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Floor Debate
March 24, 2011

[LB84 LB204 LB229 LB383 LB600 LB617 LB668 LR40CA LR139 LR140 LR141]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the fifty-first day of the One Hundred Second Legislature, First Session. Our chaplain for today is Pastor Rick Johnson from St. Paul's Lutheran Church at DeWitt, Nebraska, Senator Wallman's district. Please rise.

PASTOR JOHNSON: (Prayer offered.)

SENATOR LANGEMEIER: Thank you. I call to order the fifty-first day of the One Hundred Second Legislature, First 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, Mr. President.

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

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We will now proceed to the first item on today's agenda, General File, 2011 senator priority bills, LB84. Mr. Clerk. [LB84]

CLERK: LB84 offered by Senator Fischer. (Read title.) The bill was introduced on January 6, referred to the Revenue Committee, advanced to General File. I do have committee amendments and other amendments, Mr. President. (AM385, Legislative Journal page 597.) [LB84]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Fischer, you are recognized to open on LB84. [LB84]

SENATOR FISCHER: Thank you, Mr. President and members of the body. Good morning, colleagues. LB84 deals with funding for our surface transportation here in the state of Nebraska. Highways are a statement that society believes in a positive future for its people. Highways are the lifeblood of a community, connecting all segments of

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society to each other. Highways provide for the safe, reliable movement of people, goods, and services, which is necessary for a society to function. Highways grow our economies. Nebraska is a state of distances and we depend upon our surface transportation system for our work, our recreation, our education, our commerce, our health, and our families. In 2007, this body gave me the honor of electing me Chair of the Transportation and Telecommunications Committee. I began my education concerning our surface transportation system in Nebraska--our roads at the state, city, and the county levels. We had much to be proud of. We were meeting our responsibility to maintain and preserve the over \$7 billion investment in our state's system. Our safety record was improving. We were seeing fewer fatalities. But we were at a crossroads and we were slowly slipping into a crisis situation. We were doing better than many other states. I learned from my counterparts in other states of the crisis situations they were facing. Roads and bridges in unsafe, crumbling conditions because of neglect due to lack of funding for many years, and a concern that the federal government had, in effect, maxed out with their funding that they were giving to the states. Almost all states were looking for needed revenue. Nebraska has now reached that tipping point. We are no longer even providing the needed funding to maintain our roads. We are seeing no new needed construction. And we see that major concern, that major problem at every level--at the state, at the city, and at the county levels. In 2007, I was charged by my colleagues to look for ways to fund new road construction and also to maintain our current system. My thanks to our citizens in communities across this state who have worked on this issue for 20, 30 years or more who have patiently and not-so patiently waited for something to begin to happen this year, not next year. My thanks to many of you, my past and present colleagues, who have worked alongside of me in this challenge. My thanks to the Telecommunications and Transportation Committee members who have worked to understand and support this very, very important issue. And my thanks to the Revenue Committee members who advanced this bill so that we may have this vital discussion about the future of our state. In 2009, the Transportation and Telecommunications Committee traveled the state and held hearings in order to listen to our citizens concerning how we fund or do not fund our roads. In August of 2010, my good friend Senator Ashford and I held a transportation funding conference in Omaha, again, to gain more information on this issue and to listen to the ideas of people from across the state. What we heard was support for increasing funding for roads. But the ideas basically suggested increasing the current taxes and fees that we have in Nebraska. In the many conversations that we've had during that time between us, it became very evident to me that Nebraska needed a new plan in order to begin building for the future. That plan is contained in the bill that I bring before you today. The plan is not in competition with other responsibilities of government and certainly not with education. This is not a competition between kids and concrete, kids and concrete. Senator Howard just turned and smiled because we've had that conversation for a number of years that we've served together in here. And I can assure her and all of you that education is a priority for me and I know it is for all of you because education is a priority for this state. We will always vote to support and to provide for the education of

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our children. What this bill does, it sets out a plan and it makes a commitment. What this bill does is recognize that roads are also a priority, a responsibility, a core duty of government. You know, I'm optimistic and I'm enthusiastic and I believe that our economic situation is turning around. So when the state sees that revenues are recovering, I want Nebraska to be ready. I want Nebraska to be ready to begin the road projects that Nebraska communities have been waiting years and years to complete, road projects that are needed in our urban areas in order to make our highway system safe for our traveling public. Now is the time to make that commitment. Now is the time to set that goal and make that investment in Nebraska's future. I believe that we cannot continue to put off this commitment to building our infrastructure. That is a core responsibility of government, it is a core responsibility that we must meet. So now is the time that we move forward and we build a better Nebraska. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Fischer. As the Clerk has stated, there are committee amendments offered by the Revenue Committee. Senator Cornett, you are recognized to open on your committee amendments. Senator Utter, as Vice Chair of the Revenue Committee, are you authorized to open on the committee...I withdraw that. Senator Cornett, you are recognized. [LB84]

SENATOR CORNETT: I apologize. I was in the Speaker's office handling a scheduling issue. The committee amendment adds in the federally designated corridor. It is a very simple amendment that needs to be adopted to LB84. Thank you. [LB84]

SENATOR LANGEMEIER: Thank you very much, Senator Cornett. Mr. Clerk for a motion. [LB84]

CLERK: Mr. President, I have a priority motion. Senator Conrad would move to bracket LB84 until January 4, 2012. [LB84]

SENATOR LANGEMEIER: Thank you. Senator Cornett...or, excuse me, Senator Conrad, you are recognized to open on your motion to bracket. [LB84]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. I rise in support of the bracket motion, and this bracket motion is not filed lightly but I believe is critically important to where the debate goes on this significant piece of legislation. My bracket motion simply would delay consideration of this legislation until next year when we have a more complete picture of where we are in terms of this very fragile economic recovery because those issues are truly at the heart of LB84. A strong infrastructure is important for economic prosperity, growth, and jobs. Senator Deb Fischer has introduced LB84, the Build Nebraska Act, to address this issue. Other legislation meant to achieve similar objectives has been introduced this session by Senator Kathy Campbell. Both senators have an impressive, sincere, and unquestionable commitment

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to improving our state infrastructure. Their efforts should be applauded. At this stage in our legislative session, LB84 has been advanced and it is the only serious contender for consideration. I believe LB84 requires full and fair debate to ensure all potential legal and policy considerations are fully recognized. LB84 is a significant departure from our current infrastructure financing mechanisms and could have serious, negative implications for funding other critical state obligations, like K-12 education, higher education, human services, public safety, the courts, and many, many other areas for 20 years into the future. LB84 is the wrong solution because the economic recovery remains uncertain. Well, what is LB84? Colleagues, I contend to you that LB84 may be the largest earmark in Nebraska's state history. Simple math shows us the original legislation would transfer at least \$125 million or \$140 million from the state General Fund to roads construction. As amended, there are proposals to cap that at \$125 million. No matter how you look at it, simple math will tell you what those numbers add up to. A hundred and twenty-five million dollars over 20 years is a \$2.5 billion earmark. That's \$2.5 billion over 20 years that are not available for education, that are not available for public safety, that are not available for critical human services. How does Nebraska pay for roads? Where does the money come from and how do we stack up? Well, in 2010, Nebraska spent over a billion dollars on roads from all sources--state, local, and federal. And we pay for road construction through user fees not through general tax revenues. Nebraska's infrastructure proudly rates in the top five or ten states each year these comparative analyses are done. The Nebraska Department of Roads indicates that in 2010, in present day, we have a funding gap of only \$34 million. The current needs are assessed at \$350 million. The current appropriation is set at \$316 million. LB84 is an overcorrection of this shortfall by at least \$106 million a year. We will have more time to talk about those impacts in terms of budget. I also believe there are potential legal issues surrounding LB84. It is a well-established proposition and prohibition upon legislative power emanating from the Nebraska Constitution and interpreted through many court cases over the years that one Legislature cannot bind a future Legislature. This continuing appropriation, that spans 20 years into the future, does just that. Appropriations decisions must be made within the budget. It's also important to note what outside observers are saying about this. LB84 is not contained in the Governor's budget or legislative package. In fact, the Governor has clearly stated that we should wait at least a year before pursuing this plan to evaluate our economic recovery. Even some proponents of this legislation acknowledge it may be the wrong time to move forward on such a dramatic proposal because the impacts to other state obligations are serious and unknown. In terms of the gravity of this legislation, I want to provide a few examples. Of course, those in this body and those beyond listening to this debate today are very familiar with one of our state's most significant economic development programs commonly referred to as LB775. I bring this up as a point of example. Based on projected revenue gains or losses from 1987 to present day, there's an estimated \$481 million in lost revenue over 22 years. This, colleagues, is almost triple that amount--\$2.5 billion or \$2.8 billion over a 20-year period. So think of that in terms of the significance and the decisions that you will be asked to make today. Using

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current numbers and based on projections by fiscal staff if LB84 were to be enacted and \$125 million or more per year were earmarked for roads construction, what would that mean? That could mean a potential cut in provider rates for critical human services up to 22 percent. What else could that mean? That could mean a potential cut in K-12 funding education of 18 percent. What does it mean for higher education using current numbers? That could mean a cut of 27 percent to higher education. What does \$125 million or \$140 million equal in terms of our other General Fund obligations? The entire operating budgets of 39 state agencies. Think of the gravity of this situation. Are you prepared to start eliminating agencies when we don't have the money in two years? Are you prepared to eliminate 40? Are you prepared to make cuts to education that equal a fourth of their existing budget? We are having budgetary fights and issues with current proposed cuts that are in this budget that are before us now. And the current proposal before us now utilizes a one-time Cash Reserve transfer of \$260 million that will not be there in the next biennium. And if you care about Nebraska's fiscal responsibility and future, we need to rebuild that Cash Reserve. LB84 will not allow us to do that. There is a variety of policy and a variety of legal considerations that must receive full and fair debate as this legislation moves forward. Again, I applaud Senator Fischer, Senator Campbell, and others who have dedicated their careers to bringing forward solutions to deal with our economic issues surrounding roads and infrastructure needs, nonetheless, LB84 is the wrong solution at the wrong time and we must do better for Nebraska's roads and for Nebraska's future because, indeed, the stakes are that high. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Conrad. (Doctor of the day and visitors introduced.) You have heard the opening on LB84 and AM385, the committee amendment, and the opening on the motion to bracket. The floor is not open for discussion. Those wishing to speak, we have: Senator Hadley, Harms, Flood, Mello, Conrad, McGill, Nordquist, and others. Senator Hadley, you're recognized. [LB84]

