed that it was not appropriate to keep that money because they couldn't use it. We believe that this is an appropriate use of this fund because the original intent was to ensure that producers in the state had additional opportunities in access, and we believe that this is within the intent of LB109 from last year, a different process but this program is vital and, without the funding, its ability to survive is in question. I would encourage your adoption of AM2434 and welcome any questions. Thank you, Mr. President. [LB959 LB109]

SENATOR LANGEMEIER: Thank you, Senator Erdman. You have heard the opening on AM2434 offered to LB959. The floor is now open for discussion. Those wishing to speak, we have Senators Carlson, Preister, Hansen, Dierks, and Stuthman. Senator Carlson, you're recognized. [LB959]

SENATOR CARLSON: Mr. President and members of the Legislature, I simply rise to

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indicate I do support AM2434 and would ask for your vote. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Preister, you're recognized. [LB959]

SENATOR PREISTER: Thank you, Honorable President. Friends all, I rise in support of Senator Erdman's amendment also and would like to make a few comments. I had introduced an interim study to look at specialty crops, but specifically organic, sustainable type of crop production in Nebraska. It's a part of an ongoing effort that I've done to look at helping rural Nebraska to be economically and sustainably viable. We were able to get these funds so that we could look into these specialty crops through the interim study, and I appreciated that they were appropriated. I think it's important to note that they were already appropriated, and so this isn't new money. This is money that ended up not being spent as was appropriated and intended. So it's a shift of those funds. It isn't taking away from anything else. I would just underscore here once again is one of my efforts to help rural Nebraska. I think I've been very consistent in looking at rural economic development, trying to find ways to be sustainable in all that we do, but to help with economic development opportunities in rural Nebraska. The feeder calf price reporting component is what the funds would go to now. I think that's fine. That's also helpful to rural Nebraska. There's another program that I had hoped we could have provided some of these funds for and that's a project that's the Winds for School Project, and that also helps in rural areas. It helps cut property taxes from schools because it cuts the energy consumption and the energy costs for schools, but I will look in another area to help rural Nebraska with that component. At this time, I support what Senator Erdman is doing. I appreciate his continuing to be creative as he looks at the budget and finding ways where we can use funds in a sustainable way. These are not new funds, as I said, and I think that's important to remember. It's just a transfer to another program. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Preister. Senator Hansen, you're recognized. [LB959]

SENATOR HANSEN: Thank you, Mr. President. I also rise in support of this amendment that Senator Erdman offers. I just want to state a couple of facts real quick, that these are...it's a transfer of funds. There's no new money in it. The cattle is a big part of this state. Feeder cattle are certainly a part of the whole program. That's where we start off with the calves and they go to the feedlot and then the processing. Last week we slaughtered 75,000 head of cattle, of fed cattle, in this state, process them through our packing facilities in this state. At a \$200-a-head loss, if you do the math real quickly, that's a \$15 million hit we took last year just in the cattle industry alone. This used to be known as the beef state. If we continue at these rates, we may not be the beef state. We may have to change something else. But we're working through those problems. But we do need this. We need to have information. This age of information,

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age of technology, we need those reports. We need to have everybody on the same playing field next fall when we start selling our calves again and our yearlings. So I do rise in support of this. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Dierks, you're recognized. [LB959]

SENATOR DIERKS: Thank you, Mr. President, members of the Legislature. I need to ask Senator Erdman a question or two, please. [LB959]

SENATOR LANGEMEIER: Senator Erdman, would you yield? [LB959]

SENATOR ERDMAN: I will. [LB959]

SENATOR DIERKS: Senator Erdman, the price reporting that you're looking at is based on reports from the auction markets. Is that all? [LB959]

SENATOR ERDMAN: That is correct, Senator Dierks. [LB959]

SENATOR DIERKS: We don't have a price reporting from the packing industry. [LB959]

SENATOR ERDMAN: We...as you're aware, we have the mandatory price reporting at the federal level, and in the event that that is no longer in place, we have, according to your previous work, a state law that would take its place. But this is only focusing on the feeder cattle that are sold at those livestock auction markets. [LB959]

SENATOR DIERKS: Okay. I just wanted to get that on the record and remind people that we do have in our statutes a mandatory price reporting bill that was put there in 1999, and that the federal government then was asked to do price reporting, the packers asked them to do that and then asked them to preempt everything that we did in, I think, five states out here that all did price reporting the same, the same year. Just want to take the opportunity to tell you, Senator Hansen got off on it a little bit, about the losses we've suffered. We have a distinct problem in this livestock marketing arena. We have monopolies that are controlling the prices and the effort right now is from a group from Brazil to come in and buy the beef packing companies in this United States. They've tried...they're...I think it hasn't been formalized yet, but they've tried to buy Swift which is based in Grand Island. It's the old Monfort plant or old ConAgra plant. They're trying to buy all the beef operation that Smithfield Farms has. Smithfield is the largest swine...they have the largest swine herd in the United States, but they also do beef packing. They're also trying to buy National Beef Packers. I'm involved with a group that's trying to present the difficulties to the Department of Justice and, I should tell you, Department of Justice is a difficult group to get your arms around. I have visited with several attorneys with Department of Justice, asking them where they drew the line as

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far as a monopoly is concerned. I said, is it 50 percent, 51 percent; where do you consider it a monopoly when you have so much control of the issue? They told me they don't look at percentages; they look at when it becomes a problem for the consumer. Well, how do you...how do you make those kind of determinations? Anybody can make a decision about whether it's a problem for the consumer or not. But in the meantime, the cattle producer is the one that's getting hurt and I think we need to...I just want you to be aware of the fact that this company from Brazil is trying to buy all the beef packing industry in our nation and we need to do something to put some brakes on that, and I'm trying to, through the Department of Justice. But at least you know that that's what's happening. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Senator Stuthman, you're recognized. [LB959]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I rise in support of this, Senator Erdman's amendment. And in looking at the membership of the body here, I am probably one of the very few that does purchase livestock and what this bill really has an intent for. I think it's a valuable tool for me because the market reporting on the livestock sales in different areas of the state and other states, but this mainly targets Nebraska, the livestock markets in Nebraska. There are so many different qualities of cattle and variations of cattle, variations of fill conditions, and I think that's very important. But I think this marketing information, you know, has a broad variance in price so that can give me the knowledge as to, you know, where is...where's the price at on certain weights of cattle. I think that's very important. I think we need to have this bill so that we can continue on that and expand on that. Otherwise, if we don't get this, I think, you know, they will still have that reporting but it will have to be toned down a little bit. So I think this is very important. I support this bill and I'd like to give the balance of my time to Senator Louden. [LB959]

SENATOR LANGEMEIER: Senator Louden, 3:40. [LB959]

SENATOR LOUDEN: Thank you, Mr. President and members. I, too, support this amendment that Senator Erdman has brought forwards because this is really something that's quite important for the ranching industry in Nebraska. These are feeder cattle. They're not fat cattle. They're not calves. They're feeder cattle, weighing somewheres around 800 pounds, and those are the ones that will go into your feedlots directly from the ranches. There has to be ways of compiling of the cost or the sale price on those cattle. At the present time, a lot of them are sold on the video; as we call, they're on television, huge livestock operations. Superior Livestock, it's called, is one of them that has auctions on there with the sale of cattle and a lot of those are feeder cattle, especially in August or some time. But this is something that we need to keep expanding on, on the pricing of our products that are grown in the country. That's usually the problem with ranching or farming or fat cattle business, feedlots, is your

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marketing, and therein lies, a lot of times, the success or failure of an operation, is the marketing situation. We not only need to be going at it with the feeder cattle, but I would like to see the university come round and perhaps do something even in the egg market. Right now there's a huge market for eggs on the front range in Colorado. Eggs went up considerably here in the last six months or so, and at the present time a lot of your organic eggs over there in the front range are selling for anywheres from \$5 to \$7 a dozen. So there is possibilities that we don't have to just grow corn; we can grow other things in western Nebraska and in some of the areas of eastern Nebraska. So I certainly appreciate Senator Erdman's bringing forwards this amendment. It isn't that it's going to be hard money to find. It's already available. And I would like to see the university expand it some more from what they have been. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Louden and Senator Stuthman. Senator Louden, your light is next. You waived your opportunity. Thank you. There are no other lights on. Senator Erdman, you are recognized to close on AM2434. [LB959]

SENATOR ERDMAN: Thank you, Mr. President. Just briefly, I appreciate the support. This is a vital program. This information is essential for ag producers, cattlemen specifically in the state, but it also has a greater benefit for transparency in the prices that are paid for feeder cattle. And Senator Stuthman may have already said this but he wanted to claim the title that he thinks he's the only one that buys feeder cattle at auction market. So congratulations, but I'm sure there's others too. I would encourage your adoption of this amendment. This is a transfer of funds. There's no impact to the fiscal note by voting for this amendment. It simply authorizes one fund to use the money that previously couldn't be done. And Senator Preister's work was well noted and I think the effort that was taken under that interim study, I believe it was LR397 last year, was very well done. We had hoped that we wouldn't be here using this money for something else, and I'm appreciative of his willingness, but I think that's a reflection of our committee being willing to try to look at the issues and solve them. And Senator Preister should be commended for getting this ball rolling. I'd encourage the adoption of AM2434. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Erdman. You have heard the closing on AM2434, offered to LB959. The question before the body is, shall AM2434 be adopted? All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB959]

CLERK: 31 ayes, 2 nays, Mr. President, to adopt Senator Erdman's amendment. [LB959]

SENATOR LANGEMEIER: AM2434 is adopted. Mr. Clerk, next motion. [LB959]

CLERK: Mr. President, the next amendment I have, Senator Erdman has filed AM2401.

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I have a request to withdraw AM2401 and offer, as a substitute thereto, FA234. (Legislative Journal page 1041.) [LB959]

SENATOR ERDMAN: That is correct. [LB959]

SENATOR LANGEMEIER: Are there any objections? Seeing no objections, AM2401 is withdrawn, and FA...Senator Erdman, you're recognized to open on FA234. [LB959]

SENATOR ERDMAN: Mr. President, I'd ask unanimous consent that FA234 be adopted. [LB959]

SENATOR HEIDEMANN: (Microphone malfunction) Objection. [LB959]

SENATOR LANGEMEIER: Senator Heidemann, for what purpose? [LB959]

SENATOR HEIDEMANN: To unanimous consent. [LB959]

SENATOR LANGEMEIER: Senator Erdman, you're recognized...so noted. Senator Erdman, you're recognized to open on FA234. [LB959]

SENATOR ERDMAN: Mr. President, I was trying to move the agenda along. (Laughter) I can't believe that the Chair of the Appropriations Committee would stand in the way of getting his budget to Final Reading. I think there's a little mouse running around here giving hints, but I'm glad he was prepared. As just a point of information, and it is common, as you're well aware, the motion to bracket or other motions in this Legislature require a vote of the Legislature unless done by unanimous consent. And so I thought, in collegiality this morning, I would offer a unanimous consent motion to have the amendment be adopted and I was hoping that it could have been done from the Clerk and it wouldn't have been so obvious, but we didn't quite get our ducks in line. But that what's the Clerk's fault; that was mine. FA234 would strike Sections 30 and 31 of LB959. For those of you that were here on General File, this is the same amendment that we offered on General File, or that I offered on General File, that would take the gas tax provisions out of the budget. And again, as I explained yesterday, in my previous amendment to transfer money from the Cash Reserve to be able to fund this increase without a gas tax increase, we can still have this conversation on Senator Fischer's priority bill, LB846, which we're assured from the Speaker that this is one of the major issues that needs to come before this Legislature. A number of you have an interest in the entire issue of funding at the Department of Roads and some other possible conversations that you'd like to have, and I think we should have that conversation on LB846. By voting for FA234, we in no way prohibit or eliminate our opportunity this legislative session from providing the necessary funding for the Department of Roads, either for salaries and benefits or for the infrastructure needs directly related to the actual construction of roads or maintenance. That can all be done

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on Senator Fischer's priority bill. Now because of this process, if this amendment is adopted then we will have an amendment to Senator Fischer's A bill to address this concern or address this policy decision. We spent a great deal of time yesterday talking about the appropriateness or inappropriateness of using General Funds to fund roads. We will spend a great deal of time at a later date talking about whether or not, when the price of gas is what it is, that we as a state should be contributing to the cost of that, and that will be a healthy discussion to be had. Again, I offer you the reality that if we don't have to do it in the budget, this budget is a lot easier for most, if not all, members of the Legislature to vote for and to defend. If it is not adopted, this amendment is not adopted, it makes it very difficult for a number of members of the Legislature to vote for this budget, and I think that's somewhat problematic for the members of the Appropriations Committee, but they've done their homework. They've made their deals with Senator Fischer and others. If they want to raise your gas tax in the Appropriations' budget, they're going to go for it. I'm giving you another opportunity not to do that. Now one of the arguments I heard yesterday was interesting and it does take me back, memory lane a little bit, to what we heard, and I was sharing this with some of those that were here, when we debated LB1085. I believe it was in 2002. Prior to the shortfall or the recession at that time, we had lowered the sales tax rate from 5.5 percent to 5 percent, and people got up and tried to make the argument that we weren't technically raising your taxes. We were just adjusting it back to where that it was. Senator Kruse tried to make that argument yesterday. The fact is, is that if you're going to pay more for gas in the state of Nebraska because the budget passes, it is a tax increase. That doesn't mean that that's the only thing driving the cost of your fuel. It simply means that we as a state are now directly going to contribute more to the cost at the pump, through the state budget, than we have to. And as I offered to you yesterday, you had the opportunity to transfer the funds from the Cash Reserve, which are General Funds, and we're going to hear other bills actually from members of the Appropriations Committee to use the Cash Reserve for their priority bills, which will be a fun discussion for some of us that got a "no" vote from them on the bill yesterday or on the amendment yesterday. But this amendment simply takes this out of the budget. We could put it in Senator Fischer's bill. Then it gives a lot of us the opportunity to vote for the budget without the gas tax increase in it. It's pretty simple. It is not the end of this discussion. It simply moves the discussion where I believe it is appropriate. We did this already this session on LB988. There is authorization, there is a funding discussion, and there is a need to look at state aid. We're doing that in one bill. There are always going to be general appropriations and authorities in the budget, but we're focusing on the policy decision necessary to fund or determine funding in that bill, LB988. That's the same thing we should do with roads. This amendment is adopted, we can go on to Senator Rogert's amendments and others, and a lot of us, depending upon the outcome, can vote for the budget. If it's not, then this bill will go to Final Reading and some of you will vote for it. I will not. And it will go to the Governor and he'll veto it, and I will not vote to override his veto because I will have given you three opportunities to not have to do that. So maybe the third time is the charm and maybe after I've explained to you this process and what

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we're trying to do, some of you are becoming more comfortable with the theory here. This is a fundamental discussion that is about being responsible. And if it's responsible for us, as a Legislature, to make a decision to raise the gas tax, we should do it in one bill and we should do it in the context of the greater need of the Department of Roads. We shouldn't simply do it here because it appears to be easy. I would...I'll stop there, Mr. President. Thank you. [LB959 LB846 LB988]

SENATOR LANGEMEIER: Thank you, Senator Erdman. (Visitors introduced.) Returning now to floor discussion on FA234 offered to LB959, those wishing to speak, we have Senator Fischer, Heidemann, Nantkes, and Kruse. Senator Fischer, you're recognized. [LB959]

SENATOR FISCHER: Thank you, Mr. President and members. You have to give Senator Erdman credit on his persistence on this matter, but I think we also need to recognize that, from his comments, he is somewhat disingenuous on this subject. When we discuss funding for the Department of Roads, that happens in this budgeting process. It happens with the Appropriations Committee. The Department of Roads is funded, basically, through the gas tax. So for Senator Erdman to imply that, gee, we can't do it at this point in our discussion, we can't do it on the budget, I take issue with that. This is exactly the place that we discuss the funding for the Department of Roads and this \$14 million for salaries and benefits. My bill is a highway funding mechanism which will come up next week. It is a new funding mechanism for the Department of Roads, in addition to the way we currently fund roads at the local and state level. I think, Senator Erdman, to say that our responsibility is to have this fundamental discussion and decision making on my bill is also disingenuous. This is part of the budget discussion. It's like saying we shouldn't be discussing Health and Human Services' budget and salaries under our budget bill with the appropriations process; we should wait and discuss it under another bill that was...that deals with Health and Human Services. It's like saying we shouldn't be discussing funding state aid formula...well, that's a bad one. You can catch me on that, Senator Erdman. This is the time to discuss this proposal. It could be an increase in the gas tax. Another point to make, the budget for the Department of Roads is currently at about \$350 million. That was discussed last year during the appropriations process. As I said, that is funded basically through the gas tax. The A bill for LB846 is approximately \$35 million. That's 10 percent and, again, that is a new funding mechanism. Would Senator Erdman yield for a question, Mr. President? [LB959 LB846]

SENATOR LANGEMEIER: Senator Erdman, would you yield? [LB959]

SENATOR ERDMAN: Gladly. [LB959]

SENATOR FISCHER: Senator Erdman, I do appreciate your persistence. You made the comment that if this, what you consider a gas tax, for sure a gas tax increase, were

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removed from the budget, you would vote for the budget. Is that correct? [LB959]

SENATOR ERDMAN: I believe that's accurate, Senator Fischer. As I've told you and Senator Heidemann, that if this provision is not in the budget, I can't think...not that I would support everything if I were doing it, but I can't think of a reason to fundamentally vote against the budget at that point. [LB959]

SENATOR FISCHER: Senator Erdman, may I ask you, in your previous seven votes on the budget during your time here, have you ever voted in favor of the budget for the state? [LB959]

SENATOR ERDMAN: I have. [LB959]

SENATOR FISCHER: What changes your mind this time? We're looking...we're still looking at an increase in the budget and I would assume that during the seven years you have not voted for the budget you couldn't blame it always on what you perceived as gas tax increase, could you? [LB959]