SENATOR HADLEY: Mr. President, members of the body, I stand in opposition to the bracket motion and I stand in favor of LB84 and the amendments to come. I have found it interesting. I appreciate Senator Conrad's comments. I thought I listened with quite a lot of attention. One thing I heard...I thought I heard her say, "full and fair debate." Is full and fair debate when you put a bracket motion the very first thing out of the box on a bill? I don't think that's full and fair debate, is it? Secondly, they talk about outside observers. Look at the committee statement: there were 23 proponents to the bill that showed up at the hearing; there was one opponent who was an individual person; there was one neutral who was an individual person. I'm getting all these e-mails from Health and Human Service providers and from education, but they decided not to even show up to the hearing. If there was opposition, why didn't they come in and let the committee know what their opposition was? That's part of our system is the hearings where you get to hear both sides of the issue before you make a decision. No one showed up. Nebraska is a great state--400, 450 miles across, 200 miles from top to bottom held

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together by a network of roads. That's how we get around in Nebraska. We don't have high-speed trains. We don't have light rails. We don't have good bus service. We get around on roads. We need forward planning. We need forward commitment. I'm going to use a terrible pun. We can kick the can down the road. We can be like the federal government and put it off to some future Legislature to deal with roads. That's what Missouri and Kansas did and they found themselves in a terrible situation. We could be like some cities and counties in Nebraska that haven't tried to grapple with their problems and just kick it down the road to the next group. We're term limited. I can sit down and, you know, by the time I'm done here, it'll be a problem but that will be a problem for somebody else. We need to stand up and face this problem right now. With that, Mr. President, I would yield the balance of my time to Senator Fischer. [LB84]

SENATOR LANGEMEIER: Senator Fischer, 2:10. [LB84]

SENATOR FISCHER: Thank you, Mr. President, and thank you, Senator Hadley. I'm sorry that I have not had the opportunity to introduce the amendment that I filed that becomes the bill because of this bracket motion, but I do stand in opposition to the bracket motion and do hope that we can have a full and fair debate on the subject at hand. Hopefully, I will have a chance to speak to the bill specifically, but I would like to point out a few issues that Senator Conrad brought up. I would, with respect, disagree with her that there is a constitutional issue here with a Legislature binding a future Legislature. We do that with TEEOSA. TEEOSA has an escalator clause. We come in every year and we make adjustments to state aid funding based upon the revenue available. What this bill will do is the same thing. If the revenue is not available, future Legislatures will make adjustments. We bind future Legislature all the time. Senator Cornett had a delayed implementation on jail reimbursement. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR FISCHER: We eliminated that program this year before it ever took effect. We bind future Legislatures all the time. Nebraska Advantage--we're using potential revenue that the state could have access to. Angel investing--we're using possible revenue that the state can have possible access to in the future. Innovation, Senator Hadley's bill, we're using potential revenue that the state can have access to in the future. We do it all the time. All those bills I mentioned, I support. I support those. I think they are necessary to grow this state, to grow this economy as LB84 is. I hope to have the opportunity to discuss the bill. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Fischer and Senator Hadley. Senator Harms, you're recognized. [LB84]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in opposition to this bracket motion. I support the coming amendments and LB84. Senator Conrad, who

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I consider a friend and a colleague, we've been together in the Appropriations Committee for five years. One thing we have ignored here is the fact that the concerns that she brought forward, we are in the driver's seat, colleagues. In 2013 when this bill kicks in if we pass it, if there's not enough revenue we'll deal with that issue. We just introduced legislation to address the issue of the funding. This is not a problem at this point. And I don't want you to get confused about that because all of us who are here will have that chance to address this issue. We have to look into the future. And where I live, this piece of legislation is critical to what happens to western Nebraska. I drive on those roads all the time and they are deteriorating. I drive the express...the interstate from Scottsbluff or from the Kimball area to Lincoln. There's portions of that interstate, colleagues, that need to be fixed now. They're bad and we cannot continue to let this structure fall apart. Another concern that I have that's important in this bill is that if this bill does not pass, we have no hope in western Nebraska to connect the Ports-to-Plains highway, which is the highway from Mexico to Canada. This highway is critical for us. And the legislation that we have in here gives us the opportunity to give us some hope to be able to participate. In the future, there will be a lot of movement of trucks and transportation from Mexico to Canada. We have to be able to capitalize on that for rural Nebraska. If we do not have the opportunity to do this, we will not be able to be competitive in a market that needs to be...where we need to be competitive. I would urge you to give this great thought and vote for LB84. I oppose the bracket. I think it's wrong. We don't have the opportunity to discuss this. How can we get into this when you bracket it at the front? This is not open debate, this is not free debate here. And I would urge you, colleagues, to give this great thought. We have a lot of need in Nebraska. And keep in mind that those of us who are going to return have the control of what happens with this legislation. I object to us bringing all these fiscal issues forward. It's great to have it, but remember we control it. And I don't think we're going to let anything happen to our educational system or any other Health and Human Services systems. We have the strength and the power and the knowledge to make those adjustments. So I'd be careful as you listen to the debate and keep in mind what we're...our target is, to improve Nebraska, to be competitive, and to set our highway and our...that infrastructure for the future. And I support LB84, I oppose the bracket, and I would yield whatever time I have left to Senator Fischer. [LB84]

SENATOR LANGEMEIER: Senator Fischer, 1:40. [LB84]

SENATOR FISCHER: Thank you, Mr. President, and thank you, Senator Harms. I appreciate the time. With all due respect to Senator Conrad, she made mention of some numbers. I would like to clarify that. Again, I wish we were discussing the amendment that becomes the bill but we're getting into these other details right now at the beginning. Senator Conrad mentioned that we have a program of \$350 million and that it's being funded at a level \$317 million and so there's really not much of a shortfall. I would propose to you that there's a tremendous shortfall. That \$350 million is only maintenance. You're not seeing new construction in your legislative districts. [LB84]

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SENATOR LANGEMEIER: One minute. [LB84]

SENATOR FISCHER: Your people are traveling on unsafe roads because we have seen the condition deteriorate rapidly in the last two years. And if you look ahead in your needs assessment book that all of us receive every year from the Department of Roads, you will see that next year's program is \$483 million. We're looking at shortfalls, we're looking at a crisis, and we need to be discussing this bill and the bracket. Thank you. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Fischer and Senator Harms. Senator Flood, you're recognized. [LB84]

SPEAKER FLOOD: Thank you, Mr. President. Good morning, members. When I ran for the Legislature in 2004, in my district people would come up to me and say: If you're going to go down to the Legislature, please do something about our roads. It was just that simple. Affiliated Foods in Norfolk employs 800 people and they'd say: We need to get four lanes so that we can get our trucks to serve all the states we've got. You know how fortunate we are in a town like Norfolk to have an employer like Affiliated Foods? You know how fortunate we are to have an employer like that that is operating out of an operation center that doesn't have real access...a main line on the railroad, doesn't have air service to fly folks and vendors in and out? That's a gift. That's a brilliant opportunity, too, for a town our size. And ever since I ran for election until today people say: Is there anything we can do to get those roads going? And I'd come back every year after the session and say: Well, we really tried. We got \$14 million more in the highway fund or we're working on this or we got \$15 million over here. It's like learned helplessness. This is the only issue that I've ever been involved in that gets worse the more effort you put into it. And I was back last weekend at the Norfolk home show and I saw all these cars coming in and out and I thought, you know, there's value here. Sometimes when you live off the interstate and you live in a town and you're proud of your town whether it's Columbus or Scottsbluff or Norfolk or South Sioux--well, South Sioux is close to an interstate--you feel forgotten sometimes. You want to be connected to the rest of the state. Well, I'm two hours from an interstate in any direction, well, an hour and a half maybe, and the expressway system is what's going to connect the people I represent to the towns that have interstates and opportunities more than us right now. And to the urban senators, you know what we want? We want a four-lane road to your town. We want to be able to get to Lincoln. We want to be able to get to Omaha, because there's something of value in Norfolk and there's something of value in Columbus and there's something of value in Scottsbluff and Alliance and the rest of us that are off the interstate system, and we've been waiting since 1988 to get this project finished. And you know what? Senator Fischer, every year I'm here she's said: be patient, be patient, we're working on things. And we have been, and she has been the one person in this Legislature that goes to bed every night thinking about different ways to build roads and

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complete obligations, you know, that the state made promises in 1988. I know education is important. I know that Health and Human Services is important. But, you know, every year I come down here, represent 35,000 people that would like a four-lane road, and I vote for the state aid to schools formula, and I vote to do what we have to do to make BSDC work because Senator Lathrop and the committee have done an outstanding job with the executive branch to fix those things. I do see myself as a partner, and I reject the idea that I'm not caring about kids or schools. I have been. I've been doing my part. But this is important too. Norfolk is important. Columbus is important. This is a lot bigger than a road. This is connecting a town like Norfolk to the rest of the state. Give us the opportunity to grow and survive. If you lived there everyday and if you were as proud of it as I am, you would vote for this bill, because I see a lot of value and a lot of promise in Norfolk, Nebraska. I live there. I love it. I believe in it. I believe in the people in West Point. And at the end of the day, all we want is a road to your town. We have grandparents that want to go see their grandkids that live in Omaha. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SPEAKER FLOOD: Can't they get there a little easier? And don't...this isn't dramatic, this is just...this is how strongly I feel about it. And I'll be there on the kids and I'll be there on the Health and Human Services, but this is Senator Fischer's bill that says: You know what? Roads are important too. And we're not going to go another 20 years not thinking about them, because those of us that aren't on the interstate want to be connected to the rest of you and we want to get there with ease and safety. We want the people that work at Affiliated to have jobs. We want those trucks loaded with steel from the state's largest and only steel mill to be able to get to the bigger cities to sell their products. And I pledge to you, I've only got a year left, but I'll be there on the things that you care about. But this is me talking from the heart from Madison County and this is important to us. Thank you [LB84]

SENATOR LANGEMEIER: Thank you, Senator Flood. Senator Mello, you're recognized. [LB84]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Good morning. I've heard colleagues over the last three years consistently refer to the Legislature as the laboratory of democracy. I think today and tomorrow in this laboratory of democracy we will discuss hypotheses, we'll discuss formulas, we'll discuss ideas to see if there's a way we can find a solution, but I think currently right now, as drafted, LB84 is not one of these hypotheses, formulas, or ideas that I can support. I would, first, at least like to start off my comments of thanking our colleague, Senator Fischer. I understand that Senator Fischer has been here for seven years. I've served with her for now this is my third year. And she's been very passionate about infrastructure financing. It's an issue that no doubt she has talked to every single one of us about in our time in the Legislature. She's a serious-minded lawmaker who's very serious about this issue

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and I think it would be remiss for me not to acknowledge my appreciation for a colleague who cares or is passionate about the issues that they feel drives them in their day-to-day work in the Legislature. Unfortunately, on this particular issue, I just cannot support Senator Fischer's bill as drafted, and that decision doesn't come lightly. I think as an Appropriations Committee member, I've spent the last three years now toiled up in Room 1003 with eight other colleagues dealing with what has probably been the state's worst fiscal crisis in our history over the course of the last three years. We have made decisions that not every single one of us doesn't question at some point in our time in the Legislature of whether or not that was the best decision possible and ultimately if that impact will last long beyond our time in service. As we're currently drafting the state budget right now I'd call to your attention the Appropriations Committee preliminary budget. You can get on-line right now at NebraskaLegislature.gov or you can take a look at the document that Senator Heidemann gave to us back in February. On the front page of that document is a graph that lays out, in the most stark terms, of why LB84 is not good fiscal policy. This graph right here shows a structural balance or imbalance of our state's fiscal policy from fiscal year 2005 to fiscal year 2015, a ten-year period in which we see a large growth in revenue back in the early to mid-2000s, I should say, to a structural imbalance as we move two years from now. We've heard comments today on the floor already as we're starting to discuss and frame our own individual arguments whether you support or oppose LB84. The most unique argument, though, that I've heard in regards to why we should do this is in two years from now we can change our minds; we have the ability as a Legislature and as a separate branch of government to come back in two years and change our minds and do this. As the bill is drafted, as Senator Fischer's amendments that are in the queue are drafted, that will not happen. I can tell you it will not happen because the Legislature before I came here created a fund back in 2007 called the Property Tax Relief (sic) Fund. Every single one of you who were here when we created that no doubt called into question that vote and when we created that fund. Why?
[LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR MELLO: Because every year we've discussed the budget I have had numerous senators, numerous interest groups, numerous organizations ask why do we not look to make a change in that Property Tax Credit Fund. The reason why we haven't changed it is because it was...the way it was drafted, any time we make a change to that leads to a property tax increase. We pass LB84 even with Senator Fischer's amendments, you will see the same kind of effect in two years from now. You will not see a Legislature remove \$250 million from a budget. You will not see a Governor remove \$250 million in a budget because it's not allowed under the way the bill is drafted. There's no "may," there's no "shall." It is we will appropriate \$250 million in the next biennial budget to fund roads. Friends, this is a stark reality in regards to fiscal policy and tax policy. We will have a full debate, believe me, a very full debate on LB84

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over the next two days. The question is, is this good fiscal policy, is it good tax policy? And I'm sure at some point in time we will discuss whether or not... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR MELLO: Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Mello. Senator Conrad, you're recognized. [LB84]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. Thank you all for your thoughtful and passionate comments thus far. Want to clear a couple things up here just right out of the gate. My record on infrastructure financing and support of roads is clear and strong. And I have stood shoulder to shoulder in partnership with Senator Fischer and others during each and every year I have been a member of this body to improve revenues, to improve resources for roads because it's important to our economic development, because it's important to our future. But this is where we have to draw the line because the risk is too great, because the impact is too great, and because this legislation represents a dramatic departure from decades of sound policy which keeps dedicated revenue sources for important state obligations, General Funds to be utilized for education, higher education, critical human services, public safety, courts, and all the other state agencies that we have to fund and the important programs that they operate. We utilize a user fee, the gas tax, to fund our roads. And when times are bad, we can't reach in and grab that money and utilize it for other important obligations. We keep the revenue streams separate and distinct for good reason and we should not change from that course. LB84, in its original format and as potentially amended by the plethora of amendments that Senator Fischer has already filed on this, changes that, changes that infrastructure financing policy in a dramatic way. Let's also talk about a little bit what Senator Mello started to go down the road on. Senator Fischer says if the money is not there in the future then don't fund it. If we're in agreement on that, let's fix that right now with a simple amendment that says starting in 2013 and for the next 20 years the Legislature may appropriate \$0 to \$125 million a year, according to available funding. Great. I think that would probably solve a lot of the issues and concerns that are at the table. So if that is in fact her intent then we should draft that amendment and we should adopt that amendment, because the legislation and the amendments that have been presented do not allow for that flexibility, and that is clear. I also want to talk a little bit about what I consider to be a false promise on the issue of expressway funding. If you look at the LR152, Nebraska Legislature, One Hundred First Session, Transportation and Telecommunications Committee comprehensive report on this issue, it indicates, and there has been no progress on this since it was published in 2009, 174 miles are left to be completed in the expressway project at an estimated cost of \$800 million to \$1.3 billion. So let's say it's at \$1.3 billion. Even as amended, with \$30 million a year being allocated for these projects, over 20

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years that only gets you half of the funding for those programs. It doesn't complete the program. It doesn't ensure that these expressways come to fruition. Even in 20 years it only picks up half the cost. So if your support for LB84 is contingent upon this will help us fix the expressways, it will not. The numbers don't add up. Speaking of this important report,... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR CONRAD: ...put out in LR152, there are over 31 options presented to the Transportation Committee to improve resources for roads funding, nothing like LB84 was presented. In fact, specific sales tax diversions were rejected. We all got together this summer to have a conference and talk about roads funding options. Existing sales tax options were not on the table. LB84 wasn't on the table. This is a brand new idea that throws away comprehensive research, that throws away the hard work of all of those who have been engaged in this process and turns its back on legitimate ideas that exist and should be on the table. There are solutions to meet our common objectives. LB84 is the wrong one. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Conrad. Senator McGill, you're recognized. [LB84]

SENATOR MCGILL: Thank you, Mr. President, members of the body. I came with all kinds of prepared comments but I think I'm going to address a lot of what's happened today, but I plan on speaking multiple times and I do plan on addressing various problems I have with this bill. I plan on discussing some of the causes I think for why we're here with this bill and the politics of the matter, as well as offering some solutions a little later in the day. So I'm not going to be someone who just comes up here and says this is a problem without bringing some ideas, including some that were in this LR152 findings that Senator Conrad just addressed. Roads are important, everyone, obviously. I have in my own district, in northeast Lincoln, I have gravel roads in some of my neighborhoods, gravel roads in northeast Lincoln. The stretch of Holdrege between 70th and 78th is just a big pothole. It's probably one of the worst roads in the state. I can appreciate how important roads funding is. But what does it mean when we talk about this, the future; well, we'll be able to adjust this in the future if the money is not there? What does that mean? Does it mean if we can't fully fund state aid to education formula without making any annual tweaks to it? Is that what it means? Does it mean we're giving providers the rates that they actually need to stay afloat? Is that going to be considered? What exactly are those qualifications or is it just the overall picture we're looking at, because I want to make sure we are funding those things in ways that we aren't right now since the economy is bad? We've all just gone through the LR542 process. Maybe it's been successful; maybe it hasn't been. But we've had to look at how difficult it is to make the kinds of cuts that we're being faced with this year and legislation like this is going to create LR542 all over again. I mean, for members of

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Appropriations and others in here who say this is a priority and because roads is a priority we need to pass this bill, well, I hear Appropriations has \$20 million so far each year of the biennium earmarked for roads. Why don't this year, while we're already going through LR542 and making cuts, let's just put more money in for roads this year then and let's take a look at what cuts we'll have to make right now because we're going to be talking about the same cuts two years from now. The economy isn't going to rebound that greatly, ladies and gentlemen. When you look at this LR152 booklet, there's a lot of great information. It was my homework and reading material last night. It talks about how revenue...or not the revenues but expenditures on roads hit a high in 2006, which is great. The economy was booming. But the economy is never going to be what it was. Economic experts talk about how much of the money we had in our economy was imaginary. It really wasn't there and it's not coming back, folks. We're not going to have the boom like we once had. We're going to be back here in two years, trying to figure out what the priorities are all over again because we bound our hands too tightly. I like Senator Conrad's idea of putting \$0 to \$125 million, or at least coming up with some other ways perhaps that are in this booklet here, in this committee report, to help make up part of this \$125 million. There are other options here. All of this money doesn't have to be coming from the General Fund. Again, I can understand the concern about kicking the can down the road. I stood here a couple years ago with safe haven and said we're going to make some changes in behavioral health in this state so that more youth could get the healthcare that they need. We created a hot line, but you know what, we kicked the can down the road when it came to making sure that we had providers to give those services to kids. Senator Hansen yesterday talked eloquently about how providers in the 3rd CD are closing down like crazy because we're not funding provider rates,... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR MCGILL: ...because foster care reform actually hurt many of them. We kicked behavioral health reform for youth down the road, but that doesn't have economic development attached to it. And you know what? It wouldn't cost us as much money. I would love that \$20 million over the last two years because we could help front end foster care services so we wouldn't need as much money to fund foster care if we made sure kids were staying in the home when necessary and triaging a situation early on. And I'm afraid that if we're tying our hands like this in two years or any year, we can't come in and actually try to solve that problem with money to front end the problem. We all have issues that are important to us. Behavioral health tends to be one of them for me. And while our roads funding and our roads continue to be in the top 10 percent, top 15 percent of the country, continue to be, and I don't argue that that will go down if we don't find enough money for roads, I get that, but our behavioral health services are in the bottom 20 percent and that's not a priority that we're... [LB84]

SENATOR LANGEMEIER: Time. [LB84]

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SENATOR MCGILL: ...coming and looking for a formula to fix. [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR MCGILL: Thank you, Mr.... [LB84]

SENATOR LANGEMEIER: Thank you, Senator McGill. Senator Nordquist, you're recognized. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. I rise in support of the bracket motion to move LB84 down to a time where we have a more clear picture of what our state's fiscal and economic situation looks like and oppose LB84 at this time for that reason. Senator Hadley spoke about we need to stand up and face this problem right now. Well, unfortunately, we're not doing that. We're earmarking money two years down the road that we don't know whether or not it's going to be here for spending at that time and we're spending money we don't have. We don't know we have that money, and Governor Heineman has said time and time again we don't spend money we don't have. That's what this bill does. Senator Harms addressed...said that we can address this problem in two years if the money is not there. We can appropriate this money in two years if the money is there. I think that's the more responsible approach. There's no reason in two years we can't transfer General Fund money to the Highway Trust Fund. There's no reason. We can do that at any time. If the money is there, we can make the decision at that point in time. I'd much rather take that approach than to promise something in two years we can't deliver. That's not responsible budgeting. Senator Fischer, in her remarks, addressed the kids versus concrete issue. The fact of the matter is it does come down to that. The pie is only so big. The pie is only so big, and we take from one and we have to give to another, and there's no other choices. We're making gut-wrenching decisions in Appropriations right now, making deep cuts that will have impacts on our communities and on families in this state. We're making tough decisions right now and this bill is just going to compound that problem and I think, underneath it all, LB84 will create a perpetual budget crisis by taking this money out of the budget year after year after year. Senator Fischer talked about her optimism that we will see an increase in revenue. I'm optimistic too, but that optimism needs to be grounded in reality. Every month I get a report from the Fiscal Office from Global Insight, which is an organization that we base our projections on into the future. This month's, which just came out a week or ago, the headline is will the recovery skid on oil? Most indicators showing solid economic momentum before the Middle East turmoil sent oil prices soaring. The risk of a damaging oil shock has clearly risen. The economy is not firing on all cylinders. Housing prices continue to decline and sales and starts have not yet climbed off the floor. State and local budget cuts continue to bite and federal spending cuts are on the way. That's the realism that the optimism needs to be grounded in. And I think we can pull it from the global perspective, which this is what our