SENATOR ERDMAN: No, Senator Fischer, and I have a motion up there that will give me time to speak to enlighten you on my philosophy, because I want to be clear that this amendment is not disingenuous. But I will have the opportunity to make that claim and I don't want to use your time to address that. And I can give you the reasons why I vote the way that I do, if it isn't clear already. [LB959]

SENATOR FISCHER: Okay. Thank you, Senator Erdman. Again, we've discussed this before. I look forward to hearing Senator Erdman's explanation on why he thinks he isn't being disingenuous. [LB959]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR FISCHER: But I would urge you not to support this amendment. This is the proper time to discuss the budget for the Department of Roads. This is the proper time to recognize how we fund roads and how we fund their budget. It is how it's been done in the past and to try to maneuver the discussion to another bill, for whatever reason, and I would assume it's to look better for the public, is not proper. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Fischer. Mr. Clerk, for a motion. [LB959]

CLERK: Mr. President, a priority motion: Senator Erdman would move to bracket LB959 until March 23 of this year. [LB959]

SENATOR LANGEMEIER: Senator Erdman, you are recognized to open on your

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motion to bracket. [LB959]

SENATOR ERDMAN: Mr. President, members of the Legislature, it's not on yet but it's coming. It is coming. And it's a train coming down a track, and it's not a truck or a car going down the highway but I guarantee you what the target of that train is. And if Senator Fischer can continue to make the comments that she previously makes about my integrity and my intent and being disingenuous, I've got a heat-seeking missile and it's called...it's going to be targeted towards LB846. Now if Senator Fischer would please yield to a question, I have a question for her. [LB959 LB846]

SENATOR LANGEMEIER: Senator Fischer, would you yield? [LB959]

SENATOR FISCHER: Yes, I will. [LB959]

SENATOR ERDMAN: Senator Fischer, your priority bill is LB846, correct? [LB959 LB846]

SENATOR FISCHER: That is correct. [LB959]

SENATOR ERDMAN: LB846, as introduced, provides a mechanism change as to the way that the gas tax is calculated. It's a functional change. It's not a direct increase. It simply changes the way that we calculate the way that the gas tax is accumulated or levied in the state of Nebraska. Is that an accurate reflection of it? [LB959 LB846]

SENATOR FISCHER: Somewhat accurate. It is another addition or another option. [LB959]

SENATOR ERDMAN: Okay. If your bill passes...(child crying)...I know how he feels. If your bill passes (laughter), does it need the A bill to be effective? In other words, if your bill passes without the A bill, will it have any impact on raising or changing the gas tax in this budget cycle? [LB959]

SENATOR FISCHER: No. [LB959]

SENATOR ERDMAN: Okay. If the budget passes with Sections 30 and 31 in it, are you committing to me and the members of the Legislature today that you will pursue and have your A bill adopted as a part of your bill? [LB959]

SENATOR FISCHER: My intent at this point is to have the A bill go forward, and that is my plan, is to have that A bill go forward along with LB846. [LB959 LB846]

SENATOR ERDMAN: Is that consistent with what you told me the other day? [LB959]

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SENATOR FISCHER: I told you...well, I don't remember the conversation for sure, that I have had conversations with you that this \$14 million could offset the A bill in LB846. [LB959 LB846]

SENATOR ERDMAN: Thank you, Senator Fischer. Members of the Legislature, that's what I needed to hear from Senator Fischer. And I'm not going to say whether Senator Fischer is disingenuous or not because I will take Senator Fischer at her word. She has a bill, LB846, that deals with a funding mechanism for the Department of Roads and how we fund the maintenance, how we fund the department, and how we fund future expansions for roads within the state of Nebraska. That's what the fundamental underlying bill of LB846 does. Without the A bill, without the A bill, what she has committed, at least at this point, to pursuing, you don't raise the gas tax. If Senator Fischer has just said here on the floor today that she is going to pursue the A bill to raise the gas tax, why do we have to do it in the budget? Now if the budget passes, there is the potential for a gas tax increase but there's the potential reduction in her A bill. But in order for her bill to work, she still has to come up with an additional two point some million dollars because her A bill requires \$16 million and the budget only requires \$14 million, so there's still a gap. It's not a dollar-for-dollar replacement. But again let me ask you, we've done this three times. Do you think I'm lying to you? Do you think I'm being disingenuous with what I'm offering you? I think it's pretty simple. Senator Fischer has the opportunity to have this bill, her bill, be the center point of the discussion. And she is correct when she caught herself. We are doing the exact same thing on state aid to schools, the exact same thing. We are focusing the discussion directly and clearly on LB988. Senator Fischer, in part, is posturing because she has worked very hard to get her bill in the form that it is in and to get about every group that ever thought of supporting any bill, regardless of what it was, to support her bill. I would think she would want the opportunity to be the gatekeeper for whatever the solution is, in its totality. She doesn't want that, for whatever reason. Senator Raikes, on the other hand, didn't offer to let the Appropriations Committee take part of LB988 in LB249. We did it in one bill. It is appropriate to talk about funding in the budget, but just as it's appropriate to talk about funding for schools in LB988, it's appropriate to talk about funding of roads in a roads bill named LB846. This is not a disingenuous attempt at anything. This is a sincere attempt for us, as members of the Legislature, to look at this process and say this makes sense. We can still have a meaningful conversation, and those of us that are looking at this budget, and think that generally it makes the right decisions except for this one, can vote for it. Senator Karpisek and I were there last year and I can remember Senator Karpisek standing up and wondering why there wasn't an override for the gas tax increase. I did too. Because I was just all excited about this charge that it's our budget, we should defend it, we should defend it, we should...but not for this. And so for those of you that told us we weren't going to do it, we're not going to apologize; we're just not going to override. Because of those actions, we're \$19 million short this year. Now my first year in the Legislature I voted against the budget, and you know what? Senator Chambers and I were the only two that voted against the budget in

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2001. And six months later, when we were back here with a gaping hole, nobody came up to me and said, wow, you were really smart for not voting against (sic) the budget. No, what I got when I sat in Senator Hansen's seat was being chided by my colleagues that I had to hold my tongue and vote green. No, no. I did what I thought was responsible and, in hindsight, it was right. And in that first special session, we had a budget bill and I voted for it. And in the next special...in the next session I would have voted for that budget, except my colleagues decided, instead, to raise the taxes \$350 million, when we didn't have to, to fund the budget. And as I shared yesterday, if the amendment that I offered to the budget in 2003 would have been adopted, K through 12 would have gotten more money, the community college system would have gotten more money, and we as a state would have been more fiscally responsible for our taxpayers so that they weren't ponying up so that we could maintain the status quo. My record on the budget is an open book, and after eight years in the Nebraska Legislature and at least three years, going on four, with Senator Fischer as my colleague, I would think that at this point she would have a clue as to my philosophical opinion and, most importantly, my principles that drive the decisions that I make on the floor of this Legislature for my constituents and the citizens of the state of Nebraska. Now if you want to vote against my amendment, go for it. You've done it twice; do it a third time. It won't hurt my feelings. And this is not about politics. And I appreciate that look because I knew I'd get it. This is about the appropriate ability for us as a Legislature to set public policy. We can do it on her bill. We can do it in a greater discussion and we can have a conversation about why it is that if the department was losing money that they wouldn't reduce staffing. Some of those conversations, as some of you point out to me, I don't know. I'm not on the Transportation Committee. But we're definitely not having this conversation here. I'm being told that I'm being disingenuous. I'm being told that this is some game. I'm being told we're playing politics. We were elected as members of the Legislature because of our ability to make rational judgments and, at this point, voting against a rational opportunity... [LB959 LB846 LB988 LB249]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR ERDMAN: ...to do a meaningful discussion on Senator Fischer's bill on roads in the totality and a global view, in my opinion, is an error in judgment. I firmly disagree with that. But if you want to vote down my amendment, just vote it down. But if you want to attack me personally, you better come with more than that. Mr. President, I ask this bracket motion be withdrawn. [LB959]

SENATOR LANGEMEIER: So ordered. It is withdrawn. Returning now to floor discussion on FA234 offered to LB959, those wishing to speak, we have Senator Kruse, Erdman, Friend, and White. Senator Kruse, you're recognized. [LB959]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I stand opposed to the amendment. I have stood opposed to it before. Senator Erdman indicates that the

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longer we talk about this the better we're going to like it. The longer we talk about it the worse idea it is. The problem that is being missed in some of the discussion is this. This is an amendment of our present budget. We have a perfect right to amend the present budget. The budget was put together to create a 27-cent gas tax. We missed our mark. We're changing the figure so that we hit the mark. I don't think of it as an increase in tax. Some can do that, but if you're going to do that then you should reward us for having cut the taxes last year. No one has offered us any medals for that, because any reduction was not our intent, and that includes the whole floor. We passed that last year with the idea that this would hit 27 cents and would deal with the basic budget, as Senator Fischer has rightly acknowledged. This is the basic budget for Roads. We are changing that figure so that it's corrected to what we intended to begin with. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Kruse. (Visitors and doctor of the day introduced.) Returning now to floor...back to floor discussion on FA234, those wishing to speak, we have Senator Friend and Senator White. Senator Friend, you're recognized. [LB959]

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I had a little bit of fun yesterday, and as I had mentioned when I started, I enjoy those debates, but I also think we needed to unwind a little bit, so I enjoyed it. But I always find it surprising when we almost take offense to the idea that fiery debate out here is a bad thing. It's not. I enjoy it. Sometimes I look like I need blood pressure medicine. But we need that. It's cleansing. And I know we've been on this for a third time and I'm not going to sit down to dinner with Phil Erdman some day and say, you know, you overdid it or you didn't do it enough. I'm going to say it was fiery debate and it was enjoyable, and we need to do that and that's what we're paid to do. And this too shall pass. Something is going to happen here and then we'll be done with it. And then for another seven months we won't have these fiery debates anymore, and I'll go into withdrawal just like many of you will. It's needed. But let me make something really, really clear, and all jokes aside, five years in a row I've voted against budgets. And you might think that is a badge of honor for somebody like me. No, it is not. I don't like walking back to talk to people that have important things on this budget within this body, and then even out there, and then people in my district and around the state, and parade that around like it's a flag pin. That's not enjoyable to me. The bottom line is if FA234...and I want to go on the record with this because I didn't say it yesterday...if FA234 if adopted, I'm voting for this budget adjustment. Now, that might not mean much to everybody else in here, but it means something to me. I will vote for these budget adjustments. I will vote for LB959 if this comes out. That's how strongly I feel about the policy that we're trying to promote here. The money is there. It's a little unorthodox that we do it. The money is there. We don't have to tax the citizens. And we're going to chose to do it anyway. That bothers me. If this remains in here, I will vote against the budget. It's real simple. Let's...as Senator Erdman said, let's do it, whatever we have to do. But let's not get too hung up on the idea that debate starts to get fiery. I understand Speaker Flood has a

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job to do. He's got a whole agenda out there that he wants to get through. But I've said over and over again, this is a deliberate process. If this takes five hours to get through it, it takes five hours, folks. That's the nature of the beast. I don't understand the offense that we have to deal with this again. It means that much to folks like me, and apparently to folks like Senator Erdman and to others out here, that we talk about it again. Let's talk. The only thing to me that's clear and unconvoluted about this budget is that there is a tax hike in it. Everything else seems pretty clear to me, and that's why I'm ready to vote green. People on the Appropriations Committee...or actually it wasn't somebody on the Appropriations Committee...somebody came up to me and said, Friend, you're not voting for this budget anyway. How do you know? How can you make that assumption? Anybody that's known me long enough would know that at least I can probably stay open-minded enough, maybe, to hear out the whole argument and to deal with it appropriately. And please, one more thing, and I'm not going say what happened and I got a little fiery earlier about this off the record, let's not compare this to LB988. Please, let's not do that. Tell you why. These local government entities want to raise taxes to recoup for state aid. They can do that but they certainly don't have to. I don't think they're parallel and I don't think it's appropriate to make that parallel. Again, one more time, FA234 goes on. I can wear a flag pin that says, yeah, I voted for the budget, and feel like I'm part of the crowd maybe, feel like it's something the state actually wanted us to do. It's the only job that we're constitutionally mandated to carry out, and I haven't voted for one yet. [LB959 LB988]

SENATOR LANGEMEIER: Time. [LB959]

SENATOR FRIEND: A little insecure? Maybe. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Wightman, you are recognized. Senator Wightman waives his opportunity. Senator Erdman...no, there are no other lights on. Senator Erdman, you are recognized to close on FA234. [LB959]

SENATOR ERDMAN: Mr. President and members of the Legislature, I appreciate the passion and the...whatever I've contributed to that. Let me say this to my colleague, Senator Fischer. If I were going to go to battle, I would want to go to battle with Senator Fischer. Unfortunately, this morning we went to battle with one another, and on any given day that would have probably been a lot of fun. But the battle here is not between Senator Fischer and myself. It's between setting the right public policy. And I offer you this amendment to allow us to do that the right way. I would encourage your adoption of FA234. If this amendment is adopted, we proceed to the other amendments, but we also then create a need to have a high-level conversation on LB846 about how we meet the obligations of the state on her bill. Mr. President, I would ask for a call of the house. [LB959 LB846]

SENATOR LANGEMEIER: Thank you, Senator Erdman. There has been a request to

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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. [LB959]

CLERK: 32 ayes, 0 nays, Mr. President, to place the house under call. [LB959]

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 Howard, Flood, Schimek, Loudon, Rogert, Pahls, Christensen, Avery, McDonald, Ashford, please return to the Chamber. The house is under call. Senator Christensen, please return to the Chamber. The house is under call. All members are present and accounted for. Senator Erdman, how did you wish to proceed? [LB959]

SENATOR ERDMAN: I'll take a machine vote. [LB959]

SENATOR LANGEMEIER: Thank you. There has been a request for a board vote. The question is, shall FA234 be adopted to LB959? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? There has been a request for a record vote. There has been a request for a roll call vote. In regular order, Senator Chambers? There's been a request for a roll call vote in regular order. Mr. Clerk, please call the roll. [LB959]

CLERK: (Roll call vote taken, Legislative Journal pages 1045-1046.) 22 ayes, 21 nays, Mr. President, on the amendment. [LB959]

SENATOR LANGEMEIER: FA234 is not adopted. With that, I raise the call. Mr. Clerk, the next item on the agenda...or the next motion, excuse me. [LB959]

CLERK: Mr. President, the next motion I have, Senator Rogert, I have AM2361, but I have a note, Senator, you would like to withdraw and substitute AM2441. (Legislative Journal page 1038.) [LB959]

SENATOR ROGERT: That is correct. Mr. President...can you...Mr. Clerk, can you keep that other one in the line of discussion, please, for me? [LB959]

CLERK: I'm sorry, Senator. Say it again. [LB959]

SENATOR ROGERT: Just drop the... [LB959]

CLERK: Drop it down, the first one? [LB959]

SENATOR ROGERT: Down. Keep it in there. Yes, please. [LB959]

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CLERK: Okay. Okay. [LB959]

SENATOR LANGEMEIER: Are there any objections to the substitution? Seeing no objections, Senator Rogert, you are recognized to open AM2441. [LB959]

SENATOR ROBERT: Thank you, Mr. President. Members of the Legislature, thanks for your time today on this important issue. I'm passing around a couple of articles that have been in the paper for the last couple days. We're going to bring forth again the discussion and some issues that are dealing with the State Development Center in Beatrice. The Department of Justice and CMS has been investigating and doing some things to try and correct the problems going on down in Beatrice. And today I offer an opportunity for the Legislature to get involved and offer their support and work with the administration to help correct those issues. There has been many discussions recently with several groups of what can be done to help solve some problems down there, and also what some of the problems may be, the underlying reasons. One of the things that has come to our attention is the lack of quality and quantity of staff at the Beatrice Development Center. Today there are approximately 120 vacancies due to a variety of reasons. Part of the vacancies are due to the investigations and the troubles that happened. Some folks were dismissed or left because of that. The morale is extremely low in the center, from what we understand, and we, in my opinion, have an opportunity to help solve that. Many of these workers in this facility and others across the state are being forced to work mandatory overtime, double shifts, on a very frequent basis. We need to, in my opinion and several others', find a way to correct that. The mandatory overtimes are given without notice, without request--more of a demand. Folks are not allowed to go home at the end of their shift. They have to stay for another shift, which puts their families in duress and their morale, and they're tired, and it hurts the overall operations of the facility. If you haven't had a chance to read the Department of Justice report, I encourage you to do so. We're going to discuss it a little bit here this morning. But I want to make clear that this discussion this morning is an attempt to be positive, to offer suggestions of how we go about this, and to get the Legislature involved in sharing the solution with the administration. It is the intent...I'm reading from the language of our bill (sic), "It is the intent of the Legislature that the funding included in this section shall only be used for strategies, including bonuses, to retain and recruit quality staff and employees at the Beatrice State Developmental Center." There have been some concerns brought to me this morning that in this bill we're transferring some money from a fund that can't afford the transfer. I have no problem believing that. They may be strapped in this fund. They may be asked to be doing things that they can't come up with the time and the money to do so now. So I've asked for another direction to come for the money or another direction to come and put money that's already in use for this use. We have...the fiscal analysts are developing an amendment for me as we speak. Apparently there are some funds that have been recently placed into the budget to address this issue. And as the discussion goes along we'll be working on this amendment as we get through it, and hopefully we can come up with a good solution

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and it's something we can all support. But at this time I'm going to...I'm going to step down and I'm going to yield the rest of my time to Senator Lathrop. [LB959]

SENATOR SCHIMEK PRESIDING [LB959]

SENATOR SCHIMEK: Thank you, Senator Rogert. Did you say Senator Lathrop? [LB959]

SENATOR ROBERT: I did. [LB959]

SENATOR SCHIMEK: Thank you. Senator Lathrop, you are recognized to speak. [LB959]