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projections are based on partly that the Forecasting Board uses to make those projections, down to how does that impact our budget. And if we look at the General Fund status sheet, it's not a pretty picture, folks. I distributed the most recent version. If you look at the next biennium, even assuming a 5 percent revenue growth, 5.2 the first year, 5.1 the next year, our structural revenues versus appropriations, which essentially, if you have a balanced budget, that will be 0, shows a negative balance in the first year and only a positive balance of \$28 million the second year. Where do you come up with \$125 million a year? It's not there. So what do we do in two years? [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR NORDQUIST: Do we not increase funding for TEEOSA? Do we keep TEEOSA flat into the future? Right now we're cutting Medicaid providers 5 percent or 4 percent or whatever we can come out with in appropriations. Do we not increase them? Do we hold them at those levels again for another biennium because, according to our status sheet, we have a very small structural positive right now? And I think that's the point that we need to look at, that we are spending money even based on a bigger pie. Even based on the optimism that our funding is going to grow, the realistic situation is that money is not there. I think...so when we look at Senator Flood's comments about, well, I'll be there, I'll be there for education or I'll be there for other needs of the state, if LB84 goes the options are either going back on the promise of LB84 or raising taxes... [LB84]

SENATOR LANGEMEIER: Time. Time. [LB84]

SENATOR NORDQUIST: ...if he's going to be there for those issues. Thank you. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Nordquist. Senator Brasch, you're recognized. [LB84]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues. I stand in opposition to AM385 and in support of LB84. I want to open with a letter from a constituent in our district: We are very vested, invested, hopeful, and optimistic of what LB84 can do. This letter in one paragraph starts: We need a transportation system that allows our economy to grow quickly by moving goods across our state from farms and factories to consumers. LB84 will help to lay the groundwork for strong economic growth and jobs creation. Maintaining our roads is one of the most critical functions of our state government. This important bill will benefit citizens across the entire state. That's from Jerrod (phonetic) in West Point. In 1988 an expressway was started. Thousands of dollars were invested. Those dollars are our dollars, your dollars, my dollars. Started, a building was built, a facility to get the road going, the road to economic development bringing from our farms to our market. That project is needing to be finished. When we talk about education, where does the money come from? From jobs. If we don't create

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jobs, get more jobs, grow that pie, make a bigger pie, there is less money for education. In my occupation over the last ten years I worked with ESUs across the country. There are 500-plus ESUs. And starting five years ago talking to ESUs in Michigan, Long Island, California, Oregon, business was slowing down and shutting down because dollars to education were dying for their schools because of lack of jobs. The money that the schools got came from income tax, sales tax. I could see it coming our way quickly. We started a project 23 years ago to create a strong, vital economic road across our whole state. Agriculture is helping keep our economy growing. We need to keep the good life growing in Nebraska. It is so important that that time, money, dollars, energy invested keeps going so we do have more jobs. We need to be proactive. We need to be innovative. We need to bring more jobs into Nebraska, into our rural communities. A colleague of mine just ten miles from Bancroft in West Point, she's working remote with Microsoft. It can be done. The company I work with is in Chicago and Arkansas and Mesa. One is based out...you know, they're based out of London, England. We can grow but we need roads. We need roads to take our kids to school, our elderly to, you know, appointments, to...you know, the roads are essential. It's not what we want, it's what we need, and that's where we're at, looking at what we need. We will take care of our children. We will get them an education but we need a path, a good solid road to get them there. In the spring we lost a lot of bridges in our district. The bridges were crumbling. We're working on bridges. We need to make our roads strong. I would like to yield any remaining time that I may have to Senator Lautenbaugh. Thank you, colleagues. [LB84]

SENATOR LANGEMEIER: Senator Lautenbaugh, 1 minute. [LB84]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR LAUTENBAUGH: And I'll be necessarily brief. This is an important bill and I rise in support of it and opposed to the bracket motion, which I don't think is the proper time to file anyway. We're neglecting our roads. There's just that much, nothing more, can be said about it. It's a basic function of government, one of the few basic ones we have and we've been neglecting it for years and now it's time to pay the piper. I have a different problem than some of the other parts of the state whereas I have roads that are very heavily traveled and in desperate need of repair. We had to abandon one highway, one road in Washington County to large trucks. Just couldn't do it...couldn't have large trucks because it was literally falling apart. We have Highway 133 between Blair and Omaha, a very heavily traveled road that is a deathtrap. I'm not being overly dramatic. People are dying every year. And if we're going to make this a choice between schools and roads, I think that's a mistake. But if we let our schools deteriorate the way we've let... [LB84]

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SENATOR LANGEMEIER: Time. [LB84]

SENATOR LAUTENBAUGH: ...our roads deteriorate, you wouldn't stand for it. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. Senator Howard, you're recognized. [LB84]

SENATOR HOWARD: Thank you, Mr. President, members of the body. I'm listening to the debate this morning and I can't help but think when people who are on the Appropriations Committee stand up and express concern about a large expenditure of money, especially a large expenditure of money that commits us down the road, future Legislatures, I'm very concerned. Those people that have been on the Appropriations Committee, many of them have been there for quite some time and they've seen the changes, they've seen the economic conditions, and they are cautious, careful people who I hold nothing but respect for. I think it's really critical that we listen to those individuals. And I think back to yesterday when we were discussing allowing Kerry Winterer, the director of the division of...over Health and Human Services, one of the divisions that he is responsible for, granting 40 positions that he has the discretion for hiring these individuals at whatever salary he chooses to pay because he needs the best, and of course those cost more. We all know that. This money won't go to line staff, to people that will be doing the actual work with families and children. These dollars will be going to administrators and these will be the administrators that are handpicked and chosen and are found to be on the same wavelength as the people that make the decisions. I think of the bills that I have brought in to save money. One of the ones that comes to mind is I brought in a proposal to cut the per diems for the three individuals on the Liquor Commission board. Now they receive per diems. They receive mileage. They receive salary. And do you know what? They also get health insurance through the state. And do you know how many days a month they work? Five days a month. So I'm saying to you, we spend a lot of money that I feel we should not be spending and now we're looking at spending a great deal of money that we are not going to have. This is a hard one for me. Senator Fischer and I are friends. We came into this body together and many times she's been there on issues of kids and I've appreciated that. But I'm on the Education Committee and I'm on the Health Committee and I see us continually, continually, continually cutting back on the funding for education and the funding for children in this state. There's no denying it. Every year we're looking at how to spend less and expecting other people, through maybe their property taxes, to step up to the plate and spend more. We can't put ourselves in a position where we've committed this much money to this single focus and not expect to be shortchanging those other entities that we're responsible for. I'm going to offer the remainder of my time to Senator Conrad so that she continues to tell us what she's advocating for here. [LB84]

SENATOR LANGEMEIER: Senator Conrad, 1:40. [LB84]

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SENATOR CONRAD: Thank you, Mr. President. And thank you, Senator Howard. I couldn't agree more. Senator Fischer is a good friend and standing in opposition to a bill that she has worked so hard on is a decision that comes from a very difficult perspective I think for many, many of us. I want to talk about these appropriation decisions and ensure that we do in fact get this debate back in the realm of the real. And the realm of the real is based on the forecasts that we have available to us in Appropriations and, indeed, the Legislature as a whole. Historically, what happens when we come out of a recessionary period like we are right now, you see 8 percent, you see 9 percent growth from the previous year. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR CONRAD: Colleagues, do you know where we are in the current year: 5.6. You know where we're projected to go in the next two: 4.3. We're not going to see the kind of robust economic recovery that would be necessary to fully fund all of our critical obligations if LB84 were to be advanced. It is a risky strategy to pursue. It is difficult to unring that bell once we have initiated the state program and to go back and refocus. I contend to you that if indeed we have that flexibility under LB84, let's draft the amendment. I will agree. I think we could find 49 votes that if in 2013, for the next 20 years we have additional funds available, we will transfer \$0 to \$125 million a year. How about \$500 million, \$0 to \$500 million? [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR CONRAD: Let's open it up. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Conrad and Senator Howard. (Visitors introduced.) Those still wishing to speak, we have Senator Louden, Senator Ken Haar, Senator Dubas, Senator Wallman, Senator Christensen, Lathrop, Burke Harr, Schilz, and others. Senator Louden, you're recognized. [LB84]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I look at this bill and think about it and the people that are watching on television I guess across the state, I think what this is, is the good, the bad, and the ugly. The good part is, and the reason I voted it out of committee, is because it did put \$30 million into the highway expressway system. That is something that in 2007 we earmarked \$15 million to...for federal matching and nothing ever happened with that, so I'm hoping that when something else comes up, another \$30 million, perhaps something will happen with that, but I don't know just how well that will happen. Now part of the bad part about this bill is that we already have a formula for the Highway Trust Fund. We have the variable tax in there and the way that's set up, that as the Department of Roads needs the money they say what they need and then the variable tax is raised on your fuel tax to service that

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need, bring that revenue in line. I don't know how many of you have paid attention on how the Highway Trust Fund formula works but that's been...was put in years ago and it's worked fine. The problem is, is they get to playing games with it and they try to estimate what their revenue is going to be and then they bring their needs up to match that revenue. Well, now this year they made a mistake there and usage was higher than they thought and so, consequently, the first of January your fuel tax went down a half a cent. Now how many of you noticed that your fuel tax went...or your fuel was a half cent cheaper starting the first of January? And at that time, that was \$3 million less of revenue that the state didn't get, that if they would have just put in a number there somewhere with their fuel tax it would have covered that. And that's part of the problem that we've had all the time. As I would say if you wanted to fund roads, I hear this people passionately talk about how we need to work on our roads, they're going to pieces and I don't know what all. Well, if you've got the intestinal fortitude in this Chamber, and that's a nice way of saying if you've got the guts to raise the taxes on your fuels, we can fix the roads. We could start from the revenue coming in from July first and be turning dirt next spring if you want to do it that way. Put a 5-cent fuel tax, increase the fuel tax 5 cents. Then you're talking about \$60 million or more right there. That's half of your \$125 million and it comes off of the user fees. Now the ugly part of it is, is this is a sales tax. When you take your kids down to buy a Happy Meal, why, there's going to be a half a percentage of that Happy Meal is going to go to fund your roads. Any of you drive the interstate, you look at those trucks with the signs on the side of the truck from all over the Western Hemisphere, you're saving them a little bit of money. Now if you raise their fuel tax, they would have to pay a user fee. But if you have it on a sales tax, it's when you go down and buy your Happy Meal or whatever, why, it will cost you. If you want to get real personal, when you go down to your big box store and buy your underwear, why, you will still be contributing a half a percent of that to taking up your roads. Now is that what we want to do, because this is a policy change? As far as the bracket motion, I'm not in favor of the bracket motion because this is a big deal. This is \$125 million you're talking about and as far as I'm concerned I think we need to talk about it for a couple of days. I don't see how we can get this all thrashed out in one day. This is an enormous, enormous policy change that we're doing. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR LOUDEN: It's never been done before in the state of Nebraska. And I would like to see something come about but I do think that we have a formula in place that if you just have enough nerve and intestinal fortitude to make it work like we have, there's our problem. We don't need to find new ways of finding money. We've got a way out there now. It's just that nobody has had the guts enough to use it. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Ken Haar, you're

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recognized. [LB84]

SENATOR HAAR: Mr. President, members of the body, I know that the money would be used in this...in LB84 for the roads, but I think there's a bigger issue that I'm trying to grapple with and that's what is good tax policy, and I've been looking and looking and looking and thinking about what is good tax policy. I'm not sure whether I'll vote for the bracket motion or not but I have some really big problems with the earmarking of sales tax. So I want to go into some of that and share this with you because I think it's really important that the decision here be made on tax policy and how we do that. The first source I have is from the NCSL, the National Conference of State Legislatures, and they have a very good...and I'm not going to read this whole document, but a very good document on principles of a high-quality state revenue system. It's out there. You can run it off if you're interested in looking at it. They go into nine points, and, again, I'm not going to read all of this. The point I want to talk about, because it addresses exactly what we're talking about, we're talking about earmarking here, is their second point called a high-quality revenue system produces revenue in a reliable manner, and reliability involves stability, certainty, and sufficiency. Sufficiency: Sufficiency requires that revenue be adequate to balance a state budget in the short run and change at approximately the same rate as desired state spending, whatever that may be. A high-quality revenue system produces enough revenue to finance the level of services that the state chooses to provide as determined by what the voters and elected officials are willing to fund. The level will vary according to the political, cultural, social, and economic characteristics of the state. Developing a revenue system that is capable of producing a desired level of revenue will help lawmakers avoid frequent tax increases or spending cuts. And if you either increase taxes or cut spending, it can raise real problems within the state because people don't know what to expect. Okay, and then here's a really important paragraph. It says, and this is under "sufficiency": Further, a high-quality revenue system minimizes the use of tax earmarking--the practice of designing a particular revenue source for a particular expenditure--just as LB84 will do. State programs may be placed in jeopardy if they're funded solely by earmarked revenues because there's no guarantee of a consistent revenue stream, stability, nor of adequate ongoing revenue, sufficiency. Further, earmarking often imposes rigidities into the budgeting system that do not permit flexible allocations of General Fund revenue among competing uses. Want to repeat that sentence because this is key to me. Earmarking often imposes rigidities into the budgeting system that do not permit flexible allocations of general revenue among competing uses, and that's what we have to face every budget session is there are always competing uses, competing needs, and we have to figure out how to fund those needs. When earmarking is used, there should be a direct link between the recipient of the funds... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR HAAR: ...and the earmarked revenue source, thank you, such as gasoline

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tax, the highway department receiving gasoline revenues. This use is justified on the grounds that all or a portion of the earmarked revenue source is supporting the benefit received. Generally, earmarking should not be used for general expenditures, and in this case we're taking general revenue, which is sales tax, and we're earmarking it for a very specific use and I would argue that that is not sound tax policy. Thank you very much. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Haar. Senator Dubas, you're recognized. [LB84]

SENATOR DUBAS: Thank you, Mr. President. Good morning, colleagues. Senator Jerome Warner had a vision for how our infrastructure needs should be taken care of and his vision has served this state so well for so many decades, but we are probably past the point in time where that vision needs to be refined and that's where we find ourselves today. And I thank Senator Fischer for taking that challenge on with her introduction of LB84 and the other bills that she has worked on in the past dealing with this. While I agree with many of the comments that Senator Conrad has laid out in her motion to bracket, I do not support the bracket motion for a variety of reasons. This is one of the most important decisions and debates that we will have, and whatever decision we make with this particular piece of legislation, it sets the tone for the future of our policy debates for years to come. Our transportation infrastructure is one of the most...is one of the primary responsibilities of our government. In rural Nebraska especially, our roads carry millions upon millions of dollars worth of commodities and products to market, and those dollars have helped shore up our state's economy and definitely helped contribute to the Cash Reserve that we have been privileged to enjoy and still have that will help us through the fiscal challenges that we have before us. Because of the importance of roads to my area and to the entire state, I was eager and very pleased to become a new member of the Transportation and Telecommunications Committee. But I approach this debate today with an open mind because we have to recognize that no matter how this issue is ultimately decided, things will change, change for the positive, change for the negative. For decades, as I said, our infrastructure needs have been supported by user fees with a pay-as-you-go process, and I think that's a process that our citizens have been very proud of. And again, because we haven't saddled ourselves with debt and we stayed current with our economic responsibilities, we are in better shape than many other states across the nation. The Highway Trust Fund has served us very well. And should we choose to go the direction of LB84, we will have to be fully aware of the far-reaching consequences because it will impact the resources that support other programs. Right now, I am conducting a very informal and very unscientific poll in my district, and I would like to thank those who have taken the time to respond. Many have been very thoughtful and heartfelt responses. But to date, the message has been very clear in the responses that I've received on that survey and that is, no, make do with the resources that you have; figure out a way to make the dollars that you have coming into it work. There have been

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not a majority but there have been a good number who said if you have to do something I would support an increase in the gas tax because, again, that's a direct user fee and that's the way we've been doing things in the past. But again, it's just been very clear that there are concerns with the changes that we are talking about doing today. Our decision today not only impacts us at the state level but it impacts us at the county and the city level too. I mean we removed aid to cities and counties in a bill earlier this session. Our counties and cities rely heavily on the resources that they receive from our current formula and if those dollars decline, it puts... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR DUBAS: ...additional pressure on us at the local level. I do want to support roads funding but I also have to understand the big picture. If LB84 is passed, it's important that I understand what this will mean to other programs, such as education. When we return for the next biennium, it's important that I understand the potential budget deficits. I wish this was a simple yes or no, but for me it's not. We will have issues to address if we don't pass LB84, but we'll have issues to address if we do, as the handout that Senator Nordquist gave us with the fiscal impact. I owe my constituents a very well-thought-out decision and that's how I'm going to approach this vote. We are in very uncertain economic times. We are in a global economy. Market reports that I read on a regular basis say to batten down the hatches, position yourself to weather this storm because it's a long one. [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR DUBAS: Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Wallman, you're recognized. [LB84]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I've always supported Senator Fischer's tax increases for sales tax on gas, immediate income. Now this, my good friend Senator Hadley says we're kicking the can, we are kicking the can down the road if we pass this. We're putting it on somebody else's shoulders so it's an earmark. That's what the federal people do and we complain about the feds. So just kick the can down the road and let somebody else make the decisions what's going to come out of General Fund, what isn't. And this is a policy change and most of our roads need immediate fixing right now, not two years down the road or almost three maybe by the time this gets done. So vote as you wish on this but be careful here that we actually give help to our municipalities. We passed a law here that took away money from our municipalities and counties and that didn't get very much opposition. So I'd yield the rest of my time to Senator Mello, if he'd so wish. [LB84]

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SENATOR LANGEMEIER: Senator Mello, 3:40. [LB84]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Thank you, Senator Wallman, for the time. I think when I was discussing it first on the bracket motion, I left my train of thought in regards to the fiscal impact and the fiscal policy that surrounds this legislation. In all honesty, colleagues, I see this debate on LB84 less about infrastructure or roads financing. The main issue here in LB84 is, where as a state do we want to go with fiscal policy, and what kind of fiscal policy and tax policy do we want lay out in regards to future Legislatures? As I stated, the Property Tax Credit Fund that was created in 2007 has yet to be changed. Yet every year we constantly hear more and more about it of how even in our own Appropriations Committee that this was not supposed to be a program that went on forever, but as the way the bill was drafted and the way that essentially it's been set up modelwise, it will go on forever, because any changes to it result in a property tax increase. What we're seeing here with LB84, and Senator Nordquist alluded to it, with the updated financial status, is a structural imbalance two years from now. That structural imbalance as it were negative \$3 million and in the positive \$27 million dollars. But that also doesn't include our conversation is how do we replace the \$260 million in one-time Cash Reserve funding that's currently put in the budget. Out on top of that, \$260 million is \$250 million of earmarked General Funds. Colleagues, we're discussing a half a billion dollar financial crisis without even discussing public education funding. Senator Conrad alluded to one of my main concerns as the bill is drafted and as amendments are drafted which is, this does not give us leeway to be able to simply not fund it. Right now, the Appropriations Committee can unilaterally just appropriate General Funds to the Highway Trust Fund, if we so choose to. If there's an amendment that someone wants to offer that would give us more statutory authority to dictate that up to \$125 million or put a floor on them saying, we will appropriate \$1 minimum each year up to \$125 million and then that's... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR MELLO: ...that's another issue. But I think the reality is this, no one is denying the fact that we have infrastructure financing challenges in our state. No one is denying the fact that this is not an important issue. It is. But changing the way we finance it is a big policy decision. Changing the way from a user fee to General Funds, no matter anyway you look at it, puts those who receive General Funds now in direct conflict with what we would do under LB84. Granted, I think we're going to have conversations as we move along this debate about priorities. And right now, I would rather stay on the simple fact that this is a fiscal policy decision, because I don't think anyone in this body disagrees that we have challenges with our infrastructure. [LB84]

SENATOR LANGEMEIER: Time. [LB84]

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SENATOR MELLO: Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Mello and Senator Wallman. Senator Christensen, you're recognized. [LB84]