SENATOR LATHROP: Thank you, Madam President and colleagues. We have...Senator Rogert's amendment is a legislative attempt to address the grave problems at the Beatrice State Development Center. We have read, over the last couple of weeks, the problems down at the development center. To some of us, that has been on our radar screen for a time. Others, we didn't know there was a problem until we read some of the news accounts and some of the studies. It is very clear, I think you will see after you hear--and I'll provide you with portions of the Department of Justice report--the relationship between what's going on at the Beatrice Development Center and the personnel problems at the Beatrice Development Center, which are directly related to mandatory overtime, low pay, and generally the way we treat our employees at the Beatrice Development Center, as the Department of Justice concluded, is affecting the quality of care. I have my light on. I'm going to start and share with you some portions of the Department of Justice report. I'm not a big fan of sitting on the floor and listening to somebody read something that I could read myself, but we are at a point in the process where many of us have had our attention diverted to the budget, diverted to LB988. We have a lot of things on our plate right now, and I'm not sure everybody has had an opportunity to read this report. For that reason, I'm going to violate my own rule and share with you excerpts from the Department of Justice report, understanding this report is in the form of a letter to our Governor, dated March 7, 2008. And the purpose of this investigation is clear in the beginning of this report, and I'll read portions of it for you so that you can see the relationship between the difficulties at Beatrice and the personnel issues that are going on. The letter indicates: On May 29, 2007, we notified you, the Governor, that we were initiating an investigation of Beatrice State Development Center pursuant to the Civil Rights of Institutionalized Persons Act. That act gives the Department of Justice authority to seek a remedy for a pattern and practice of conduct which violates the constitutional and federal statutory rights of persons with developmental disabilities who are served in public institutions. We observed residents in a variety of settings, including their living units, at activity areas, and during meals. The report goes on: Consistent with our statutory obligation under the act, I now write to advise you formally of the findings of our investigation, the facts

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supporting them, and the minimum remedial steps that are necessary to remedy the deficiencies set forth below. We have concluded that numerous conditions and practices at BSDC violate the constitution. Let me say that again: We have concluded--this is the Department of Justice--that numerous conditions and practices at BSDC violate the constitution and federal statutory rights of its residents. In particular, we find that BSDC fails to provide its residents with adequate: (A) protection from harm; (B) trained and associated behavioral and mental health services; (C) healthcare, including nutritional and physical management; and (D) discharge planning and placement in the most integrated setting. The report continues: A significant portion of the BSDC population is medically complex and requires assistance at mealtimes and other frequent monitoring. The report notes that in Youngberg v. Romeo, the state has a--this is a Supreme Court, United States Supreme Court Opinion--the state has an unquestioned duty to provide reasonable safety for its residents within the institution. However, the state fails to protect BSDC residents from harm and risk and to provide them with a reasonably safe environment. BSDC residents are subjected--listen to this--BSDC residents are subjected to abuse and neglect and suffer a high number of incidents that often result in injuries or other poor outcomes. We found consistent patterns of staff action that often subjected residents to repeated preventable injuries. Resolution of the problem is hampered by concerns associated with BSDC's incident reporting and investigation systems. The report then breaks down different aspects of the difficulty, beginning with abuse and neglect: Our safety consultant concluded that the nature of many abuses and neglect allegations, and the frequency with which they are made, suggests a culture undercurrent... [LB959 LB988]

SENATOR SCHIMEK: One minute. [LB959]

SENATOR LATHROP: ...that betrays human decency in the most fundamental levels. Basic human dignities are violated with considerable regularity at BSDC. For a period between October 1, '06, and October 16, '07, approximately 200 incidents at the facility that in some way involved an allegation of abuse or neglect. Other BSDC documents reveal that in 2007 alone, through the end of September, there were approximately 141 allegations of abuse or neglect, with 52 of those substantiated by internal investigations. Examples included, BSDC investigators substantiated mental abuse of a fellow named WC after concluding that staff engaged WC... [LB959]

SENATOR SCHIMEK: Time. [LB959]

SENATOR LATHROP: Thank you. [LB959]

SENATOR SCHIMEK: Thank you, Senators Lathrop and Rogert. (Visitors introduced.) Speaker Flood, you are recognized as the next in line to speak. [LB959]

SPEAKER FLOOD: Thank you, Madam President and members. There is no question

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that the report from the Department of Justice is not only shocking, but it's troubling. The information contained in that report and the findings of the Department of Justice and the path we've been on with CMS and the work that I know that has been done down in Beatrice to address the BSDC issues that continue to present themselves are definitely worthy of our attention. For that reason, moments ago I filed a legislative resolution, a copy of which is being handed out at this time, and it's not my intent to debate the merits of this resolution but, instead, to inform the body of what I think is a necessary step for the Legislature in a deliberative process to not only understand but to make recommendations to the entire Legislature as to what should be done to change the course in Beatrice at BSDC. The resolution in front of you outlines a process designed to take ownership in this problem, not simply throw stones. And I completely understand the frustrations that are present here and those frustrations prompted me to work with many members of this Legislature to design a process where the Legislature, as an independent, coequal branch of government, weighs in to help resolve the troubling issues that remain at BSDC in Beatrice. What I have proposed in this legislative resolution is a Developmental Disabilities Special Investigative Committee organized pursuant to our Rules of the Legislature. Seven members would be appointed by the Executive Board of the Nebraska Legislature from this body. From those seven members they would select their own Chair. They would have all the rights and abilities of any standing committee of the Legislature, including the power, if necessary, to issue subpoenas. It's outlined in the resolution of which you have a copy. I have spoken with several committee members and committee Chairs regarding this resolution. It does not call for any extra spending. We'll use existing legislative resources. In paragraph 2 of this resolution found on page 3 of the document that you have in front of you, it outlines the charge given to this committee. It says, and I quote: The committee shall investigate the placement and quality of care statewide for the developmentally disabled in Nebraska, including the determination of whether adequate funding and capacity exists for persons to be served in the community, options for service provisions for current residents of BSDC at other 24-hour-care facilities in the state, and the staffing practices of these 24-hour-care facilities owned and operated by the state. The department shall also determine and study the facilities at BSDC. The report is due back December 31, 2008. This has been introduced. As your Speaker, I think it's important to recognize that we do have a role in determining what the best course of action is for the residents at BSDC, for the care and community-based programs from Scottsbluff to Omaha and everywhere in between. And to take ownership in this very difficult issue, I think it's important that we organize ourselves, we elect members of our body to a special committee, and that committee work with the other branches of government to determine what is in the best interest policywise and carewise for these patients at Beatrice. I'm doing this in good faith, in cooperation with several other senators in here, to provide a vehicle to make a substantive long-term change and change the direction that the facility in Beatrice has been going, with the help of other branches of government to see this through. For that reason, that's all I have to say. I just want to thank you for your attention and would hope that this helps provide a process. Now, it's

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my understanding, if possible, this will be referred to the Exec Board for consideration of what the most appropriate committee is. If possible, I hope to expedite this process, and I will special order this resolution on the floor of this Legislature for debate before the end of the session,... [LB959 LR283]

SENATOR SCHIMEK: One minute. [LB959 LR283]

SPEAKER FLOOD: ...provided it's advanced from the appropriate committee. And it's my hope that we can advance forward with this process prior to adjournment on or before April 17, 2008. Thank you, Madam President. [LB959 LR283]

SENATOR SCHIMEK: Thank you, Speaker Flood. The next order of speakers begins with Senator Lathrop. [LB959]

SENATOR LATHROP: Thank you, again, Madam President. And before I continue, if I might, I appreciate the resolution offered by Senator Flood. I think that is a longer-term opportunity for us to provide a solution for the problems with the developmentally disabled. At the same time, I think it remains important that we adopt the Rogert amendment to take care of the dire circumstances at the Beatrice State Development Center between now and the time that important commission can complete its work. If I might, I'd like to continue with the Department of Justice report, portions of it. Under the abuse, I suggested to you, as an example, the plight of WC who was engaged in a game at Beatrice, with one of the workers, called canine catch, where they would throw a pop bottle across the room and have this young fellow or lady chase the pop bottle, and then ultimately hide it behind their back until WC ran around the place looking for the bottle while people laughed. Other examples included, in November 2006, when a male staffer shaved the pubic area of a young female resident. This report details them. I don't need to detail them any further other than to tell you the abuses would make you sick. The neglect is detailed as well. It would also make you sick. It would make you disheartened that this is going on with the most vulnerable citizens in the state of Nebraska. Our first commitment has to be to those people in 24-hour care whose lives are completely dependent upon what we do, how we staff those places. The Department of Justice report, I would encourage you to read it. I want to just go to and share with you the relationship between these abuses and the staffing practices at the development center. The report concludes, with respect to the staffing concerns: Many of the deficiencies at the Beatrice State Development Center with regard to safety are linked to staffing difficulties. Our safety consultant characterized the BSDC work force as "wrought with exhaustion and discontent." She reported that some employees pleaded for help in order to acquire adequate staffing assistance for the health and welfare of the residents. During our visit to BSDC, staff expressed concerns about being assigned to work with residents without being trained on how to properly support them. They also told us about their concerns related to unsafe working conditions due to severe staff shortages, employee exhaustion, lack of adequate training, and disgruntled

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coworkers. The facility faces substantial and ongoing struggles in hiring and retaining competent staff, maintaining acceptable individual-to-employee staff ratios, and providing adequate time off to full-time employees. During the week of our visit in October 2007, the facility had 117 of 411 direct staff positions vacant. Given the large number of staff vacancies, the facility has relied heavily on requiring current staff to work overtime. The facility used 10,219 hours of overtime in September 2007 and 14,490 hours of overtime in October (sic). Overtime is often mandatory for current BSDC staff. We spoke to numerous staff who related their concerns about having to work multiple double shifts, 16 consecutive hours, within a single week, to provide care to patients. Many staff workers expressed their weariness at being "frozen," or required to stay for additional shifts or risk disciplinary action for failure to fulfill overtime requirements. Even with staff working so many additional hours, we learned that the use of overtime is often not enough to meet the staffing needs. The report goes on: Needless to say, the demands of current BSDC staffing practices place an emotional and physical stress on the staff that may lead to an environment that is more conducive to abuse, neglect, and mistreatment. At the very least, tired and overworked staff will be less likely to take the initiative and responsibility necessary to provide residents with programming, care, and treatment they need, especially if the residents have difficult behaviors or complex healthcare needs. BSDC needs to take deliberate action... [LB959]

SENATOR SCHIMEK: One minute. [LB959]

SENATOR LATHROP: ...to improve this situation. Failure to do so will result...pardon me. Failure to do so will continue the current environment that is conducive to abuse, neglect, and inadequate care. It is very clear from a reading of this report that the very core of these abuses, neglects, that it suggests that the reporting of these problems is probably underreported because even the reporting process is haphazard at BSDC. Senator Rogert has offered a constructive approach to take care of the problem in the short term. It is incumbent upon this Legislature to act as an independent branch of government and do something today with an appropriation that requires that we not simply move employees from one HHS agency to another to solve a problem that is a long-term systemic problem. We need to... [LB959]

SENATOR LANGEMEIER PRESIDING [LB959]

SENATOR LANGEMEIER: Time. [LB959]

SENATOR LATHROP: We need to...thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Those wishing to speak on AM2441, we have Senators Nantkes, Howard, Karpisek, White, Wallman, Cornett, Rogert. Senator Nantkes, you are recognized. [LB959]

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SENATOR NANTKES: Thank you, Mr. President, and good morning, colleagues. Number one, I rise in support of AM2441 offered by Senator Rogert this morning. And, colleagues, I really believe as we move forward with this debate, and as you can see on your viewer there are some additional amendments proposed addressing the situation at the Beatrice State Development Center, and also to be looked at in conjunction with the resolution filed by our Speaker this morning, in the grandest tradition of this august body is how we're moving forward here today. These three proposals together, one offered by Senator Heidemann, this offered by Senator Rogert, and the task force resolution offered by Speaker Flood, are how we start to find solutions. They help us to look forward in a positive, proactive way instead of looking back and finger pointing about how we got to where we are today. And I think that in talking to so many of you here in this body and in talking to so many different affected families who have a family member with a developmental disability and who want to be a part of the solutions in addressing these serious, serious issues, that we're all focused on the same two things at the end of the day, one being the quality of life for the residents at the Beatrice state home, the second being quality of life issues for the front-line workers at the Beatrice home and the front-line workers of the community providers who provide services for individuals with developmental disabilities. So as we move forward I'm hopeful, by staying focused on this common ground that exists amongst us and looking at those quality of life issues, we can really, really provide some meaningful assistance in ensuring compliance and reform as we move forward. My friends, the issues brought out in the CMS and the Department of Justice reports do not reflect only on one person in our state. Instead, they reflect upon our state as a whole. Those are things that concern us all and that we all must take responsibility for. And only working together can we move forward to make quality of life issues improved and better for the most vulnerable Nebraskans among us. I think that the information provided in Senator Heidemann's amendment will provide needed flexibility to try and move needed resources to build capacity among community-based providers. The approach envisioned under Senator Rogert's amendment helps to infuse resources to the front-line staff at Beatrice for recruitment and retention strategies, while also addressing and acknowledging the importance of the overtime issues and how that's had dramatic negative effects on staff morale and conditions within Beatrice themselves. And then the special task force that Senator Flood has brought forward provides much needed oversight for this issue as we move forward. And I think that only these three pieces together will really ensure that we can achieve meaningful reform. If, for example, Senator Heidemann's amendment were to.... [LB959 LR283]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR NANTKES: ...move forward alone, we would be extending additional trust and resources to a department that has proven itself unworthy of those at this moment in time. But bringing in Senator Rogert's and Senator Flood's additional pieces here

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helps to retain that needed oversight, helps to address infusion of resources at Beatrice, and then also provides the department and the community-based providers the flexibility they need to be strong partners in this as we move on. So again I rise in support of Senator Rogert's amendment. I thank him for bringing it, and I rise...later I'll visit in support of Senator Heidemann's and Senator Flood's approaches, as well, and I really believe that this is one of the proudest moments for us to continue our proud history as the Nebraska Legislature that puts partisanship aside and that focuses on issues... [LB959 LR283]

SENATOR LANGEMEIER: Time. [LB959]

SENATOR NANTKES: ...and focuses on ways to move forward. Thank you, Mr. President. [LB959 LR283]

SENATOR LANGEMEIER: Thank you, Senator Nantkes. Those wishing to speak, we have...Mr. Clerk, for an announcement, first. [LB959]

CLERK: Thank you, Mr. President. Amendments to be printed: Senator Schimek, an amendment to LB846. I have a Reference report referring a gubernatorial appointee. Senator Flood offers LR283, Mr. President. Pursuant to its introduction, a communication directing LR283 to Reference Committee for referral for purposes of conducting a public hearing. And I have a hearing notice from Health and Human Services. Thank you, Mr. President. (Legislative Journal pages 1046-1049.) [LB846 LR283 LB959]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Those wishing to speak on AM2441, we have Senator Howard, Karpisek, White, Wallman, and others. Senator Howard, you are recognized. [LB959]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I stand in support of the intention of this amendment; however, I can't support the amendment itself. I'm very glad that Senator Flood, Speaker Flood, has brought us this resolution because I certainly agree with him. The time for talking about this is over. We need to address the problem. We need to get serious about what's happened not only at Beatrice but throughout the Health and Human Services system. I was present at the interim hearing last summer when employees from Beatrice came in and testified before my committee. Those people made very impassioned pleas about the conditions at Beatrice and the conditions they were working under. These individuals were being treated more like indentured servants than respected employees. They told us the stories. We knew. We knew what was happening. This isn't news. This has been a longstanding problem. And when an emergency is declared, an emergency should have a projected deadline. You can't operate under emergency conditions on an indefinite basis, and that's what employees at the Beatrice facility are being asked to do. They are

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being asked to give up their families, they're being asked to give up their lives. Nobody can do that on an extended period of time. So I support Senator Rogert, I support Senator Lathrop. I am in agreement. The caveat for me comes in, I cannot support the way the money will be removed from Health and Human Services and redistributed to Beatrice. I have talked with Senator Rogert about this, and I appreciate that he shares my concern for what will happen with Health and Human Services if the transfer of these funds is completed. So I know that he is working on another way to address this and I'm very grateful that he's so receptive to this information, and I'm going to share it with you. There are critical problems at Beatrice, but by taking the money away from Health and Human Services we're going to directly impact services in child protection, foster care, adoptions, food stamps, income maintenance, every service that we have at Health and Human Services. Last year I put an amendment on, a floor amendment, and I said, look carefully at the money you're removing from Health and Human Services. We're going to lose direct case management staff, and we can't afford to do that. And we made a deal with management. Staff would not be affected. The cost reduction would come through administrative costs. And I believe for the most part they have kept their word on that. But the removal of this amount of money will--and don't kid yourself--this will directly impact case management. I'm going to stand here and tell you, we can't afford to lose child protection service workers. They are understaffed as it is, and I know that personally. We can't afford to lose foster care workers. Foster parents are already saying, we can't reach our worker. We can't afford to lose adoption workers. We want permanency for children. We don't want them remaining in the Health and Human Services system, being further abused by not knowing what their fate is going to be. We need to address the problem but we need to come up with a solution that doesn't have a negative, damaging, domino effect on the rest of the system. Yesterday I said that putting the money in another study was the wrong way to go, and I stand on that. We need the money for up-front, direct services. We need to keep children from being further... [LB959 LR283]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR HOWARD: ...hurt by remaining in the system. Today I say to you that this is the wrong thing, to remove money from child protection to solve the problems of Beatrice. We've got to work harder on this. We've got to come up with a better answer. I'm going to offer Senator Rogert the remaining few seconds of my time so that he, too, can address this. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you. Senator Rogert, 30 seconds. [LB959]