SENATOR CHRISTENSEN: Thank you, Mr. President. I oppose the bracket amendment, and I hope we can talk about this bill and move forward because roads are very important to us on economic development being able to get around this state. And I think about what has economically developed Nebraska from history. You go back and look at the free land. Then it was following the railroads. Then it was the highways, interstate system, expressways, next is probably a technological direction. But that's kind of how the economic development has happened. I understand the different ones concern...that have brought up concerns on, would it lead to property tax increases due to school funding. You can really get my dander up as you learned yesterday talking about foster care, but I think it's very important we look at this as an individual policy issue. Is this best for the state and economic development to go forward? At this time, I would like to yield my time to Senator Fischer. [LB84]

SENATOR LANGEMEIER: Senator Fischer, 3 minutes 50 seconds. [LB84]

SENATOR FISCHER: Thank you, Mr. President and thank you, Senator Christensen. If you look at the names of the cosponsors on this bill, you have Senator Hadley, Senator Campbell, Senator Pankonin. Senator Harms has stood up and spoke in favor of the bill. These are people who support education, they support health, but they understand that there are other needs that when revenue is available, those needs need to be met. It's been mentioned that there's not enough money in this bill to take care of all the needs we have in the state with regards to roads. That's true. That is true and every supporter of the bill knows that. We cannot meet all the needs in the state. That doesn't mean we should just sit back and go, oh, my goodness, how are we going to fund roads? It means we better get started and we better start now. If you look at the options in LR152, as the committee did, you will see that there were tax increases and fee increases. Senator Campbell, Senator Gay, they had a bill last year where we discussed that in committee. We discussed it. If you raise fee increases that we looked at doing, it would raise \$20 million. That will build a couple miles of road in our urban areas. It was mentioned that the options that are presented under LB84 came out of nowhere. They came out of nowhere. We never heard them. If you attended the Transportation Conference in Omaha, those options were discussed. They were discussed under the Missouri plan. Bonding is used in Missouri. Missouri uses these other funds to move their program forward. I disagree with the statement that was made that this bill throws away all the hard work that's been done. This bill, colleagues, is a result of all the hard work that's been done. I sincerely thank Senator Harms for his comments that we should look to the future, that our roads are deteriorating. He said there's no hope for western Nebraska. You know, it would have been nice if the decision

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was made years ago to have a north-south interstate through Nebraska, but the leaders at that time didn't want it. That's why it's in Iowa. Just think if we would have had the vision to put that interstate down Highway 81, to put that interstate down 281... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR FISCHER: ...to put it down 83, to put it out where we want the Heartland Expressway. Just think what would have happened. Our maps that we're dealing with in redistricting committee, they'd look a lot different. We're trying to meet the needs of the state. I hope to address the bill after we defeat this bracket motion. I hope to address the suggestions made by Senator Conrad and Senator Mello that the Appropriations Committee would do, and make the budget decisions. This is a decision we need to make as a body. I would ask that you defeat the bracket and that we move to discuss what is truly in this bill. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Fischer and Senator Christensen. Senator Lathrop, you're recognized. [LB84]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good morning. I thought I turned my light on right after this came up and it's taken me an hour and 41 minutes to get called on, and that maybe was a good idea because I've been able to put some thoughts together. I want to begin my comments by expressing appreciation, and I mean this very genuinely, to Senator Fischer for her resolve to come up with a fix for roads. And I am committed to working with Senator Fischer to come up with a fix for roads, and I appreciate that it makes absolutely no sense for this Legislature to stand by while our roads deteriorate. And if...and, you know, sometimes we talk about being fiscally conservative like it is a good thing, and it is to a point, but you can do it to the point of stupid. And you can be penny wise and pound foolish and I think that's what we're doing with our roads, frankly. And so I am with Senator Fischer in her call for something needs to be done on roads. That said, I'm not sure this is the right approach and I want to tell you what my thoughts are. And I've looked at this, I've thought about it a great deal, and here's what's happening. LB84 is essentially saying, I want to be first in line in setting our priorities for when the money starts flowing again. And that's a good thing to do. I don't blame somebody as committed to the roads as Senator Fischer is for doing that. But what we do is, we kind of...we're kind of making this a little antiseptic because we're saying, times will be better in two years, so just go ahead and vote for this half cent and it will all work out. Of course, she won't be here for what we're going to have to do. And I think we should be doing this today. What are we going to give up two years from now to make this work? All right. This money generally would be going...or if we don't pass this, it will be going to the General Fund. So what are we going to give up out of the General Fund? Or are we going to make the Legislature two years from now abandon this Property Tax Rebate program? I think we should be talking about that today because the only purpose in passing a bill committing this to this two years

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hence, is to avoid the discussion of what needs to give to make this happen. We've talked about the Property Tax Rebate Fund. Senator Mello said if we don't fund it, it is a property tax increase. It is one more program down in Appropriations Committee that may or may not be funded. I'm going to tell you that when I think of the roads, I think we ought to be talking about what do we do for the roads starting today. Why are we waiting two years to take care of a problem? Why are we going to let the roads deteriorate for two years, and then take up this...have this bill take effect and then start working on the roads? How come we're not talking about it today? I have two points. One is, if this is a good idea, let's make it effective today. And my second thought on this subject matter is, let's talk today about what we're going to have to give up two years from now? What are we going to have to take from education? What are we...what courthouses are we going to have to close in greater Nebraska? What judges are we not going to appoint to the district and the county court to make this work, because by putting an effective date two years out we're trying to avoid that discussion and... [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR LATHROP: ...wink at the process and suggest that increased revenues will take care of themselves. I had an amendment a couple of weeks ago on a bill that would have put something...put a sunset on it for two years. And you'll remember the people that stood up. It was on LB383 and I said, let's make it stop after two years, put a sunset. And people jumped up and they said, we can't promise anything in two years. These are people that support LB84. We're not going to saddle the next Legislature with an expectation. We don't want to make promises that we may or may not be able to keep, and we don't know where we'll be at in two years. All those things were true then and they are true now. Senator Fischer, I agree with you. We need to do something about roads. Let's figure out what to do with it beginning this year. [LB84 LB383]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR LATHROP: Thank you. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Lathrop. Senator Burke Harr, you're recognized [LB84]

SENATOR HARR: Thank you, Mr. President. I, too, follow many of the same thoughts of Senator Lathrop. At this time, I am neutral on LB84 and I think we need to have a little more discussion on the bracket issue. I support the concept of our roads. Roads are very, very important. We have to look no farther than our current census to see where all the growth in Nebraska is. And it's along the interstate and it's not just by mistake. Senator Lathrop used the term, fiscal conservative. Maybe I'm the only fiscal conservative in this room. I don't know. But there's a Governor who has a very valid

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point and that is, how are we going to pay for this? We are in the middle of a financial and budget crisis right now. The Governor stated, we're better off than most states, and we are. And the reason we're better off is because we didn't spend money we didn't have, except for LB84. He didn't say that. He said, we didn't spend money we didn't have. But that's what we're looking to do here today. The Governor wants us to put this off a year. He wants us to wait and he gave reasons, and I think they're pretty logical and probably up-front. I have to agree with him. We don't know where the economy is going. We could have a tsunami hit Nebraska. We could have an earthquake. We can't spend money we don't have. The Governor framed the issue on the budget this way. He said, if you want to give more money to education, that's great, but just remember that's less money for HHS. If you want to give more money to HHS, that's great, but remember there's less for education. This is how he framed the issue, education versus HHS. He didn't even mention roads. So if we do fund roads, how are we funding it? Well, it looks like it will come out of HHS and education. Now there's a lot of talk and I'll be...I can't believe an hour and 48 minutes I'm the first one to bring this up but a lot of talk about kids versus concrete. And I don't think that's what this argument should be about. I think that...roads are great. We need solid roads in Nebraska. It is the...for every dollar invested in roads, they say there's a \$3 turnaround in economy. But we have to find a way to pay for this. Senator, Speaker Flood, got up and gave a very nice impassioned speech about the importance of roads and that's 100 percent correct. And if roads are so important, why don't we just fund them? Why don't we find a way to say, roads are so important we are going to fund them today and we're going to find a way to fund it. We're going to do it. We have the wherewithal. And we do have the wherewithal. We can do this. If we choose to say, roads are so important, they're the heartbeat, they're the lifeline of our state, well, then let's make sure they are. Let's not leave it for two years down the road and let's not leave it to, perhaps, we have a turnaround in the economy, perhaps we don't. That's not how you do it. If this is so important, we can't kick this down the road. Last term, LB689 was debated and in there we kicked off some funding in that, and we took money back and we said, don't worry, we'll find a way to fund this in the future. Well, we're going to have a debate on that in LB229. But that's all we're doing with LB84 is we're saying, don't worry guys, we'll find a way to fund this in the future. That's not how we do things here. We need to look ourselves in the mirror and say, if this is so important, we need to do it today, and we need to find a way to pay for it. Thank you, Mr. President. [LB84 LB229]

SENATOR LANGEMEIER: Thank you, Senator Harr. Senator Schilz, you're recognized. [LB84]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. You know...well, first of all, let me just say that I'm not in favor of the bracket motion. I think that...I think that this is a very serious issue. It's an issue that needs to be addressed. Roads are important to all of us. And, you know, Senator Hadley said way earlier this morning, some two hours ago, that you know we don't want to continue to kick the can

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down the road because it's so important. We've got the roads. We have got to take care of them and we've got to find ways to do that. And in this day and age, where we are, we have to find ways to do that without raising taxes. So I look at this listening to everyone around here. I'm looking for the alternative to see what we do and where it's coming from. We've heard about how this isn't the right plan. I understand that, I get what you're saying. I could look at a few areas in this plan that I may or may not be real comfortable with, but where are the alternatives? I'd like to see that. And with that, I'd yield my time to Senator Carlson. [LB84]

SENATOR LANGEMEIER: Senator Carlson, 3:30. [LB84]

SENATOR CARLSON: Thank you, Mr. President and thank you, Senator Schilz. I rise...I'm opposed to the bracket motion. I do acknowledge that Senator Conrad has every right to make the bracket motion. However, I think it's out of order at this point in the debate. As many of you here will agree with me, I love the Unicameral. I respect the institution. I respect the process. I appreciate the professional courtesy that is normally allowed in the body by both proponents and opponents of a bill. Senator Conrad has been cordial in her speech, but I wish she would have waited with the bracket motion until Senator Fischer had fully introduced the bill. Nineteen members have spoken before me, but the debate really isn't on the bill. It's on the bracket motion and other issues, not on the bill. Let's hear what Senator Fischer has to say as she completes her explanation of LB84 and her amendments. Then let's have full debate. The beauty of the process is when we really know the ideas that Senator Fischer has on LB84 and we have full debate. This is America. This is Nebraska. We debate. We argue. We persuade. We agree. We disagree. Then we vote and we live with the results, the majority decision of this body. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Carlson and Senator Schilz. (Visitors introduced.) Mr. Clerk, items for the record. [LB84]

CLERK: Thank you, Mr. President. Committee on Judiciary reports LB668 to General File. The Executive Board reports LB617 to General File with committee amendments attached. I have a hearing notice from the Government Committee. And Senator Flood would offer LR139. That will be laid over. That's all that I have. Thank you, Mr. President. (Legislative Journal pages 937-941.) [LB84 LB668 LB617 LR139]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Returning to discussion on the bracket motion, Senator Fulton, you're recognized. [LB84]

SENATOR FULTON: Thank you, Mr. President and members of the body. I, like Senator Lathrop, turned my light on what seems to be a long time ago and so I'm glad I had the opportunity to hear some of this debate. I stand opposed to the bracket motion. I do support what Senator Fischer is trying to do. And let me add some...explain why.