SENATOR ROGERT: Thank you, Mr. President. Thank you, Senator Howard. Senator Howard has been discussing this issue in terms of taking funding away from the underlying budget. We are working on an amendment, I have it here. We have some drafting clarifications to make. We're going to pull it from some federal money that's

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sitting there on a match program. Due to some things that were changed in the past few months, there's about \$1.5 million sitting there that we're going to earmark directly for this purpose. So we don't have to harm another budget and transfer some funds across. So we're going to work on that for a little bit. We'll just monitor it throughout the discussion, and whenever I get it done we'll get it up. [LB959]

SENATOR LANGEMEIER: Time. [LB959]

SENATOR ROBERT: Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Rogert and Senator Howard. Senator Karpisek, you're recognized. [LB959]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I'd like to thank Speaker Flood for his resolution, and being a proactive solution to this problem that we're in. Sitting back and watching this unfold without putting our voice in is no longer an option. This body needs to get involved and find a solution, and I'd also like to thank Senator Rogert for helping put in AM2441 to try to find a solution. I do agree with Senator Howard, that we need to maybe look other places, and I know Senator Rogert is actively looking at that. The bottom line of this whole situation is that we have people that need to be cared for at BSDC. These people cannot be cared for in their homes. They need professional, constant service, and they deserve good service. This summer we went down to BSDC. Senator Wallman invited us down. I'm so glad I went. I had the institutional image in my mind of the old-time nursing homes, the smell, people laying in beds. That is not what I saw at all. I saw a lot of happy people, people working, people busy. They seemed happy. We also had members of the parents' group with the tour, and they have said how happy they are that their children are there and that they're being cared for well. Now, did they know we were coming? Yes. And we did have parents say, you're not seeing everything; you're seeing the better parts. And we understood that. But I saw so many good things that were happening. Do I blame all the workers for the problems we're having? Not entirely. These jobs are physically and mentally demanding. They're draining. Eight hours a day, I think, would absolutely wear me out. I know it would. But then they're being forced to work additional time. After 12 hours, we're all tired in here. Imagine taking care of people that can't take care of themselves. We get short with each other in here. It would be very easy to get short with someone who after the fiftieth time you tell them not to touch a light socket, to get a little bit upset. We need to pay these people better so we get better people, and train them. That is one thing we heard--the training. Why? Because it's a revolving door. The people come in, they get burned out and they leave. There is not the time. These jobs barely compete with some of the lowest paying jobs that we have in our society. Is that what we want for the people that can't care for themselves? I don't think so. I sponsored LB842 this year, which would have appropriated additional money for community-based developmental disability aid, and I appreciate the Appropriations Committee's

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willingness to place more money in that fund. But I do not feel that many of these people can be moved to the community-based sector. There are many people that need those services that were not getting them the way it was. And there are many parents that don't want their children moved from BSDC, and I don't think that we should make them move their children if they're not comfortable with it, they feel they're safe. These are their homes. Some of these people have been there for 20, 30, maybe more, years. It's their home. They're not only developmentally disabled, some are mentally disabled, both. I saw one young man, he was very disabled, in a wheelchair. It seemed like he couldn't talk, but through his computer he talked to us and said that he liked to watch the janitors and watch if they're messing around or doing their job. What a wonderful thing. If I would have seen that person anywhere else I would have thought there is absolutely no brain current, no anything. And he laughed because he loved it when he could catch the guys just messing around and not working. He deserves to have that chance to interact. He was also working. He was taking apart rubber fittings for hoses. The person that was working with him was putting one on his finger and pulling, and he seemed very happy. Are things perfect down there? Absolutely not. But it's up to us to stand up for the clients, for the workers... [LB959 LR283 LB842]

SENATOR LANGEMEIER: Time. [LB959]

SENATOR KARPISEK: Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator White, you are recognized. [LB959]

SENATOR WHITE: Thank you, Mr. President, members of the body. If you find yourself in a swamp, and truly we are in a swamp, on one hand you might say it's not productive to ask how we got here, but on the other hand if you wish to find your way out of a swamp, you have to figure out how you got in it. There is no possibility of fixing what is going on at Beatrice without understanding how we got here. And before I go there, I want to express briefly to you exactly how deep the swamp is. If you read the federal report, and we will read more of it as we go on, and you are an attorney, and I am, and you've worked in constitutional law, and I have, we now face exposure to not millions, not tens of millions, but hundreds of millions of dollars of legitimate claims against the state. In today's paper...in today's paper there is a claim for \$1.8 million against Beatrice because of a woman who broke two legs and they did not report it and she was not taken to the hospital for at least five days. That is just one of many, many, many claims. So how did we get here and how can we get out of it? We got here because, as you go through the Justice Department report, we have systematically understaffed the people at Beatrice. We have understaffed them to save a few dollars, and as a consequence we will lose hundreds of millions of dollars. For example, the primary cause by the Justice Department identified for the conditions of Beatrice is systematic understaffing and resultant overtime--mandatory, required overtime. That cost us, as the Department

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of Justice notes, alone, in the year they studied, the overtime alone: \$3.6 million or \$3.9 million in overtime. But it cost us more than that. It cost us our best employees there who could no longer tolerate the devastation mandatory overtime caused to their families. Senator Wallman will talk to you later, and he will tell you that 90 employees have recently been discharged because of a no tolerance view. He will also tell you some of those that the found to discharge were the very people who blew the whistle that brought this to our attention and to the Department of Justice's and the federal government's attention. One of the things we cannot afford is the claim that when we look squarely at problems that we are partisans for doing that. We are not partisans. We are honestly trying to identify and solve problems that have occurred in the state government. We also cannot any longer accept the excuse that the unions have blocked proper funding in this institution. That was proffered to us in Business and Labor, when we asked them, why do you have mandatory overtime over and over again? And they said...the administration stated, because the union contracts will not allow us to pay merit pay or bonuses, and we can't employ it. They also stated that they did not have restrictions on the number of people working at Beatrice. Both of those statements were made knowingly, and they were false. They lied. The union contract specifically provides that merit pay and bonuses can be issued, and we gave them money years ago to do that--to solve the basic problem that had driven this, which is understaffing. Understaffing: not properly putting enough people on the job and not paying them appropriately. And why? Because we had an administration that at all costs wanted to cut the expenditures. I tell you that not as a partisan, but I tell you that as a fact. Beatrice, and the...the salaries at Beatrice also drive the salaries in the community-based services. They get a percentage of what is the underlying Beatrice price. [LB959]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR WHITE: We need to come back and look at the real costs, because what we will spend is far more because we tried to save money over the cost of these human beings. And I would yield the rest of my time to Senator Rogert. [LB959]

SENATOR LANGEMEIER: Senator Rogert, 40 seconds. [LB959]

SENATOR ROBERT: Thank you, Mr. President. I ask the unanimous request of the body to withdraw this amendment and substitute it with AM2451, just for the simple purpose of earmarking some of these federal dollars instead of pulling from another fund. [LB959]

SENATOR LANGEMEIER: Do I see any objections? So ordered, AM2441 withdrawn. And, Senator Rogert, you are recognized to open on AM2451. (Legislative Journal pages 1049-1050.) [LB959]

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SENATOR ROBERT: Thank you, Mr. President. Members of the Legislature, in regards to Senator Howard's comments and her concerns she brought to me earlier this morning, this is an attempt...and it's actually, in our opinion, a great solution to the problem that she brought up. This amendment actually gives us a few...a little bit more money, but it doesn't take it away from anybody's underlying budget. Rather than pulling it from Health and Human Services' underlying operating budget, this pulls it from a federal fund that has shown up due to some matching dollars, and the money is just sitting there. We're going to earmark \$1.5 million, estimated, that amount of money, which shall be used for strategies, including bonuses to retain and recruit quality staff and employees at the Beatrice State Development Center. I also want to point out a couple things here. There have been some questions brought up in the last couple days as we've been through this discussion about collective bargaining, and that collective bargaining has gotten in the way of being able to solve this problem and do these bonuses. I have in my hand the collective bargaining agreement between the Nebraska Association of Public Employees, Local 61, and the state of Nebraska, from 2007 in July. This was the result of some of the discussions that went on through the CIR hearings from this summer. Chapter 11, 1.1, it's Article 11 about wages: Nothing in this agreement prevents the employer from providing, in addition to the provisions of this article, merit increases, bonuses to salaries. So this here, right here, will take care of everything we need to do to get those folks hired if we need to use this type of money. I also want to recognize Senator Gay--he's not here today--but for his help in bringing some of these ideas to the table. He's has been involved in our discussions. He's given us his candid view and his thoughts on what's going on within the department and what's going on down at Beatrice. And I appreciate everything he's done and his willingness to help out and help guide us in our methods of working on this, as well. I also want to commend Speaker Flood for bringing this commission forward in this resolution, and I want to encourage anybody here who has a desire to help solve this problem to go to the Executive Board when we pass this out and ask to be placed on this commission. I think that it will be a great opportunity to provide some oversight and a hand-in-hand solution approach with the administration to help fix the things down there. So we've got a three-prong approach here. We have my amendment, we have this commission, and we have Senator Heidemann's amendment which is coming up behind us that we fully support, which allows the money to move around. Mr. President, I would yield my time to Senator Heidemann so he can give just a brief comment on the funding, if he would. [LB959 LR283]

SENATOR LANGEMEIER: Thank you, Senator. Senator Heidemann, 7 minutes.
[LB959]

SENATOR HEIDEMANN: I know my time is running. Just one second. Thank you, Mr. President and fellow members. I would like to have a short dialogue on the mike with Senator Rogert, if I could. [LB959]

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SENATOR LANGEMEIER: Senator Rogert, would you yield? [LB959]

SENATOR ROBERT: Absolutely. [LB959]

SENATOR HEIDEMANN: First of all, I would like to tell the members of the body there has been a lot of work that has been done through the morning with Senator Howard, with members of the Fiscal staff, with Senator Rogert, and Senator Flood brought us something forth. I appreciate all the effort that's been brought forth. I agree with this amendment. I just do want to ask Senator Rogert what these funds would be used for. It says, used for strategies, including bonuses to retain and recruit quality staff and employees. I mean, it's the intent probably to train staff and to do things like that. It wouldn't...is that your understanding? [LB959 LR283]

SENATOR ROBERT: I think that could be part of it. I think another great way of doing this is, for example, Alegent Health, for many years, has gone to graduating nursing students and offered them, if they stay and come and work there for three years, a \$10,000 sort of a bonus at the end of that period to help pay some of their student loans. That is a great attraction. It doesn't necessarily raise their base pay but it brings those folks in there and says, well, I've got a debt, and it's a bonus in order to get them there. I think that's an other example of what they could do. [LB959]

SENATOR HEIDEMANN: It would be...part...you agree, though, that would be just...would be part of it. [LB959]

SENATOR ROBERT: Yes. [LB959]

SENATOR HEIDEMANN: Okay. That's all I have. I appreciate the time. I'm not going to...so that we can keep moving here, looking at what time it is, I do support this. I want to thank everybody for working together, and I urge your support for this amendment. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Heidemann and Senator Rogert. You have heard the opening on AM2451. The floor is now open for discussion. Those wishing to speak, we have Senators Wallman, Cornett, Rogert, Schimek, Lathrop, Synowiecki, White, Pankonin, and Howard. Senator Wallman, you are recognized. [LB959]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. I had a couple cousins in the Marines. They used to say, when the going gets tough, the tough gets going. And the front-line staff at BSDC, most of them you have to commend them for sticking in there. We...everybody is hammering on them. There's a lot of good people. Like Senator White said, now everybody is scared to say anything, and there still might be some abuses. Who knows? But I would be scared to say something too.

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So I called up a friend last night who worked there for 30-some years. He is retired. And I says, what went wrong? And he told me, management, management, management. And I commend Chris Peterson for trying to turn this ship around, and it's tremendously hard to do, as we all realize, but in going further we want to put these people in community-based care. What are we paying those people? You know, Senator Karpisek had an amendment. I got a deal here from Mosaic, and we only give them, like 1.46. What's inflation rates, folks? We can't do that. They're going in the red. They're making up a budget for next year, and they're going way in the red. So...and if we're going to go community-based care, which it's in our proposal, rightsize the institution from 300-some, right now, to 200...that's my understanding. So if we're going to rightsize it, as you know, the cost per patient will go up unless we have less employees. So the money follows the patient? Not necessarily. It may for awhile, and then go down. So as you can see, our private-care providers need more money also. But above all, I appreciate Speaker Flood and Senator Rogert here, and all this what's going into this here. It's time to get going. And I think...I commend HHS for the tremendous problems they inherited. And so I think we have to get going and I appreciate everybody's support. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Cornett, you are recognized. [LB959]

SENATOR CORNETT: Thank you, Mr. President and members of the body. I'm going to preface what I have to say with the fact that this is probably the most angry I have ever been since I've been in the Legislature, and that's saying something. People that have irritated me know that I have a pretty good temper. Mike Marvin, head of the employee union for the state, came to me this summer and said we have a problem, we have a problem at Beatrice, we have a problem at our other 24-hour-care facilities, we have a problem in our prison. I asked him to provide me with the numbers of overtime that people were working. He brought complaints to us about people being requested to work an additional 12 hours on having worked a 12-hour shift; people being disciplined, because they couldn't work, to go pick up their children from day care; people being written up for not being able to come into work because they were called in but they had family commitments. I sat down with Health and Human Services this fall and I said, I want your numbers, I want your numbers on your overtime at your 24-hour-care facilities. I was provided these numbers. I gave these to my committee, that these were the correct numbers for the 24-hour-care facilities in this state. I put my name behind these numbers when I gave them to my committee, trusting this state. I was lied to. The total overtime hours that I was provided for skilled care for the month of January 2007 was 5,553 hours. The Justice Department says that in that same time period there was over 20,000 hours of overtime--20,000 hours of overtime. They stated that they did not have employees to even cover the amount of overtime that was required to work. They have 16-year-olds, untrained 16-year-olds, supervising high-care patients. I don't know what to say. I just met with Chris Peterson out in the hallway, and she is as befuddled

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as I am. She is angry. These are the numbers that her staff provided her. I can honestly say she doesn't know what to do. She is trying her best in a situation where the deck is stacked against her, and I feel the deck is stacked against me and everyone in this Legislature. How do we get the truth, when our own employees are lying to us? I have no excuse for the numbers that I provided the committee. As Chair of the committee, it was my job to provide the correct numbers. I depended on Health and Human Services to tell me the truth. I apologize. I apologize to my committee and I apologize to this legislative body for this. I did not do due diligence. I did ask my Mike Marvin, when the numbers were provided, to give me his numbers. They were unable to get those to us before the committee hearing on this. I don't know what to say. We have a real problem. [LB959]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR CORNETT: I rise in support of this amendment. I rise in support of anything we can do in this body to protect the people of this state who cannot protect themselves. I also rise to say, we, as a legislative body, need to demand the truth, because we are not being told the truth. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Cornett. Senator Rogert, you are recognized. He waives his opportunity. Senator Schimek, you are recognized, followed by Senator Lathrop. [LB959]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. And, Senator Cornett, I don't think you have to beat yourself up. I think you just explained very well what part of the problem is with this whole situation. And I know it's not productive to cast blame and to review all the things that are wrong. It is not necessarily productive, but it's sometimes useful. But what I would like to do is ask a few questions this morning. One of my frustrations here is that we don't have a parliamentary system where the department heads actually sit in the parliament and you can ask questions and you can get answers. Because here we are, amongst ourselves, trying to ask those questions but don't have access to the answers, and so it's hard to know what we can really do. These problems have been here for a long, long time. And it has continuously been said that we need to put more money into salaries so that we have more staff, so that we have better-paid staff, so that we can retain staff. And yet...and yet we haven't done it, and part of it's probably our fault, as well. I don't think we can be absolved of all the blame. But sometimes I think our thinking in this state is penny wise and pound foolish. I'm sure you all read in the paper this morning that there is a claim now against the state of Nebraska for \$1.85 million on behalf of a woman whose legs were broken down at the Beatrice center. We know what the Department of Justice is saying to us...or is it the other one? We know that we can lose \$28.6 million. So in the long run, if either of these things come to pass--and I understand there may be more suits filed before it's all over--in the end, we're going to cost ourselves a lot more money than we

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would have cost ourselves if we had looked at the problem and solved the problem. And it is not just Beatrice. It is the veterans' homes. It is the prison system. I mean, we can't not spend money on the services that we need to provide for our citizens. Now, before I get too agitated and say too many things, I would like to say, I appreciate Senator Rogert's amendment. I think it's a good one and I appreciate the fact that he worked with Senator Howard. I think the Speaker's resolution is excellent. But I think there's a little gap here that I'm still concerned about. The Speaker's resolution, if it passes, and I presume that it will, will set up what I would call a forward-looking community that would try to set up some provisions for the future. The Rogert amendment would provide some way of compensating staff in a better manner. But meanwhile, we have clients of the Beatrice center who are going to be moved, and I know that there are a lot of parents and guardians out there that are very reluctant to have these sons and daughters and sisters and brothers moved, and until I read the Department of Justice report, I thought we can't make them move these people. Now, I think we've got to move some of these people. It's going to be on our heads if we don't do that. [LB959 LR283]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR SCHIMEK: So my problem is, who's going to be providing the oversight for this transition? What are we going to do to see that that transition goes smoothly? How do we know there are enough facilities out there? We were told at a briefing the other day, there are, but I don't know that. I've heard people are going to be moved out of state, possibly. I've heard all kinds of rumors and things. How do we keep a handle on what's going to be happening in the short term? And this is a very serious problem, and I don't blame anybody any more than anybody else, except to say, people, we've got to get our act together. And it didn't start with this administration. It started way before this administration. And we can all maybe share in the blame so that it...so that we come together... [LB959]

SENATOR LANGEMEIER: Time. [LB959]