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Indeed it is important that we have a meaningful debate on this issue because we are talking about a change in our tax policy. Prior to...well, up until now, the policy for building roads, for most of recent history anyway, has been to utilize this user fee philosophy. That is, we take a portion of...we tax gas. So those who use the roads, pay for the roads, etcetera. We understand that. If we are sober about our future funding of roads, then we'll take a close look at the gas tax. Now we have as a Legislature had the opportunity to debate this issue before because we have had proposals to increase the gas tax in recent years. Those who are new to the Legislature may not have been part of that debate, but I'll point out that the public went crazy when they found out we were increasing the gas tax. And I believe, numerically, it was 1.3 cents. Those of us who were here remember the contacts we received from average Joe's on the street. I did not support that gas tax increase at the time and yet I remember distinctly walking...or pulling in to fill up my car with gas, and having a guy recognize me and say, you supported that gas tax increase. I can't believe you just...you're paying more money for your gas and you did it to yourself, and I didn't vote for it. I...but people understand this because people, everyone uses gas. So not only are we talking about a broader tax policy, now we're talking about the psychology of the people we represent. They went crazy with the 1.3 cent gas tax increase. So you might ask, if we are to continue with the policy of utilizing the gas tax as that solitary mechanism by which we build roads, what would we have to do to our gas tax to meet the need? We did some quick math over here on the...off the side, about 28 cents. Is that correct, Dusty? Our gas tax today is 26.4 cents per gallon. In order for us to express our desire to continue utilizing the gas tax as that funding mechanism for roads, then we would have to increase it by more than...we'd have to more than double it. You follow what I'm saying? If the folks went crazy for a 1.3 cent increase, what do you think is going to happen when we say, ah, we're going to add...we're going to jack it up by 28 cents? And so what I'm saying...and let's take that a step further. We know what's occurring with respect to inflationary pressure on roads. Right now, it's not quite so bad. But the demand for the materials to build roads is high in largely South Asia because they're manufacturing things, and so the inflationary pressures we can expect going forward on the price of building a road is somewhere around 15 percent. So not only would we be saying to the public or be willing to...have to be willing to say to the public, we're going to more than double the gas tax and then every year thereafter you can expect a 15 percent increase. Number one, they'll go crazy. Rightfully so. I would join them. Number two, that would destroy Nebraska's economy. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR FULTON: Think about this. And so, logically, whether you're for or against LB84, the bracket motion and what have you, we have to, as reasonable people, admit that the gas tax no longer is adequate for funding our roads. And so the logic dictates that we have to have something other than the gas tax, something in addition to the gas tax in order to meet our roads obligation, an obligation which I think everyone in this

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body would agree we have in addition to education, higher education, Medicaid, what have you. It has to be all of the above. This bill is an expression that the gas tax is no longer adequate, and so, yes, it's appropriate that we have this debate. But absent any other idea, this is an idea before us which at least, at least makes some sense mathematically. Now, of course, it has an impact on the overall budget going forward and so that should be part of our debate. But do not come here and say that we can simply raise the gas tax to meet our needs. It is not possible. [LB84]

SENATOR LANGEMEIER: Time. [LB84]

SENATOR FULTON: Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Campbell, you're recognized. [LB84]

SENATOR CAMPBELL: Thank you, Mr. President and good morning, colleagues. Before I start the remarks that I was going to make, I want to follow up on Senator Fulton's comment. I'm somewhat disappointed that after 19 speakers no one raised the issue of the Campbell gas tax bill. (Laughter) And I have to tell you that, I don't know whether you've looked at that bill, but the reason that I put the bill in because people kept saying, well, what about if we raise the gas tax? The Campbell bill was to raise the gas tax 5 cents in the next year, and then an additional 5 cents for a total of 10 cents. And the whole idea was that it would mirror just about the amount of money that was in Senator Fischer's bill. I have to say that I can probably count on one hand the number of people who came up and said, that's a great idea. How many hands would I need to describe to you how many people said, what are you thinking? And so Senator Fulton's comments we should take very seriously in terms of what the public said. I want to emphasize that LB84 has to do with new construction of roads. And we're getting a lot of figures and a lot of comparisons here. Keep in mind that at this point the Highway Trust Fund is mainly being used to maintain our roads. Here we're talking about new construction needs. And I would have to say that in the last five to ten years, we've probably have had a new construction plan. And I would contend that the name of that plan has been, some day. Some day we'll get to that. Some day we'll figure out how to address the construction list. The construction list that used to be in the annual roads plan and now isn't even there. It's gone because we don't have the money, we don't have the plan, we don't know how we're going to get to it. So if you look for it, it's not there. Some day we'll get to the express system. Some day we'll recognize roads require, and it's my favorite expression, long-term planning and long-term financing. If I learned anything in 16 years as a county commissioner, that's the principle I learned. And for those in southeast Nebraska, the Speaker talked about Norfolk. Some day we'll build the south and east beltway to alleviate the increasing traffic and deaths that we've had on Highway 2, and put the priority on the safety of people that are using it as the pathway that used to be around Lincoln and now is through Lincoln. Some day and next

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year, through good times, we didn't do anything and really hone in on construction. We just kept going. And we allowed the problem to compound itself. Starting in 2001 the state highway construction remained flat. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR CAMPBELL: And it's now almost nonexistent. We don't build roads just to build them. We build and maintain roads for people, people traveling to and from work, people riding school buses, people carrying freight and products to and from the markets. We expect our roads to be time-saving, to be in good condition, and to be safe. I'll have more to talk about on this topic as we go along. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Campbell. (Visitors introduced.) Continuing with discussion on the bracket motion, Senator Carlson, you're recognized. [LB84]

SENATOR CARLSON: Mr. President, I call the question. [LB84]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see five hands. The question for the body is, shall debate cease on the motion to bracket? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Senator Carlson, for what purpose do you rise? [LB84]

SENATOR CARLSON: I'd like a call of the house. [LB84]

SENATOR LANGEMEIER: There's been a request to put the house under call. The motion for the body is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB84]

CLERK: 31 ayes, 0 nays, Mr. President, to place the house under call. [LB84]

SENATOR LANGEMEIER: The house is under call. Senators, please return to the Chamber. All unauthorized personnel please leave the floor. The house is under call. Senator McGill, would you please check in. Senator Heidemann, Senator Price, Senator Hadley, please return to the Chamber. The house is under call. Senator Harr, Senator Larson, Senator Ashford, please return to the Chamber. The house is under call. Senator Carlson, as we wait for senators to arrive, how do you wish to proceed, call-ins, or roll call? [LB84]

SENATOR CARLSON: Call-ins and record vote. [LB84]

SENATOR LANGEMEIER: Thank you. Senator Carlson, for what purpose do you rise?

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[LB84]

SENATOR CARLSON: I'd like to change to a roll call in reverse order. [LB84]

SENATOR LANGEMEIER: Thank you. Senator Ashford, would you please check in. Senator Hadley, Senator Burke Harr, Senator Larson, please return to the Chamber. The house is under call. Senator Carlson, for what purpose do you rise? [LB84]

SENATOR CARLSON: It's okay to proceed with the vote. [LB84]

SENATOR LANGEMEIER: Thank you. As requested, we will proceed. The question for the body is, shall debate cease on the motion to bracket? Mr. Clerk, there's been a request for roll call vote in reverse order. Please call the roll. [LB84]

CLERK: (Roll call vote taken, Legislative Journal pages 941-942.) 33 ayes, 10 nays, on the motion to cease debate, Mr. President. [LB84]

SENATOR LANGEMEIER: Debate does cease. Senator Conrad, you are recognized...Mr. Clerk, for a motion. With that, I raise the call. Senator Conrad, you're recognized to close on your motion to bracket. I did raise the call. [LB84]

SENATOR CONRAD: Thank you, colleagues. Thank you, Mr. President and I appreciate a brief interlude while I had a chance to double-check the appropriate parliamentary procedure with the Clerk and the presiding officer. I will go ahead and utilize this opportunity to close on the motion. And if unsuccessful, I will move for a motion to reconsider. We can have full and fair debate on this issue under any of the motions or amendments that are fully in order. This bracket motion is brought according to our rules, and strategically I believe that it is the appropriate route to take in terms of defining my opposition to LB84. All the bracket motion does in essence is mirror the Governor's position. When asked recently about the status of LB84 the Governor noted, I think we would be better served if we have this debate a year from now when we see what progress we make on the economic front. I agree. That's all the bracket motion does. It doesn't kill the bill for consideration. It doesn't dramatically alter the bill from its current form. It simply says, let's wait and see a year from now where we are. The bill itself doesn't even take effect for two years so we'd still have a year, if the bracket motion goes, to implement the policy once we have a better understanding of the financial future, which we lack today. So I think the bracket motion is appropriate. It's fully in order and it's an important part of our process in terms of how we move forward. If Senator Fischer or other proponents would like to talk about the amendment, the underlying legislation, or anything else that is pending, it's fully germane to the debate to have that conversation now. So nothing is prohibiting proponents from bringing forward their issues or ideas. Nothing at all. To say otherwise is disingenuous. We've had a lot of good dialogue in terms of potential impacts, and what's really contained in the