SENATOR SCHIMEK: ...and work together on this problem. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Lathrop, you are recognized. [LB959]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Senator Cornett, that was a...I so appreciate your remarks. I so appreciate your observation that you believe, as I do, that Chris Peterson is trying but may be handcuffed in some sense by the failure to commit resources necessary to help her get from where we are to where we need to go. I would like to talk a minute about...and I don't think we can leave this subject without talking about the briefing we had with the Governor and the five-point

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plan, because I think our intent may be different than what we heard when we were provided the five-point plan. And the cornerstone of the five-point plan was this...essentially two things. There was some nice language in there about, you know, resident safety and patient safety, but when it gets right down to it there are two pieces. One is that we are going to move a bunch of employees from one place down to Beatrice to come up with 50 people. Half of those people are going to come from someplace else that is now going to be understaffed, so I don't believe the solution is to bring people from someplace else where they're tight, take them down to Beatrice, even if they're voluntarily moved, and then have them work at Beatrice. Our intent with this amendment is to provide the resources necessary to hire bodies to keep people there, and to hire new people there to take care of the staffing problems and the mandatory overtime. That should be clear. The record should be clear, that is our intent. The other piece of the five-point plan which I have grave concern about is the idea that the solution to Beatrice is, we have 308 patients and we're going to, to use a term out of the corporate world, "rightsize" Beatrice. I don't know if you've thought that through. But to rightsize Beatrice, to go from 308 patients down to 200 patients, suggests that we have a finite number of patients and a place for those 108 people to go. The difficulty with that, and what was not discussed at the time this plan was presented, is we have about 1,350 families waiting for services. So to rightsize the Beatrice center and move 108 patients out doesn't solve our problem at all. We still have 1,350 people, at least, trying to get developmental disability services from the state. So the only way this works is to keep the door closed to the 1,350 families, and find a place for 108 people that are at Beatrice to go into the community. But we haven't properly funded the community-based care. We will...I will try to serve on this committee, if I am provided that opportunity, and we will get to the bottom of these concerns, and to a solution from the legislative side. But understand, this amendment should be used, and the resources that we are providing the executive branch of government should be used, not to show 108 people the door. We need to leave those people there if they belong there. We need to take the people that can go to community-based care and transition them. That's the best place for them. But we can't ignore the 1,350 families that are waiting in line for services. And I certainly think it is our intent with this amendment,... [LB959]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR LATHROP: ...it should be clear that it is our intent with this amendment, that the families that are waiting in line be served in addition to those folks that are at Beatrice right now. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. (Visitors introduced.) Mr. Clerk, items. [LB959]

CLERK: Mr. President, I have a Reference report referring LR283. And I have a unanimous consent request, Mr. President. Senator Loudon, as Chair of Natural

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Resources, would like to change his hearing time from 8:30 to 9:00 for Monday morning, March 31...I presume a confirmation hearing. That's a unanimous consent request. (Legislative Journal page 1050.) [LB959 LR283]

SENATOR LANGEMEIER: Are there any objections? So moved. [LB959]

CLERK: Senator Flood would move to recess until 1:30. [LB959]

SENATOR LANGEMEIER: The question before the body is, shall we recess until 1:30 today? All those in favor say aye. All those opposed say nay. We are at recess until 1:30. [LB959]

RECESS

SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the afternoon session is about to reconvene. Senators, please record your presence. Senator Raikes, would you please check in? Senator Raikes, would you please check in? Mr. Clerk, please record. []

ASSISTANT CLERK: There is a quorum present, Mr. President. []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Do you have any items for the record? []

ASSISTANT CLERK: Mr. President, a new resolution, LR284, offered by Senator Pedersen. That will be laid over. (Legislative Journal pages 1051-1054.) [LR284]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on this afternoon's agenda. We were discussing LB959 and AM2451. We had a number of lights on wishing to speak. We had Senator Synowiecki, White, Pankonin, Howard, and Harms. Senator Synowiecki, you are recognized to speak on AM2451. (Legislative Journal pages 1049-1050.) [LB959]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. Members, good afternoon. This morning Senator White specifically mentioned community-based developmental disability situation relative to salaries and so forth for our community-based providers in this area. Let me...let me assure the Legislature that, while a lot of our discussion is focused on the Beatrice situation, that these community-based providers as well have employee retention problems. The viability of these programs are oftentimes in question directly related to the funding involved, that is done through the appropriations and through the legislative process. There is...there is in fact, there is in fact a rate equity in

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intent language in the bill, in the budget bill. And as Senator White indicated, he distinctly said that there is a relationship to what we pay the employees at Beatrice, and that there is a direct and explicit relationship to what the community-based providers get. While that's true, in terms of intent language, I can also assure the members of the Legislature that we don't live up to that equity intent language, and that we're far off the mark of...far off the mark of obtaining that, and you need to know that. Now the Appropriations Committee adjustment here in this...for the biennium budget includes an additional \$3 million for rate equity for developmental disability community-based providers. But if we were to go to the entirety of the rate equity language, this would...to get the rate equity equivalent to where it's supposed to be with, as Senator White indicated, the employees at the Beatrice center, it would take an additional \$3 million to get that rate equity up to where it should be. So while Senator White was correct that there is a methodology in place and that there is an intent placed upon the appropriations process, the legislative process to provide some equity in rates, in fact we are not meeting that and we have not met that for quite some time. And when the last round of pay increases came into effect for state employees, it really knocked that methodology plan aside. Senator Karpisek actually brought a beer...brought a bill (laughter)...Senator Karpisek brought a bill to the Appropriations Committee (laughter) that attempted to...I don't know why that came out that way. Russ, I'm sorry about that, but something about name association or something. (Laughter) But...so anyway, what Senator White was saying is true. However, we're way behind the eight ball on that in terms of getting the rate equity where it should be. Thank you, Senator Langemeier. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. (Visitors introduced.) Returning now to discussion on AM2451 offered to LB959, those wishing to speak, we have Senator White, Pankonin, Howard, and Harms. Senator White, you're recognized. [LB959]

SENATOR WHITE: Thank you, Mr. President. I want to talk again about how we got here, why we have a report from the Department of Justice that, if anybody reads it with an open mind, is nothing less than a thorough and complete condemnation of our state, our government, our own morals. How did we get in this mess? And how much will it cost us to get out but, more importantly, how can we get out? If you go to the Department of Justice report on page 9, one of the things it says is resident fractures--these are the people that we are entrusted to care for--are often caused by falls. Indeed, there is a significant and serious pattern of resident falls at BSDC, numbering more than 1,000 since September of 2006. What that tells you is this: There aren't enough people to move folks from their beds to their wheelchairs, to change them if they need diapers, to wash them and bathe them. It is not frequently known, but actually one of the most dangerous occupations in America, from a workers' compensation standpoint, is elderly care. The injuries to backs, because of lifting and moving patients, is substantial. In order to safely move a patient, not just for the patient

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but for the worker, you need several people lifting and carrying. And if you've got folks working 16 hours in a day, understaffed critically, they are not going to lift and move people safely; they can't. They're exhausted and there's not enough of them. And that is a hidden cost that will drive our expenses associated with this for years to come. Not only are we looking at someone who had both her legs broken, who just sued us for \$1.8 million. You can bet that the incidence of workers' compensation claims for injured backs among our own workers is substantial because we understaffed them. Now I had heard other senators say, well, maybe we just need to close this and get folks out of here. That is absolutely the wrong approach. I stand for anybody who can be in a less-restrictive environment than Beatrice, that we create those environments and we make them available in the communities. But as Senator Lathrop has already pointed out from Senator Engel's numbers, we have over 3,000 people waiting for additional services, many of whom would like the chance to have a loved one in a place like Beatrice, even with the horrible conditions that have been documented. What we must do first is not repeat the mistakes of the past in which we are going to pinch pennies, we are not going to fully staff, we are not going to pay for quality people. You will not save any money doing that. And in fact, we will pay many times more because of policies to understaff and to overwork those who remain than we would have had we adequately staffed. And, of course, those costs do not include the human cost of people treated worse than we would treat animals. So until this body seriously starts with the fact that we can't sweep these people out of Beatrice, some of them need this level of care and higher, many more than we actually are serving. Until we accept that we have to pay people a decent wage to do a brutally hard job, not only physically hard but mentally taxing and emotionally wearing, we will not qualify as a civilized state. And I assure you that if we don't do it, the courts and the Department of Justice will. Two weeks ago, Senator Lathrop and others stood up and said we were in trouble, that \$28 million in federal funds could be lost. And he and Senator Nantkes were personally attacked... [LB959]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR WHITE: ...as being part of a coordinating partisan attack. It wasn't. It was deeply concerned citizens trying to protect vulnerable people and the taxpayers. I am so relieved and so thankful for Speaker Flood and for all of the comments I've had from all of the senators from whatever party about their resolution that we will not tolerate this. But it will not be easy and it will not be cheap. But the cost of not doing it, not just in dollars but in moral failing, is far higher than addressing it. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator White. Senator Pankonin, you're recognized. [LB959]

SENATOR PANKONIN: Thank you, Mr. President, members. Before I address the topic

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at hand, I do want to share some better news about an aspect of our government that is working better. And it shows that we can do it, and so it will apply back to what we're talking about. During our noon recess, Senator Howard, Senator Hansen, Senator Johnson, myself, members of the HHS Committee met with representatives from the federal Regional HHS Office from Kansas City. And they had some very positive comments about Nebraska's child support enforcement and results, with a number five ranking nationally in collections and the job that we can do. So it shows that not only we are doing some things well, and this is an example that we can when it's focused and it's our goal. I want to share with you some steps from my experience, when you have problems like this. And I think the first step, and we had a five-point plan the other day from the executive branch, and that's fine. That's one of the aspects. But the first thing when you have a problem like this is you've got to get out of the denial, and you got to own up to the problem. And I think from being on HHS and having some briefings...on the committee and having some briefings over the last 15 months on this topic and some others is the fact that we've received information somewhat in dribs and drabs, and we just don't get the full picture. And maybe people just don't realize how bad it is, which is even scarier. But the first thing when you want to solve something, you got to get to the bottom and find out how bad it is and not be in denial but own up to the problem. And I think we're getting there somewhat today. And as many of us have said today, and Senator White just said, if you just keep going this way, it gets more expensive and more painful; you just never get past it. The second thing is that people solve problems. From the front line to the management, you need to have the best possible people, even if it costs extra. The third thing is you need to have a realistic plan and then measure results. The fourth thing is you need to provide focused, adequate resources. I want to give you an example. Senator Hansen is going to go home today and over the weekend he might drive around some of the ranch and see a fence post down or a fence down. If he throws a \$20 bill at it, is it going to fix that? No, he's going to have to get out and fix it, maybe he's going to need new materials to fix that portion of the fence. Throwing money at it is not necessarily the answer, but it's part of the answer. But it's got to be focused, it's got to be realistic, and it's got to be part of it. This Legislature's role are these four areas. I think now we've come to the point where we realize how serious a problem we have. We're there. If we're not at the bottom, we're very close. That's the first step you've got to have and I think we're reaching that. Secondly, the executive branch hires the people and develops the plan. But with Senator Flood's resolution, the Legislature will be more involved in the process. I think that's a good thing. Fourthly, the Legislature needs to provide the resources. Senator Rogert's amendment is a start and I will vote for it. I want to close with a couple of things. What good can come out of this? I think there is a lot of good that can come out of it, but we got to start now and move in that direction. We as a Legislature can come together, forget about partisanship or politics, it's this is the right thing to do. We can come together and try to make it better. I just came from a meeting where we're doing better in other areas. We can do it here as well if we put our minds to it. And many of us have talked about that today. And I think many of us now know that we've got a serious

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problem, we all want to help try to make it better. I guess one of the things I've tried to learn from my life, I've made mistakes, many along the way, is that doing the right thing is the smart thing. When you do the right thing it usually is less cost in the long run, less painful, and you make progress. And I think we're at that point where we've got to turn it around and head in that direction. I'm committed to it, I know my colleagues are. Let's get it done, let's get it started and this is the first step. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Pankonin. Senator Howard, you're recognized. [LB959]

SENATOR HOWARD: Thank you, Mr. President and members of the body. First off, I want to really thank Senator Rogert for his willingness to work with me to find a solution that would work for the Beatrice problem but would not have unintended consequences that would affect all of the Health and Human Services system. Having said that, Health and Human Services, my alma mater, must change the way they do business and we must change the way we do ours. We have got to be more diligent and more realistic regarding Health and Human Services. Thank you, Dave Pankonin, Senator Pankonin. That was exactly what I had hoped to hear on the floor. And they must be more honest and willing to work with us. This has to be a new day. We can no longer tolerate Health and Human Services opposing every bill that is introduced that would require them to examine their operation. They must provide adequate information and not give grossly exaggerated numbers in terms of administering to additional...here's an example, administering additional food stamps, as they did last year. And thank you, Senator Kopplin, for being persistent and getting that bill moved out to the floor where we advanced and passed it. I'm going to finish by sharing an experience that I've recently had with Health and Human Services, and I think this might jog the memory of many of you. You may recall a situation earlier this month regarding an in-home day-care provider, excuse me, provider in Omaha that had been issued a license without having an in-home visit, without having the day care actually inspected by the licensing division, which I was astonished to hear that. After even having worked in Health and Human Services as many years as I had, I didn't realize they didn't visit a home before they actually issued a license. To me that's quite amazing. This home was in a state of disrepair, with weapons unlocked and available within the reach of children. I had my LA contact Chris Peterson regarding needed legislation to update the 1991 statutes that allowed this. And CEO Peterson agreed to this and seemed very willing to meet with me and to work toward effective legislation that I could put in next year. A few days later, my office got a call from the licensing division, stating that they weren't interested in working on this. They felt that this would require additional staff, end of conversation. I share this with you because I was astonished that that was their response. It doesn't deter me; I'll still work on putting the legislation in. And I certainly invite CEO Chris Peterson to work with me on this. But I say, what could be more important than protecting children and protecting those most vulnerable in our society? Thank you. [LB959]

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SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Harms, you're recognized. [LB959]

SENATOR HARMS: Thank you, Mr. President, colleagues. I wonder if Senator Flood would yield to a question, please? [LB959]

SENATOR LANGEMEIER: Senator Flood, would you yield? [LB959]

SPEAKER FLOOD: Yes, I will. [LB959]

SENATOR HARMS: Senator Flood, as I look at the committee that you're going to appoint, I'd like to ask if...as that committee begins to review the issues in Beatrice, are they going to have the ability to go up the ladder or are they just going to focus on Beatrice? Because I think, as you go through this, you may well find that you'll have leads you're going to have to follow up. Will they have authority and the power to be able to do that, to resolve this issue totally? [LB959]

SPEAKER FLOOD: Would you clarify your... [LB959]

SENATOR HARMS: Well, it may be...it may lead us outside of Beatrice and right here into Lincoln. We'll be able to follow those leads up, we'll be able to question the people that are in line that are not in Beatrice but are in the supervision capabilities with this issue? [LB959]

SPEAKER FLOOD: Yes, the committee members will. They'll also have the ability, if they don't get the cooperation they want, to issue subpoenas that are enforceable under law. [LB959]

SENATOR HARMS: Well, thank you very much, Senator Flood. That's what I wanted to make sure of, because I think that you're going to find, as you get into this, that you're probably going to end up, as you go down those trails, a little further than just in the city of Beatrice and with the center that we have there. I also want to make sure that as we think about this that I caution you as colleagues that we just don't think that throwing money at this issue is the answer, because I think you're going to find out it probably is not going to be the total answer here. And that when you look at the research that talks about people and jobs and satisfaction, money is one of the lower ones; it's usually the conditions, the environment, whether people care about you as an employee. All that fits in your working conditions. And I think that in order for us to get a handle on Beatrice, after you're all done...we're all done with this, you're going to have to...we're going to have to find a solution to changing the culture of that center, because it isn't going to work unless can change the culture. And that means you may have to change a lot of people out to get there. And so I would just caution you, as we look at this, to

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think that just putting a lot of money into that organization or into that particular facility is going to resolve the issues, because I don't believe it's going to. The other thing I would be in hopes that the committee will look at very carefully, and that is as we start to take people from that center that we make sure that we are prepared in a community-based program to deal with this. I follow up on John Synowiecki's conversations on more than one occasion. He's the one that brought me into this picture about home-based services or community-based services. I never gave it any thought until I had...got involved with him on the Appropriations Committee. He's really taught me some things that I didn't understand. And one thing I did learn from him is you got to be prepared when you place these clients into the community-based program, and that it's set up appropriately, and that we have it so that it...we're not going to place them in a position that they find that it's worse than it was before. So I would urge you, as you look at this, and whoever these committee members are going to be, if you'll keep some of these things in mind, because I think they'll be helpful as we start to review this process. I personally feel that this is an embarrassment to this great state and to this body and to all of us here to think that the people who can't take care of themselves, we allowed this to happen. And I'm thankful for the senators here that had the courage to stand up and said it's time to fix this, because I don't disagree with that. And thank you, Mr. President and colleagues. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Karpisek, you're recognized, followed by Senator Schimek. [LB959]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I'd like to address a little bit what Senator Lathrop talked about, rightsizing. If we're rightsizing, do we decrease patients or customers, or do we increase workers? There's people waiting to get in, people that need to get in, people that need these services. Senator Pankonin mentioned, I think it was Senator Pankonin, said even though these are some bad conditions, it's better than where they would be otherwise. Maybe it was Senator White. I remember in committee hearings Senator Janssen had a pretty good quote, saying, if I had people lined up waiting for potato sausage, I'd get a bigger stuffer. Since I understand what he's talking about, he's right. If you have more demand than you can supply, increase supply. We've got a demand at BSDC. We've got the people that can do it. And I think that with HHS, Christine Peterson working, trying to get the ship righted, Senator Harms is absolutely right, throwing money at it won't solve it. But I think that we're trying to get the ship righted. They say how do you turn a really big ship? Very slowly. We don't have the time to say...take all that time. But we need to turn it and we need to start turning it now. My other fear is that in this rightsizing we want to move people to community-based programs. And again, I fully support community-based programs; I had the bill. But who says that they're going to have that much better care in the community-based programs? Those programs are not set up to deal with the people that we are talking about here. These people have to be in a certain situation, they need trained professionals to take care of them. What if a school didn't have enough

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teachers? Would we send half the school...or the kids home? That wouldn't help. Who goes home? Who doesn't? Same thing at BSDC, which one of these people are going to move? Who's not going to move? My other last point is I don't see where we can save money by farming these people out. You would think that a business can make more money by doing the work themselves rather than hiring it out. There's another level in there of middleman that needs to make money. I think that we can do this. We can do a much better job, and we can do a better job for the residents. At the end of the day, they are the reason why we're having this argument, they are the reason why we care. And we need to care about them. When this is all said and done, I want every one of those people to be as happy as they absolutely can because they deserve it. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Schimek, you're recognized. [LB959]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I'd like to clarify maybe, and maybe even revise, my comments from this morning a little bit. Again, going back to the Justice report, it mentions the fact that the courts have told us, and you all know this, that we are obligated to people, to put them in the most...or the least restrictive settings that we can. And the Justice report said that we really haven't developed a plan for this. This morning I said that we ought to be getting people out of there, it's an unsafe place. And I still feel that way, it's an unsafe place. But I also...I also feel that it's a good place in so many respects. And there are so many people that are not going to be put in the right places if we do this hurriedly. And we need to keep in mind we're always going to have to have a facility like Beatrice. But I just wanted to call to your attention that the number of residents have decreased slowly at BSDC. In 1997, they had 401 residents; in 2007, 322 people resided there. And the number of residents hasn't decreased because of increased community placements, but especially in recent years almost exclusively due to resident deaths and facility transfers to other restrictive settings, such as nursing homes or other institutions. And that's what I want to focus on for just a minute because we won't be doing any of these people any favors if we transfer them to another restrictive setting. It goes back to what others on this floor have said, we're got to have the right kind of placement. And I don't think we can hurry it necessarily. But what my overriding concern is, is what happens in the meantime? What kind of safety measures are we going to have in place? We're bringing on new staff. They're all going to have to be trained. The training element has not been there. How do we...how do we do this in a measured, correct way so that, if we are transferring people, we are only transferring those who really do belong in less-restrictive settings? And how do we do it so that those that are in the institution now are safe? I'm really, really worried about safety. This report goes on to say that, while it may be true that some of those who do live at BSDC may have unique care considerations and face more barriers to placement than others, this does not mean that they cannot be placed with appropriate protections. And then it goes on and talks about the rural areas of our state

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and how some folks can't be placed back in their communities per se because the services aren't there. I hope that this committee that we are going to establish by resolution will be able to work soon and will be able to oversee and find out exactly... [LB959]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR SCHIMEK: ...what's going on as we process through this whole problem. Mr. President and members, I think this has been a very, very good discussion this morning and afternoon. I think it's worth staying for. And I think we're going to have to put in many more hard hours of talking and thinking about it to get it resolved in a satisfactory manner to everybody, so that once again we can say that we are proud of the kinds of services that are available at Beatrice for families who really need them and have nowhere else to go. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Johnson, you're recognized, followed by Senator Avery. Before we do that, Mr. Clerk, items? [LB959]

ASSISTANT CLERK: Mr. President, one item: notice of hearing offered by the Executive Board. [LB959]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Now returning to discussion, Senator Johnson, you're recognized. [LB959]

SENATOR JOHNSON: Mr. President and members of the Legislature, it has been a good discussion today. I think that I and maybe all of us need to caution one another that we can't just stand up and call attention to these great problems. These problems are there, they're not new. We have many of the same problems here as we have in the mental health system. The question is moving from an institutional-based system to a community-based system--sounds easy; it isn't. And I think it may actually be more difficult here because so many of the people with the developmental disabilities aren't going to get better. With the mental health problems there are medications that do help a large portion of these people, and so it does make a difference and they can be moved to a community-based system far more easily. However, having said that, one of the things that is true both places is that you need trained personnel. And this has been one of the faults. Down at Beatrice we have not spent the money that we need to, to attract good workers. There certainly is a relationship to the pay that you give to the quality of people that you receive. We also need to train them. One of the casualties of my back operation this year, however, I want to ask you to seriously consider next year, because I think it is extremely important. And what it is, is this, is that we were in the process of trying to put together a program for mental health worker training. This is not just for psychiatrists and psychologists, but we're talking the whole gamut. Psychiatric social workers certainly were a very important part of this. They are virtually nonexistent

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west of the metro area here in eastern Nebraska. We have to do better. There is not a psychiatrist between Kearney and Scottsbluff. But there is hardly a mental health worker from the social worker standpoint there as well. We have to do better if we're going to go to this community-based system. So I would ask next year that you seriously consider how we can alleviate this problem. It is a must thing that we have to do. One...just a couple more comments, and what it is, is this, is I guess I feel quite good about the fact that we reorganized Health and Human Services last year. One of the things that we have in place now is we know the chain of command and who is responsible. With that, I think that lends itself very much... [LB959]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR JOHNSON: ...to being able to correct this problem. And the last thing is, I guess, I want to support Senator Flood's resolution as well. I think it's extremely important in both of these areas. And, I guess, in closing I'd just say we can and we must do better. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Johnson. Those still wishing to speak, we have Senators Avery and Aguilar. Senator Avery, you're recognized. [LB959]

SENATOR AVERY: Thank you, Mr. President. I've been reading the Justice Department investigative report and, quite frankly, I feel sick after having read through the numerous instances of neglect and abuse, failure to take corrective action. It seems that every page had another shocking revelation. What was equally disturbing to me is the finding that the facility has not taken corrective action to ensure effective risk management. I visited the Beatrice center last year. And I remember being told quite emphatically by people who were there representing HHS and people at the Beatrice center, being told emphatically that actions were being taken to correct the problems that have been identified and that by the time the next on-site inspection occurred the problems would be corrected and the funding would not be in jeopardy and the patients would be taken care of and taken care of properly. That turned out not to be true. I attended a briefing last Monday at the Governor's residence where we received a five-point action plan to do something about the problem at Beatrice. I asked a question about what criteria would be used to move patients to community-based facilities. The answer was encouraging, and it was really the only answer, and that answer was that, first and foremost, we will get the permission of the parents and guardians before anybody is moved. I learned today that that's not necessarily true, and I don't like that. That bothers me a lot. Parents are worried. Many of those patients, as you know, are profoundly disabled. If the parents are not consulted or if the parents don't give consent, it is possible that some of those patients will be moved anyway. I find that unconscionable. And I have, by the way, two constituents with children at Beatrice, and they are terrified. They are terrified about what will happen to their children. They can't live at home. They're only there because the parents had no alternative. And they are worried about

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not being properly consulted if those children are forced to go to a community-based facility. We have a moral imperative, this body, this administration, this state, we all have a moral imperative to fix this. It is shameful and it must not continue. I applaud Senator Rogert and Speaker Flood for bringing this action to us. I think Senator Flood's proposal is creative, it offers us a way to come up with a long-term solution. But I think it is absolutely essential that we pass the Rogert amendment because it gives us a chance to do something now. It will not be a permanent fix, obviously, but it gives us a chance to do something now and we must do it. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Aguilar, you're recognized. [LB959]

SENATOR AGUILAR: Thank you, Mr. President, members. I rise in support of not only the resolution but also this legislation in front of us today. I want to thank those specific senators who brought this...these ideas to the floor to expedite damage control that sits in front of us today. But I want to take it a step further and also thank the senators that brought this issue to the floor originally. Sometimes you have to do things that you don't really want to do, but you need to get attention of the body, get attention of the people. And that certainly was accomplished by that. I think everybody shares the same feeling, is, okay, now we know, let's fix it and let's not let this ever happen again. I encourage everyone here that has a state care agency anywhere in their district to visit that and visit it on a regular basis as long as you're in office. You don't need an appointment. You could go any time, just drop in and don't be afraid to ask the hard questions while you're there. Talk to the patients, talk to the workers. Find out the extent of mandatory overtime, any other problems that you've heard that's going on in Beatrice. Talk to them. We need to fix this as quickly as we can. Some of those people have suffered long enough. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Aguilar. Senator Engel, you're recognized. [LB959]

SENATOR ENGEL: Mr. President, members of the body, I think we've been going on probably long enough on this, so I'm not going to take a lot of time. But this problem has been going on for years and years, since I first became appointed to the Legislature. There always has been a long waiting list and as many of those came up at that point in time where families were taking care of their own children, so they didn't even know they had a problem until they couldn't do it anymore, then they had to find a placement for them. So this has been going on for years and years and years. And one thing, as far as I'm concerned, as far as employees, trained employees in the right places, it should be on supply and demand. Like I agree with Senator Johnson that you have to have trained employees in the situation down at Beatrice. And even according to the employment contract, they can pay merit and bonuses for those types of employees, even though some say, well, there's going to be animosity because of all the other

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employees. Well, I don't think we should take too much stock in that because they do not have that specific training, and we have to have specifically trained people for these special people because they do need it. And the thing is I do believe that we've revamped the Health Department before. We thought we were on the right track and certain things were straightened out, but it didn't do the job. So now we've got done it again. And I think we should let them, with this task force that we're going to form here, we're going to have a meeting next Thursday to...as far as the hearing in my committee as far as getting that out on the floor so we can vote on it and then appoint the people as soon as possible and get going on it. So with that happening this year and with the revamping of the Health Department, I think, let's give them a chance and let's get something done instead of spending all this time talking about it. So I think we've talked long enough and I think everybody has been heard and let's just go on forward. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Engel. Seeing no other lights on, Senator Rogert, you're recognized to close on AM2451. [LB959]

SENATOR ROBERT: Thank you, Mr. President. Thank you, members of the body, for this lengthy and healthy discussion today. And I very much appreciate it. I want to thank several people. We've gone on this a little while, but I want to thank Speaker Flood for his resolution, and then Senators Gay, Howard, and Heidemann for their help on helping me work these things out, and also the Fiscal Analyst's Office, and several other people around the body. I think this is the right thing to do. It's a good start. It puts money into a fund to help solve the immediate problem of low staffing and untrained staffing and quality staffing down at the Beatrice center. It's going to be a long process and a lot of things we have to look at and go through, and some of them aren't going to be...a lot of them aren't going to be very fun. But this is an opportunity for the Legislature to extend a hand out and offer our support to the administration and to the Beatrice Development Center and the residents of that community. So with that, I urge your support of this amendment. And I thank you, Mr. President. I'll ask for a call of the house, please. [LB959]

SENATOR LANGEMEIER: There's been a request for a call of the house. 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. [LB959]

CLERK: 34 ayes, 0 nays to place the house under call. [LB959]

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 Kopplin, could you please check in? Senator Aguilar, would you please check in? Senator Chambers, the house is under call. Senator Rogert, how do you wish to proceed? [LB959]

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SENATOR ROBERT: Machine vote, please. [LB959]

SENATOR LANGEMEIER: All members are present and/or accounted for. There has been a request for a board vote. The question before the body is, shall AM2451 be adopted to LB959? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? There has been a request for a record vote. Record, Mr. Clerk. [LB959]

CLERK: (Record vote read, Legislative Journal page 1055.) 44 ayes, 0 nays on the amendment, Mr. President. [LB959]

SENATOR LANGEMEIER: AM2451 is adopted. With that, I raise the call. Mr. Clerk, the next motion. [LB959]

CLERK: Excuse me, Mr. President. The next amendment I have, Senator Heidemann, AM2437. (Legislative Journal page 1037.) [LB959]

SENATOR LANGEMEIER: Senator Heidemann, you're recognized to open on AM2437. [LB959]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. This is kind of continuing on with the subject that we have been on. This amendment, as the patients are moved out of Beatrice, into the community setting this will allow the money to move with the patients. This is actually somewhat modeled...this is modeled off of LB1083; when the patient is moved, the money goes with them, enough money to support the patient in the community setting. Also, because of some conversations that we had in Appropriations when we talked about this amendment, there also is some intent language in this amendment that the Health and Human Service would report quarterly to the Governor and to the Legislature as these funds are being transferred, and how they're being transferred, and what they're being transferred for. I urge your support of this amendment. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. You have heard the opening on AM2437 offered to LB959. The floor is now open for discussion. Those wishing to speak, we have Senator Synowiecki, Nantkes, Schimek, and Rogert. Senator Synowiecki, you're recognized. [LB959]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier, members. I support the amendment. I just felt kind of compelled, when I seen this coming, to warn that this is a very slow and deliberative process, moving individuals out of institutions to the community. The Chairman of the Appropriations Committee remarked that this kind of mimics LB1083, what we did in behavioral health. I'll remind the body that that bill

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passed in 2004 and we're still not done. With all the best efforts of the regional center and the community-based people working together in a collaborative nature, we're still not done. You're talking about a vulnerable population. It's very difficult to go through this process. There is capacity issues, there is vulnerability issues, there is all sorts of issues as we work through this. Even with what thought was a well-thought-out plan for the...on the mental health side of this, with a lot of deliberation by the Legislature in cooperation with the executive branch, even with those best efforts going forward, we're still four years into the reform and we have, I believe, 30-something patients remaining at the Norfolk Regional Center. Obviously, those patients have some profound and persistent mental illness issues and are very difficult to place in a community-based setting. So I just don't...I don't want the Legislature...I don't want the members of the Legislature to think this is going to be an easy...Senator Rogert's amendment represented kind of a short-term approach that the Legislature can do. This is the long-term part of it. This is going to be long-term, it's going to take a long time. You can't just take one patient out of an institution and have that money automatically follow one patient, because within the ward or within the setting of the institution you still have staff fixed cost, you still have fixed cost relative to heating and air conditioning. And not only that, if you extract two or three patients, the remaining patients on that ward need staff attention. So this is going to be a real long-term process. You're talking about fixed costs within the institutional setting. And if we try to mimic LB1083, I just want to remind members, that this will be a long-term process. This is going to take a lot of deliberation, a lot of effort. And as I indicated, LB1083, our mental health reform, we're four years into it; we're almost done, but we're not there. So I think what the Chairman of the Appropriations Committee brings us is kind a long-term approach to this with some legislative oversight. I think Senator Rogert's is more of a short-term approach. Thank you, Senator Langemeier. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Nantkes, you're recognized. [LB959]

SENATOR NANTKES: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of AM2437 and I'll tell you (laugh), that comes after considerable reservation. I think again in the best traditions that this body offers we've had a chance to take a moment to reflect upon what's appropriate for the short-term and the long-term as we move forward. And I do feel that his legislation helps to provide some guidance in terms of long-term objectives. I do want to be painfully clear, though, for the legislative record, as we move forward, that while this amendment does help to map out where we think we may be able to go to help address some of the issues surrounding the developmental...or services needed for individuals with developmental disabilities, that we need to proceed with caution. We need to ensure all stakeholders have a place at the table and are heard in a meaningful way. And we need to make painfully clear to the department that this part does not provide a blank check in terms of moving forward and a diversion of resources. And we need to ensure that community-based providers have

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appropriate capacity to deal with any of these transitions, if deemed appropriate down the road. And we need to again remember that this is one important component in the larger picture--one, ensuring appropriate resources are there in Beatrice; two, ensuring appropriate capacity is available within the community; and three, ensuring this body and other stakeholders on this issue have meaningful oversight as we move forward and continue to do the hard work on these issues. So with that, thank you, Senator Heidemann, for bringing this. And thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Nantkes. Senator Schimek, you're recognized. [LB959]

SENATOR SCHIMEK: Yes, thank you, Mr. President, members. I don't intend to take much time. But I just wanted to ask Senator Heidemann a couple of quick questions, if I could. [LB959]

SENATOR LANGEMEIER: Senator Heidemann, would you yield? [LB959]

SENATOR HEIDEMANN: Yes. [LB959]

SENATOR SCHIMEK: Senator Heidemann, you may not know the answer to this question, but I'm going to ask it anyway. Do we have any idea what the difference is in cost between, say, being housed at Beatrice and being housed at another appropriate facility? Do you have any idea about that right now? [LB959]

SENATOR HEIDEMANN: I think it's half. [LB959]

SENATOR SCHIMEK: It's about half to go into the community-based facility? [LB959]

SENATOR HEIDEMANN: Approximately, and there's probably some variables with that too. [LB959]

SENATOR SCHIMEK: I want to follow up on that just a little bit because, if we do that, I assume that the kinds of programs that the Justice Department said we weren't doing a good job of providing at Beatrice would still have to be provided at these other kinds of facilities. How can we do them so much cheaper? [LB959]

SENATOR HEIDEMANN: You might have me on that one. I couldn't...I wouldn't want to go there. [LB959]

SENATOR SCHIMEK: And I...I'm not trying to test you here, I'm just curious. I'm kind of raising the questions because you would think that a smaller facility with only three, or four, or five people in it might actually cost more when you think about the kind of services that really do have to be provided. So another...another...maybe this is more a

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rhetorical question. Maybe you don't even have to answer it. But I want to follow up on what Senator Synowiecki said, and at what point do we get to the point where the fixed costs are so much a part of the budget that the cost per patient starts going up at Beatrice? Do we have any idea at what point it is not practical...and I shouldn't even ask it that way, because we want to do what's best for these patients. But is there some point at which the fixed costs then go up at Beatrice enough that cost per patient goes up a lot? [LB959]

SENATOR HEIDEMANN: I'm not for sure what the makeup of the billing is. You know, Hastings is an example where everything is tied together so it's harder to shut them down in sections. I believe that Beatrice is a little bit different than that...what it would be...you would be able to do that a little bit. Where that magic tipping point is, I'm not for sure. It might that 200, what they're shooting for. I'm not for sure. [LB959]

SENATOR SCHIMEK: My hope is that these kinds of questions are the questions that the Appropriations Committee, the Health Committee will ask and will continue to ask as we go through this process. Because I don't think any of us know. And, Senator Johnson, you're signaling that you might like to respond to my questions a little bit? Thank you, Senator Heidemann. [LB959]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB959]

SENATOR JOHNSON: No, I just thought it would be appropriate to mention one thing. First of all, the people that are going to be transferred out to a community-based service, they're going to take the easy ones. And so Beatrice...facilities like Beatrice are still going to be left with the more complex people that require more care. There is only one other real facility like Beatrice state home, and that's Mosaic in Axtell, which has been in existence since about 1930. [LB959]

SENATOR SCHIMEK: Right. [LB959]

SENATOR JOHNSON: And...but their being a religious run organization, I think that they might say that the state underpays them and then counts on donations from different religious organizations or individuals who, you know, feel kindly towards this kind of care. So probably the state gets a... [LB959]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR JOHNSON: ...bargain there that makes the figures a little bit skewed, so... [LB959]

SENATOR SCHIMEK: Thank you. And let me ask you a follow-up question. Does that Mosaic facility go through the same kind of process that Beatrice has been through as

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far as... [LB959]

SENATOR JOHNSON: I can't say that with any great certainty, but I would think that they would. One little thing about it, Senator Schimek, is this: One of the things at Beatrice that they want it to be is more like a family setting, so they each have their own kitchen and so on. They had one central kitchen down in Beatrice. Mosaic has kind of had this type of atmosphere since its start some 80 years ago. [LB959]

SENATOR SCHIMEK: Thank you, Senator Johnson. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Rogert, you're recognized, followed by Senator Carlson. [LB959]

SENATOR ROBERT: Thank you, Mr. President, members of the body. I rise in support of this amendment. And I also rise to assure you that I think this is a part of a three-step plan to help solve the problems. We've got the amendment we just passed, this amendment here when we pass it, and then the commission or the committee that's formed by the resolution that Speaker Flood passed out. In regard to Senator Synowiecki's and Schimek's concerns, I think that's one thing that this committee can watch over and make sure that these things are done in a little bit, you know, they're done correctly and they're done efficiently, with the right...the right money going the right place. And I just urge your support of this amendment. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Rogert. Senator Carlson, you're recognized, followed by Senator Pahls. [LB959]

SENATOR CARLSON: Mr. President, members of the Legislature, I also rise in support of AM2437. Listened to good remarks by Senator Pankonin earlier that encouraged us that, when we make decisions, if we do the right thing we really don't have to look back. And I go back to debate and discussion on LB1094, and certainly we talked about the right thing to do to pay these people in the Republican Basin that hadn't been paid. And very much appreciate the response of the Legislature to that dilemma. And so here we have another thing that we're grappling with as to what the right thing to do is. And certainly that's what we want to do. I would like to address a question to Senator Heidemann, if he would yield. [LB959 LB1094]

SENATOR LANGEMEIER: Senator Heidemann, would you yield? [LB959]

SENATOR HEIDEMANN: Yes. [LB959]

SENATOR CARLSON: Now you either made this statement, or maybe Senator Synowiecki did, but I want to make sure that I'm understanding this and kind of on the

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same page with you and probably many others in there. Talked about, in moving patients, residents from Beatrice to another setting, the money follows the patient. Did you say that or did Senator Synowiecki? [LB959]

SENATOR HEIDEMANN: I actually said that. [LB959]

SENATOR CARLSON: Okay. [LB959]

SENATOR HEIDEMANN: I opened. He might have reiterated it, though. [LB959]

SENATOR CARLSON: Well, Senator Synowiecki then talked about fixed costs. And certainly if someone moves from Beatrice to another setting, I think maybe we need to think in terms of money follows them, not necessarily the money, because we haven't released any responsibility from Beatrice by somebody moving away to another place of residence, unless it's a lot of people. I think the costs at Beatrice remain the same. And so it's new money that follows the resident as they leave Beatrice rather than the money. And I believe we need to keep that in mind as we make this decision. I'm okay with that. If I'm labeled as a spender, as long as we're doing the right thing, that's okay. I think another important aspect of this as we move along, if you look at Senator Rogert's amendment that we passed, about 60 percent of the funding comes from the federal. And so this has got to remain and be a partnership between state and federal. We need the support of our two U.S. Senators, we need the support of our three Congressmen, and we need to work together on this, and they need to be brought into this in whatever way is appropriate, and together we work to solve the problem. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Pahls, you're recognized. [LB959]

SENATOR PAHLS: Mr. President, members of the body, I must admit, I have not read the federal reports as in-depth as some of you have. But to me, it indicates that there are a number of these individuals who do need to be removed from the Beatrice center. That's what one of the issues is, we need to do that. See, I see this as a parallel with special education. A number of years ago children were basically housed in schools. The federal government stepped in and said, no, no, you can't treat children like that. So we really had to take a look at the needs of the various students that we were involved with. We sat down with the parents, psychologists were involved. It was a lengthy...every time a student needs a different change of venue, we need to sit down and a number of people are involved. And I can tell you right now it involves a lot of time, and it will take probably several years for this process to complete itself. But I can tell you the cost we must admit will go up. I know right now some of you are concerned at times how the money or the budget for special education continues to increase. That's what happens. If you provide the right and the correct services for individuals, whether they are the ones who we are talking about now or students, the costs will go

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up because those people have needs that are much more...they require many more dollars than people such and you and I. So we need to really face that up front, not just talk about it, but knowing that this will occur. Costs are going to increase because if the individuals need to be placed in the appropriate situation, it's going to cost more than keeping people in a building or buildings. It's a matter of fact. It is the same way in education. It's much easier to say all 25 children are going to be treated the same. It just doesn't work that way. Because when you start looking at 25 children, all of a sudden you have 3 or 4 children who need speech therapy, who need some special ed, resource room, need paras. And some of these children that we have in our schools are what I call children of very high needs. You ought to go visit some of the schools and you'll be surprised. You might think in some of the schools we actually have hospitals. So sometimes when we talk about the funding of schools, it's much easy...to me it's very easy to sit in here or drive down the road and say, well, gee, this should happen, this should happen. But unless you're really in there taking a look at the needs...I know some of you said you visited the center. I applaud you on that, I did not. But I'm asking you also to go to some of the schools and see some of the needs of some of the students. And you may be surprised why one student may need a para all day long because some of the things that they're doing in Beatrice they're doing in some of the schools. So keep that in mind. I think the appropriate placement for these individuals, and we're all for that, at least that's what I'm hearing everyone say today, in the long run something tells me it's going to cost more money. And I think that's one of the things that the federal reports are saying...not just about abuse, but they were saying that the people, the individuals, were not placed in the correct facilities. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Seeing no other lights on, Senator Heidemann, you are recognized to close on AM2437. [LB959]

SENATOR HEIDEMANN: I appreciate the discussion and the debate. I urge your support on AM2437 to LB959. [LB959]

SENATOR LANGEMEIER: You have heard...thank you, Senator Heidemann. You have heard the closing on AM2437. The question before the body is, shall AM2437 be adopted to LB959? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB959]

CLERK: 37 ayes, 0 nays, Mr. President, on the adoption of Senator Heidemann's amendment. [LB959]

SENATOR LANGEMEIER: AM2437 is adopted. Mr. Clerk, next motion. [LB959]

CLERK: Senator Kruse would move to amend with AM2450. (Legislative Journal page 1038.) [LB959]

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SENATOR LANGEMEIER: Senator Kruse, you are recognized to open on AM2450. [LB959]

SENATOR KRUSE: Thank you, Mr. President and colleagues. Well, we've been through a time of heavy lifting. Take a deep breath. (Laugh) This will be quick and easy. The amendment adds intent language directing that the Department of Roads, when it makes a report on transit funding for handy vans and buses, provide that report in a more detailed way to the Appropriations Committee than has been done. Again, the report is already directed. We're just asking for more detail in the report. Roads says this is a very good way to go. There was a hearing; there was no opposition, unanimous out of committee. I urge that we adopt it. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Kruse. You have heard the opening on AM2450. The floor is now open for discussion. Seeing no lights on, Senator Kruse, you're recognized to close. Senator Kruse waives closing. The question before the body is, shall AM2450 be adopted to LB959? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB959]

CLERK: 32 ayes, 0 nays, Mr. President, on the adoption of Senator Kruse's amendment. [LB959]

SENATOR LANGEMEIER: AM2450 is adopted. Mr. Clerk, next motion. [LB959]

CLERK: Senator Rogert, AM2367...AM2361, excuse me. (Legislative Journal page 1037.) [LB959]

SENATOR LANGEMEIER: Thank you. Senator Rogert, you are recognized to open on AM2361. [LB959]

SENATOR ROBERT: Thank you, Mr. President, members of the body. I appear to be standing between us and a few basketball games, so I will be brief and we can move along. Before you today is an amendment to LB959, which provide you an additional \$500,000 to be deposited in the Community Aging Services Aid Fund. The Appropriations Committee has already recommended an additional appropriation of \$250,000. Thus, if we adopt this amendment, the total amount in additional dollars appropriated to the program would be \$750,000 additional for this coming biennium. The purpose of these funds is to sustain important community aging services in Nebraska, funds that support a program to assist our senior citizens in maintaining health, improving the quality of life, and being able to live independently but, more importantly, to do so with the dignity and self-respect the remaining years of their retirement. Nebraska's eight Area Agencies on Aging are regionally located throughout the state and have been designated to be responsible for developing a comprehensive and coordinated system of community aging services that provide meals at senior

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centers, as well as care management and support services. The largest of these services are meals available at senior centers. It's been demonstrated in fiscal year 2007 that over 19,000 people participated in this program. Care management means...is a means to provide for personal care, homemaker services, home delivered meals, and an emergency response system. Caregiver support services include respite, counseling services, and training for family care providers. Over the past few weeks we have all received numerous visits in our legislative offices from individuals across the state advocating for the appropriation of more funds for these services. I believe that they have made a sufficient case as to why it's important that we fund this program as much as we possibly can, if and when we can. And under the present circumstances, not only is it appropriate, not only is it possible, but it necessary in order to avoid the costs associated with long-term care in nursing homes and to contain Medicaid spending in our state. The unintended consequence of not making an attempt to fund such a service is that senior citizens are going to have to front the costs associated with these services, especially from a sector of our population that has a very modest means of income, most of them under 150 percent of the poverty level. And that chance increases with each admittance of an individual to a nursing home. If we do not show some credence to their cost, if we do not demonstrate that we understand the importance of their predicament then we are leaving this at a vacant doorstep of an agency with no other means to fund their services, except from those persons who are in the most need of those funds. It's important to note that state funding often sets the precedent and the pay for local (inaudible) costs. In addition and in comparison with other services administered through the Health and Human Services Department, it is well below the par on a standard that applies to the largest sector of our population, a growing sector of our population--the senior citizens in Nebraska. With the last the baby boomer population reaching age 65 by 2011, we are going to see that this will be more of a concern and one that perhaps will deserve more attention and sensitivity from our legislative body in the future. By not providing additional funds, perhaps we think that we are being efficient and fiscally sound. But if our compass is pointed in the wrong direction, these unintended consequences can affect our budget in the future and, even worse, the quality of life for our senior citizens in Nebraska. I ask you to please let us set an example, if only for \$500,000. Let us make a good faith gesture, not only that, let us make movements toward the betterment of our community and show Nebraska citizens that we can indeed provide some sort of reciprocity for their contributions, participation, and stewardship, and to provide them with a sense of respect and the return that each individual is entitled to before the age of their retirement. If we can continue to maintain the commitment we made in 1987 and 1989, when this program was enacted and implemented, to ensure the delivery of preventative programs that ultimately keep individuals out of nursing facilities, we can maintain control of the other components of our budget which our placing individuals in nursing facilities will directly impact. That being said, I encourage members of the body to look over the materials distributed by AARP and carefully review them. It is my understanding that AARP brought a proposal to the Appropriations Committee to move \$7.5 million into this

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program from another program that had this remaining amount. Let me remind you once again that this amendment provides for \$500,000 in additional money. And it is my hope that the members of the Legislature will consider this proposal. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Rogert. You have heard the opening on AM2361 offered to LB959. The floor is now open for discussion. Those having their lights on and wishing to speak, we have Senator Howard, Carlson, Wallman, White, Heidemann. Senator Howard, you're recognized. [LB959]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I support this amendment that Senator Rogert has brought us. And I remember last year, late at night, when we were trying to save the money for our seniors, the money that had been removed from the budget, and that was a very difficult night. And, unfortunately, we were unsuccessful and that program took a hit and has been trying, trying to manage on a very limited amount of money and a very great need. And that night a year ago I read a letter from a constituent, a 92-year-old woman named Carrie Mae Jones, who wrote to me and pleaded that we not take away the funding for the Meals on Wheels Program. She said how she and others that she knew relied on this program for the food and for the companionship that came with the food. This year, this year I had a visitor in my office a few weeks ago, Carrie Mae Jones, who is now 93-years-old. She'd come to see me, and she came to ask me in person if I would stand up for her and support the programs that allowed senior citizens to continue to live in their own homes. And I brought her up on the floor and I had her introduced. And I think she indicated to me it was one of the biggest thrills in her life to be recognized by this body. I say if we can spend a quarter of a million dollars to study a problem, as we did yesterday, surely we can spend enough money to take care of our seniors. And I want to say to Carrie Mae, if she's listening to me today, I hope that you come and see me next year when you're 94. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Carlson, you're recognized. [LB959]

SENATOR CARLSON: Mr. President, members of the Legislature, is Senator Rogert available that he could address a question or two? [LB959]

SENATOR LANGEMEIER: Senator Rogert, would you yield? [LB959]

SENATOR ROGERT: You bet. [LB959]

SENATOR CARLSON: Senator Rogert, you went through that speech pretty quickly. Reminds me of the follow up on a commercial, when you got to put those disclaimers in there, part of what you said. So I missed a little bit of it. [LB959]

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SENATOR ROBERT: Okay. [LB959]

SENATOR CARLSON: I want you to repeat, if you would, some of the things that these dollars are used for. That's one question that I have or request. The second is a question. And I don't know if you know the answer to this. But how is this money distributed? And I have a concern for senior citizens in rural Nebraska. I'm guessing that in the small towns in rural Nebraska maybe a higher percentage of senior citizens utilize services than maybe in the more densely populated areas. And they have a concern about, for many people, that's their only way to get out and about and be social. And it's a great opportunity, so we want...I don't want to see those people shortchanged. I don't know how this money is dispersed. And if you have that answer, I'd appreciate it. [LB959]

SENATOR ROBERT: Senator Carlson, by golly, we do have it. Okay. I'll kind of go backwards. And it looks like it's pretty evenly dispersed, all the money. Okay. Were you asking on the age of the population, how...who gets it, or are you talking about which of the aid agencies get more money? [LB959]

SENATOR CARLSON: No, at the very start of your testimony you said these dollars are spent... [LB959]

SENATOR ROBERT: Yeah. [LB959]

SENATOR CARLSON: ...for various things. [LB959]

SENATOR ROBERT: I'm going to go backwards. [LB959]

SENATOR CARLSON: Would you repeat that. [LB959]

SENATOR ROBERT: I'm going to go backwards on your questions, if you don't mind. [LB959]

SENATOR CARLSON: Okay. All right. [LB959]

SENATOR ROBERT: The question you asked about how the monies are distributed, you're talking about agency versus agency, or age group versus age group? Okay. It looks like it's population based. Eastern Nebraska receives 32 percent; those in your area would receive, each one of those about 10 percent, it looks like, of the total money. But some of the...because I believe it's population based of those who get served. The things that this money is used for, a lot of them would be they'd take meals to senior centers. You know, like you've got the community senior centers; they get meals to those places. There is Meals on Wheels Programs in this. Some of the other things would be homemaker services. I know some of them go around and do winterization of

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homes and those types of things with some of these monies as well, personal care. There's also an emergency response system, respite services, counseling services, and training for family care providers. So those are what mainly is done. I think what most of it gets used for are the meals that go to those senior centers, that then they're free to those people. [LB959]

SENATOR CARLSON: All right. Then this...it may be in another area, but to a lot of the senior citizens in rural Nebraska we've got the bus, the vehicle, the van, whatever it might be, that picks them up and brings them down. Is that a part of this, or is there another... [LB959]

SENATOR ROBERT: That's a part of this as well. [LB959]

SENATOR CARLSON: That's part of it also? [LB959]

SENATOR ROBERT: Yeah. [LB959]

SENATOR CARLSON: Okay, thank you for your answer. [LB959]

SENATOR ROBERT: And you had another question. I wanted to readdress one of the things. You mentioned that a higher percentage of those people in a rural area versus the urban area may use these services. I think probably the busing services maybe, but the meal services, I think, in those urban areas are, if not just as important, maybe more important... [LB959]

SENATOR LANGEMEIER: One minute. [LB959]

SENATOR ROBERT: ...than those that are out in the country. [LB959]

SENATOR CARLSON: Okay. And really what I asked you, I had in my mind the transportation services, because I know that that's a pretty important part. [LB959]

SENATOR ROBERT: Okay. [LB959]

SENATOR CARLSON: Great, thank you. [LB959]

SENATOR ROBERT: Yeah. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator White, you're recognized. [LB959]

SENATOR WHITE: Thank you, Mr. President. I rise in support of this expenditure. This morning we spent enormous amounts of time talking about how the failure to expend

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reasonable sums, even though they're painful and expensive, cost us additional money later. This is an example where we don't have people in facilities, 24-hour-care facilities, that we then have to try to get out. This is the chance to prevent what happened at Beatrice from happening, by keeping folks in their homes where they want to be with additional services and funding. I think the request, given the new spending in this bill for other, to me, much less important issues than feeding elderly, getting them adequate services and support, we're spending millions of dollars of new money in the budget and this is extraordinarily reasonable and very low, in my opinion. Therefore, I urge you to support it and vote for Senator Rogert's amendment. Thank you. [LB959]

SENATOR STUTHMAN PRESIDING [LB959]

SENATOR STUTHMAN: Thank you, Senator White. Senator Heidemann, you are recognized. [LB959]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. This is a tougher one, there's no doubt about it. This isn't easy for me to stand up here and say we need to make sure what we're doing. And that's what I'm doing, I'm standing up here and letting you know we need to make sure what we are doing. I handed out the history of Community Aging Service Act, CASA, and if you want to follow along with me, it would be probably some good information. I don't know how much more we're going to talk about that after that. But as long as you know what we're doing and the impact of this, make a good informed vote, I'm okay. The problem with this is not, in my mind, from the state. If you look at the federal fund percent change from the year '04, you can see where the problem is at. You go one column over to the left where it says, General Fund percent change, that's state, that's state appropriations. And you can see we're trying to pick up what the federal people are not funding. In the year fiscal '08 we bumped it up by 9 percent to try to make up for those lost federal funds. This year there was a group, there was various people that came in and talked to us and let us know how important this work is to them. We agreed with them. And because we agreed with them, we give them \$250,000 more, which is a 5...at least a 5 percent increase, taking it up to a 14 percent bump in the year...fiscal year '09. What I want to point out to you, if you do this, a \$500,000 increase on top of what we've already done, will take it from a 14 percent increase to a 24 percent increase in fiscal year '09. Even though I do believe this is a good program, they do good work, I don't know if this type of percentage increase of appropriation to this program is sustainable. I urge caution. Thank you. [LB959]

SENATOR STUTHMAN: Thank you, Senator Heidemann. Senator Karpisek, you are recognized. [LB959]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I'd like to thank Senator Rogert for bringing this forward. I had talked to AARP and said I would carry

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the amendment if they couldn't find someone better, and obviously they did. So I'm glad of that fact. We have Saline County Elder Care in Saline County, obviously, in Wilber. They do a wonderful job of keeping people in their homes, getting them what they need, visiting with them. It's a wonderful, wonderful program. My grandparents have been involved with it, I've been involved with it. But their budget does not go up enough every year. As I understand it, the \$7.5 million that was requested was actually an over budget on the homestead exemption. So if we went from \$7.5 million over budgeted on the homestead exemption and now they come back and ask for 500,000 more dollars to put into their account and we can't do that, I think that's shameful. There is \$7 million that was over appropriated that is going to help our budget crunch. I don't think \$500,000 is unreasonable. If I'm wrong, I will stand corrected, but I think that's where that money came from. And that's why they asked for the whole amount. So is this...I feel this is their money in the first place. It was budgeted toward homestead. If they would have taken it all, it would be gone. There wouldn't even be fight over it. It would be gone and we wouldn't have to worry about it. So I ask that the body would move \$500,000 of money into the aging to help them out. It's good for us in the long run. It's going to save the state money. With that, Mr. President, I'd like to yield the remainder of my time to Senator White. [LB959]

SENATOR STUTHMAN: Senator White, you have 2 minutes and 44 seconds. [LB959]

SENATOR WHITE: Thank you very much, Mr. President. Thank you, Mr. Karpisek, and I pronounced that correctly, did I not, sir? [LB959]

SENATOR KARPISEK: No. [LB959]

SENATOR WHITE: No? Karpisek? Okay. Thank you. Senator Heidemann, will you yield to a question? [LB959]

SENATOR STUTHMAN: Senator Heidemann, would you yield to questions from Senator White? [LB959]

SENATOR HEIDEMANN: Yes. [LB959]

SENATOR WHITE: Senator Heidemann, I spent a large part of last week and the first part of this week talking to the Fiscal Office. They assure me--assure me--they know of no loose funds anywhere in the \$877 million that we could use to pay for this particular bill, in order to keep old people in their homes, properly fed and off of the Medicare rolls. Do you agree with that? Did they accurately describe the reality when they told me they knew of no lapse funds or other funds that we could take today to fund this particular program? [LB959]

SENATOR HEIDEMANN: I would have to think that, you know, as you came in and

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made that request, that would be their current assessment. I would say that with so many cash funds, Senator, it would take days and weeks and months to go through every cash fund to figure out what was happening. And this summer, before we start working on our next biennium budget next year, they will do that. They will have the time to do that through the summer. But I'd say right now that they wouldn't have the proper amount of time to go through those cash funds to figure out what was accessible and what was not. [LB959]

SENATOR WHITE: Did HHS just find \$1.2 million to help the situation in Beatrice, and how long did that take, Senator? [LB959]

SENATOR STUTHMAN: One minute. [LB959]

SENATOR WHITE: We don't need all of the funds. I just need to find \$500,000 for this particular need at this time. Is there anywhere that you are aware of where \$500,000 in loose change is floating around in the agencies that we can use to help the elderly? [LB959]

SENATOR HEIDEMANN: Not that I'm aware of. [LB959]

SENATOR WHITE: Thank you very much, Senator. Thank you, Senator Karpisek. [LB959]

SENATOR STUTHMAN: Thank you, Senator Karpisek and Senator White and Senator Heidemann. Senator Hansen, you are recognized. [LB959]

SENATOR HANSEN: Thank you, Mr. President. After we talked about this last year during our budget override evening, I went home and I talked to my local area on aging, and we sat down and it took a little while, but we went through the list of standard payments, standard payments to those areas, and then the optional list. And it's just like Medicaid, where we have a mandatory list and an optional list of services. It's just like LB988 now, where we have new services, we have what we've done in the past, and now we have new optional services. Whether we do this a la carte, or just have the cart run away, I guess, but I think that no one is going...no aged person in the state of Nebraska that has an area on aging now, that has Meals on Wheels, is not going to miss their Meals on Wheels. There's plenty of budget in all these areas. The area on aging in North Platte looked at their budget, cut out some of the optional services, had plenty of money for the basic services, the ones that the people really need and the ones that the people really wanted. We need to look at the list of the standard ones, and I'm sorry I don't have it in front of me, but there is a list of ones that are optional. It shows on this list that...on the sheet that Senator Heidemann set out, it's a 14 percent increase, and with Senator Rogert's amendment, it would be a 20 percent or 24 percent increase. This isn't budget creep, this is budget leap, and I think that I'm going to vote

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against this. Thank you, Mr. President. [LB959 LB988]

SENATOR STUTHMAN: Thank you, Senator Hansen. Senator Louden, you're recognized. [LB959]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. This community-based aging program is probably one of the better things that we've done, as far as government is concerned. This is something that has kept people in their homes, has them with meals that's adequate for them, and has done quite well in the areas, especially in western Nebraska. Also, my understanding, the handy bus system is part of it, the Meals on Wheels that delivers food to their homes, also the senior centers that are operated with a meal once a day. So most all of that I always think has been very positive for everyone in the state of Nebraska, especially the elderly. As we've noticed, some of the numbers have went down for people that are going into facilities under a Medicaid program, and this is probably a case where if you send...spending some money is probably saving us a lot in the long run. I kind of wonder about when you start...how much we're adding. I appreciate the addition of it. I would like to ask Senator Heidemann a question, if he would be available. [LB959]

SENATOR STUTHMAN: Senator Heidemann, would you be available for a question from Senator Louden? Senator Heidemann, would you... [LB959]

SENATOR HEIDEMANN: Yes. [LB959]

SENATOR LOUDEN: Senator Heidemann, is the homestead exemption part of this community-based aging process, or where does the money for the homestead exemptions come out of? Is that a different program? [LB959]

SENATOR HEIDEMANN: That's General Funds. [LB959]

SENATOR LOUDEN: Okay. And how is the situation on that program? Is there a surplus? Are they using all of the money, or is there some left over? How does that come about? [LB959]

SENATOR HEIDEMANN: Hopefully, Tom is listening to make sure that I say this right. In the year '07-08, there was, I believe, \$7 million that was transferred back in. There was a bill passed that enhanced homestead exemptions, and the money was put in to fund that. I think it's the thought that people aren't picking up on this yet to apply for this and access this. Because of that, that money was not accessed in the year '07-08. It was brought back into the General Fund. [LB959]

SENATOR LOUDEN: And that was how much? [LB959]

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SENATOR HEIDEMANN: Seven million. [LB959]

SENATOR LOUDEN: You say \$7.5 million that was put... [LB959]

SENATOR HEIDEMANN: I think \$7 million straight, \$7 million straight, \$7 million straight. [LB959]

SENATOR LOUDEN: Okay. And that's what I'm wondering, because this is all money that's used to support senior citizens, and I'm wondering how this all works out together, but some of that, as you put it into the General Fund and bring it back into this, if it would work that way. [LB959]

SENATOR HEIDEMANN: Well, you have to remember also that once you bring it back into the General Fund, then it's green, it's green, we call it green again and... [LB959]

SENATOR LOUDEN: Well, true. [LB959]

SENATOR HEIDEMANN: ...if you bring it back out of the General Fund, it's a cost. So once you bring it back in, then it's just General Fund money. And if you decide to move it out... [LB959]

SENATOR LOUDEN: I understand how your bookkeeping is, but nonetheless, if there was surplus figured up in there, is that, the reason they aren't using that homestead exemption, is that because probably perhaps some of these other programs like this are either satisfying these people, keeping them home longer, and they perhaps don't have to go into their bank accounts in order to survive, and so consequently they're not eligible for some of the homestead exemption? [LB959]

SENATOR HEIDEMANN: I don't know if you could really tie these two programs together. I think there's some things that are happening with the homestead exemption yet that we can't quite get our finger on what's causing it, and that was the reason that it wasn't lapsed in the '08-09 year. If we would comfortable, you know, then maybe that could happen, but we're not comfortable... [LB959]

SENATOR STUTHMAN: One minute. [LB959]

SENATOR HEIDEMANN: ...with exactly what's happening. [LB959]

SENATOR LOUDEN: Okay, thank you, Senator Heidemann. Usually with the homestead exemption, that's classed on an income amount or assets that you have, and not everyone is eligible for a homestead exemption. But with your senior citizens and your meals...your senior centers and your meals, usually anyone is qualified for that that's passed the age...I think it's 60 or whatever the age is. And the meals are there.

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You have to buy them, but you buy them at a discounted rate, if you can afford to. If not, then there's another setup for them to do it. I think this is probably something that I can support, because I think with our homestead exemption, we probably overplayed that a little bit, and I think there are people that...probably still places out there that could apply for it, but it's quite...a little bit tougher to apply for a homestead exemption on your housing than it is to go down to the senior center and get your meal. So this is something that is a lot easier for people to go do, rather than apply for their homestead exemptions and takes a length of time. [LB959]

SENATOR STUTHMAN: Time. [LB959]

SENATOR LOUDEN: Thank you,...(microphone malfunction). [LB959]

SENATOR STUTHMAN: Thank you, Senator Louden. Senator White, you are recognized. Senator White waives. Senator Wallman, you are recognized. [LB959]

SENATOR WALLMAN: Thank you, Mr. President. You know, I find it ironic. We always say, what does it cost? What does it cost? Anybody priced assisted living? Nursing home? If we can keep a person in their own home for another year, this is one heck of a savings. They pay taxes. A lot of them pay taxes on their homes, they buy their groceries. And I've followed some of these people around that delivered Meals on Wheels, and it's pretty neat to visit with these people. They're glad to be in their own homes, and transportation, like Senator Carlson said, provided, the handy bus or whatever they call them in your communities. I don't think this is a cost. I think it's a savings, and so that's all. Thank you, Senator Rogert, for bringing this forth, and I will support this. Thank you, Mr. President. [LB959]

SENATOR LANGEMEIER PRESIDING [LB959]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Preister, you are recognized. [LB959]

SENATOR PREISTER: Thank you, Honorable President, friends all. I rise to support the amendment. I know that in my district the program has been very useful. We've been able to help a lot of senior citizens. They have been able to attend the senior centers. They've been able to get some transportation, but the transportation was cut, so a lot of them weren't able to get to those centers, get nourishing meals, get support, get social contact that they would have. And that has hurt. As monies have been cut back, it has impacted the quality of their lives. If we continue to have that happen, we're going to have more of these seniors that will end up in nursing care, and that's a far greater cost to the state. Five hundred thousand dollars would provide--at a nursing home rate of approximately \$30,000 a year is a low rate, but that would be an approximate Medicaid rate that the state would have to pay if one of these folks had to go to a care center, as

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opposed to staying in their home--that looks to me like that would cover and keep roughly 16,000 people out of a nursing home. That's a lot of folks. We could spend the \$500,000, spread it around on all of these services, and keep even more people, I think, out of a nursing home. It's a wise investment, it's cheaper to spend the money for the service now than to have these folks forced out of their homes. We did have the \$7 million savings from the homestead exemption that we didn't use, so we're not taking that money from the homestead exemption program. It was applied for, and everyone who qualified did receive that money. Some seniors are thinking that when that \$7 million was put back in the General Fund and reappropriated, that we were going to cause some folks to lose their homestead exemption. That, I don't believe, is the case. We have a new appropriation for the homestead. As long as folks qualify, they should receive that money. But in this case, I think we will keep more of those folks in their homes with homestead exemptions, and we will keep more of them in their homes by providing support services. It's the same concept we've been doing with mental health reform. We're trying to provide locally based, in-home placement kind of care versus in-patient kind of care--the same concept. If we don't do it, it's contradictory between two different programs. With the elderly, with mental health, I think there should be that kind of consistency--keep people close to home or in their home and provide the support so they can stay there. Thank you. [LB959]

SENATOR LANGEMEIER: Thank you, Senator Preister. Senator Rogert, your light is next; however, there are no other lights, so you could either use your time or close on AM2361. [LB959]

SENATOR ROGERT: Thank you, Mr. President. I'll use this as my closing. [LB959]

SENATOR LANGEMEIER: You are recognized to close on AM2361. [LB959]

SENATOR ROGERT: Members of the Legislature, thank you once again for this healthy discussion. In all reality I wish...I could have used Senator Preister's remarks as my closing. He described almost every reason why we should vote for this. And I thank for all those who got up and talked in favor of it as well. Services to the aging will save us money--lots of money, lots of money in the future. Nursing facilities and the Medicaid that we spend to keep people in there is one of the most expensive things we spend money on out of our budget every year. Preventative maintenance is good and great in almost all aspects of healthcare. Keeping folks in their home, making sure they are eating well, right nutrition, keeping their houses clean, keeping themselves in good shape is the best way to keep folks out of nursing homes and this amendment would give more money to the program that does that. It's a statewide thing; it will help everybody across the state of Nebraska that are eligible for this program, and I see many, many reasons why we should vote for this, instead of holding back. Senator Hansen mentioned that there will be services cut, how though they call them optional services, without the extra money. I think that's still a cutting of services of things that

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are very, very valuable to our community and to our senior citizens. With that, I urge you to vote for this amendment, and I ask for a call of the house, please. [LB959]

SENATOR LANGEMEIER: 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. [LB959]

CLERK: 32 ayes, 0 nays, Mr. President, to place the house under call. [LB959]

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 Carlson, would you please check in? Senator Pankonin, would you please check in? Senator Hudkins. Oh, there she is. Senator Wightman, would you please return to the Chamber? The house is under call. All members are present or accounted for. Senator Rogert, how do you wish to take the vote? [LB959]

SENATOR ROGERT: Machine vote. [LB959]

SENATOR LANGEMEIER: There has been a request for a machine vote. You have heard the closing on AM2361. The question before the body is, shall AM2361 be adopted to LB959? All those in favor vote yea; all those opposed vote nay. There has been a request for a roll call vote in regular order. Mr. Clerk, please call the roll. [LB959]

CLERK: (Roll call vote taken, Legislature Journal pages 1055-1056.) 25 ayes, 5 nays, Mr. President, on the amendment. [LB959]

SENATOR LANGEMEIER: AM2361 is adopted. Seeing no lights on, Senator Heidemann, you are recognized to close on LB959. [LB959]

SENATOR HEIDEMANN: Thank you, fellow members. Thank you, Mr. President and fellow members. We have now just completed our budget package on Select File, and we don't always get...not everybody gets what they want, and probably there's nobody that gets everything that they want. But we're about to move LB959 on to Final Reading. I appreciate all the discussion, all the debate, and it's important that we have that. And I ask that you would support LB959 on to Final Reading. [LB959]

SENATOR LANGEMEIER: Thank you. You have heard the closing on the motion to advance LB959. The floor is...no, it isn't. All those in favor vote aye; all those opposed vote nay. Have all those voted that wish to? With that, I raise the call. Record, Mr. Clerk. [LB959]

CLERK: 32 ayes, 1 nay, Mr. President, on the advancement of LB959. [LB959]

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SENATOR LANGEMEIER: LB959 does advance. Mr. Clerk, next item on the agenda. [LB959]

CLERK: LB1019. Senator McGill, I have E&R amendments. (ER8208, Legislative Journal page 1001.) [LB1019]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB1019]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB1019]

SENATOR LANGEMEIER: You have heard the motion on the E&R amendments. All those in favor say aye. All those opposed say nay. They are adopted. [LB1019]

CLERK: I have nothing further on the bill. [LB1019]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB1019]

SENATOR MCGILL: Mr. President, I move LB1019 to E&R for engrossing. [LB1019]

SENATOR LANGEMEIER: You have heard the motion to advance LB1019. All those in favor say aye. All those opposed say nay. LB1019 does advance. Mr. Clerk, items of the record. [LB1019]

CLERK: Mr. President, a new resolution, LR285, by Senator Aguilar, that calls for an interim study, will be referred to the Executive Board. Education Committee, chaired by Senator Raikes, reports LB1154 to General File with committee amendments attached. Amendments to be printed: Senator Kopplin, LB880; Senator Stuthman, LB766. [LR285 LB1154 LB880 LB766]

And I have a priority motion. Senator Howard would move to adjourn until Tuesday morning, March 25, at 9:00 a.m. []

SENATOR LANGEMEIER: You have heard the motion to adjourn till March 25 at 9:00 a.m. All those in favor say aye. All those opposed say nay. We are adjourned. []