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legislation, and where it originated from. And we need to continue having that dialogue. We've only been debating the bill for about two hours and fifteen minutes and on something that represents the largest earmark in Nebraska's history at \$2.8 billion in the original legislation, or potentially \$2.5 billion as amended with some of the pending amendments, we have every right to utilize every motion and option we have available to talk about the legislation. I think a bracket motion is most appropriate because it doesn't kill the ideas, it just says, let's wait a year. Let's wait a year until we have a better understanding of where we are. That's been the Governor's position, at least from what I can garner in the media that has covered this issue. And let's have time to continue talking and working about whether or not there can be any flexibility in the legislation, whether or not we could put in some parameters to ensure that we don't mortgage the future of our kids or our critical human services like we could under the legislation as proposed. Let's make sure we have a careful understanding about whether or not this is a continuing appropriation that binds the hands of future Legislatures for 20 years to come. We can keep talking about those things over the next year and that's the most appropriate thing to do. It's been said if we don't move today, we'll just be kicking the problem down the road. Well, colleagues, LB84 kicks the problem down the road. Number one, it doesn't take effect for two years. [LB84]

SENATOR LANGEMEIER: One minute. [LB84]

SENATOR CONRAD: So there's the first delay. And then it goes on for 20. So this is a 22-year solution to what is being said is an immediate problem today. And even under the best possible circumstances, it might only fund half of the projected projects that are out there. So if that's the last and best hope of rural Nebraska in economic development that exists in the state, that's not a lot to hang your hat on. Colleagues, this motion is in order. It is appropriate and it's the best way, I think, to move forward so that we continue to have dialogue, we continue to have debate, and if others want to address other issues on the bill or the amendments, that's germane. It's within our rights. It's within our abilities and I think that we're fully prepared and sophisticated and able to handle that. The bracket motion doesn't kill the bill. It delays consideration until we know where we are from a financial picture. That's the Nebraska thing to do because that's the fiscally responsible thing to do. Thank you, Mr. President. [LB84]

SENATOR LANGEMEIER: Thank you, Senator Conrad. You have heard the closing on the motion to bracket LB84. The question for the body is, shall LB84 be bracketed until January 4, 2012? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB84]

CLERK: 9 ayes, 28 nays on the motion to bracket the bill, Mr. President. [LB84]

SENATOR LANGEMEIER: The motion to bracket is unsuccessful. Mr. Clerk, for a motion. [LB84]

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CLERK: Mr. President, a priority motion. Senator Conrad would move to reconsider the vote just taken on...with respect to the bracket motion. [LB84]

SENATOR LANGEMEIER: Senator Conrad, you are recognized on your motion to reconsider the vote just taken. [LB84]

SENATOR CONRAD: Thank you, Mr. President. And just as a point of information, can you tell me how long I have on my opening, please? [LB84]

SENATOR LANGEMEIER: Ten minutes. [LB84]

SENATOR CONRAD: Ten minutes. Thank you, Mr. President. Thank you, colleagues. Good morning again. Now we have the opportunity to reconsider this bracket motion which again, as I stated in my closing in our first consideration, I consider it to be a clear indication of where our state's leadership is on this issue, better financial fitting and understanding to approach the issue from a year from now, and completely appropriate within the bounds and in order in terms of our rules that we have available to us. Senator Carlson talked very eloquently about the reasons he loves the Nebraska Unicameral Legislature and I imagine they mirror many of our own values and our own reasons for loving the Nebraska Legislature and I do 100 percent. I hear in visiting with colleagues from other states about how their process works and I think about how lucky we are to serve in this unique and important institution, and how we have the ability as 49 independent contractors to do the best job that we can each and every day outside of partisan caucuses, outside of issue caucuses, and fully able to vote our time and talents to pursuing the best interest in the state in the best way that we see possible. And when it comes to legislative debate there are important principles involved. The will of the majority and the rights of the minority. And the rights of the minority have historically and for very valid reasons always been protected. So utilizing the parliamentary procedures, motions, and options that we have fully available to us...and I don't know if I'm in the minority at this point in time. We have a vote on the bracket motion, but I think that says very little about where people stand on the substantive legislation as a whole. It's, nonetheless, entirely appropriate. And I want to refocus on a couple of points about where we've been thus far. If the whole point of LB84 is to get roads construction at the table when it comes to making General Fund decisions, we don't need the legislation. That can already happen in the appropriations process. People have every right to either bring a bill with a specific earmark or make a request to the committee to do so. In my five years on the committee that really hasn't happened in anywhere near the gravity or level as suggested by LB84. But as I noted in the early part of debate and I've since filed a substantive amendment to address this issue, if we truly have the flexibility Senator Fischer contends we do with this legislation, let's just clarify it. We can make the transfers from zero to \$125 million a year instead of a mandated earmark that we can't afford of \$125 million a year for 20 years. That's \$2.8

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billion, as amended \$2.5 billion. And let's not forget about what the impacts really are. In two years and five years and ten years and twenty years, when school funding is cut to the bone, when critical human services are cut to the bone, when higher education is cut to the bone, what's your answer? Your answer is going to be, I still stand by the fact that the best thing to do for the history of the state is to vote for a huge earmark which we can't afford and jeopardizes every other critical state obligation? Or my vote on LB84 really was a nod to the fact that I'm open to tax increases to pay for the others down the road? That's just not realistic. We've already talked a little bit about where we are in terms of our fiscal forecast. And with a 4.3 percent recovery on the horizon, according to our analysts and experts, we just won't have enough money to fund all of these important obligations. The numbers just don't add up. Again, in its current form, \$125 million to \$140 million a year is the total operating budget of 39 agencies, Education, Legislative Council, Game and Parks, Nebraska Educational Television, Natural Resources, Crime Commission, DAS, the Department of Agriculture, the Attorney General's Office, Department of Economic Development, Fire Marshal, Historical Society, Military Department, Environmental Quality, Public Service Commission, Library Commission, State Auditor, the Governor's Office, the State Treasurer, the Foster Care Review Board, the Equal Opportunity Commission, the Postsecondary Coordinating Commission, Veterans Affairs, Liquor Control, Deaf and Hard of Hearing, Blind and Visually Impaired, Tax Equalization Review Committee, Parole Board, Arts Council, Labor, Secretary of State, Accountability and Disclosure, Educational Lands and Funds, Mission on Industrial Relations, Indian Commission, Latino-American Commission, Lieutenant Governor, Roads, and State Fair Board, just to name a few. Those are the 39 state agencies that we operate on a budget of \$125 million a year. So which of those should be the first to go? Or should we start by making the cuts in aid to schools, 27 percent cuts to higher ed on current projections, 22 percent cuts in healthcare under current projections, 18 percent cuts in state aid. LB84 represents a loss of potential General Fund revenue that's three times as big as what was allowed under LB775, which has been one of the most significant and controversial programs in state history. So if you think this isn't a big deal, think again. Think in those terms. Those numbers are real. When I hear people say, if we don't act immediately, we're kicking the problem down the road. Well, colleagues, that's not true at all. Again I contend LB84 kicks the problem down the road at least 22 years. But in my time in the Legislature we have made sustainable, important, forward progress in terms of roads funding. In the past few years we've shifted General Fund dollars to the Department of Roads by changing where the revenues dedicated for leased cars and trucks go in 2007. Shifting away a certain percentage of the sale of motor vehicles in 2006. And in addition, in my time in the Appropriations Committee, when times were good, we were able to earmark \$15 million to help move the expressway along. Unfortunately, those numbers couldn't hold as budgets got tighter and the economy constrained, but we have made strong progress forward. And it's been sustainable. And that's increased revenues to the Department of Roads for the importance of roads construction that I've supported and that we've all supported and have made important progress forward. But it's done in it's

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way...it's done it in a way that hasn't jeopardized other General Fund obligations. It's done it in a way that is sustainable. It takes into account current considerations, future forecasts, all of which we'll have a chance to talk a lot more about today and tomorrow. I urge your careful consideration of my motion to reconsider and I'm looking forward to a robust debate. Thank you, Mr. President. [LB84]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: You've heard the opening on the motion to reconsider. The floor is now open for discussion. (Visitors introduced.) Debate will continue. Senator Council, you're recognized. [LB84]

SENATOR COUNCIL: Thank you, Madam President. Nearly two and a half hours ago when I pressed my light, I pressed my light for the purpose of addressing LB84, and Senator Conrad appropriately utilized this body's rules to file a bracket motion. And as I sat here, I couldn't help but come to the conclusion that every day never ceases to amaze me about what goes on in this body. And what is appropriate one day, and inappropriate the next, what's appropriate one minute, and inappropriate the next, my colleague and friend Senator Carlson got up the last time he was on the mike and spoke and said that Senator Conrad was completely out of order in filing her bracket motion, that it was out of order for her to do that because there hadn't been any discussion of the underlying legislation. Well, I've sat here for two and a half hours and all I've heard is discussion of the underlying legislation. Perhaps, in that two and a half hours, five minutes was dedicated to the actual bracket motion and what it provided. So there was nothing by the filing of that bracket motion that prevented this body from discussing LB84. And, in fact, that's what we've been doing for two and a half hours nearly. Now while Senator Carlson found it inappropriate or out of order for Senator Conrad to so quickly file a bracket motion which led to two and a half hours of debate on the substance of LB84, it was okay to call the question on debate on the very subject that everybody says we're not debating. There were 30 senators in the queue waiting to be heard. Debate that one of my colleagues said wouldn't occur was being stifled by a bracket motion, that very debate was occurring. A debate on the underlying substance of LB84, but it was okay to call the question. So I guess I'm back to where I was because, Senator Conrad, I applaud you for your use of this body's rules in filing a motion to reconsider the bracket motion to give me an opportunity to discuss that issue. And when we talk about kicking something down...a can down the road, what does LB84 do if it doesn't kick it to the next legislative session? Everybody is quick to say, well, one legislative session...Legislature can't bind the next, so two years from now the next Legislature could completely repeal if LB84 is passed. Senator Lathrop hit it on the head. That didn't sell when we were talking about cities and counties. You know, we've debated whether we should change from "shall" to "may" and to give subsequent Legislatures an opportunity to decide whether or not they wanted to provide state aid to cities and counties. That argument didn't carry water then. It carries water today. A

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bracket motion, as I understand our rules, and as I understand the process, and I understand the stage of the legislative session we're in, would not and could not kill LB84. What it would do would be to delay the discussion of this. It says everybody is talking about to a point in time when we can get a better revenue picture. What's...why is 2013 any better than 2012? I would think that... [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR COUNCIL: ...next year we'd have an even better view of what our revenue picture looks like. I applaud Senator Fischer for her passion about transportation and road construction and road infrastructure. I agree with her. We need to establish a higher priority for it. I attended the Transportation Conference in Omaha. It was a very good conference. It provided me with a lot of insight. But the fact that I disagree with the funding mechanism under LB84 is no indication that I don't believe that transportation infrastructure ought to be a priority. In fact, I believe it's such a priority that we ought to take the \$231 million that we know is sitting there in the Property Tax Credit Refund, Cash Fund, and devote it now. If we're serious, if road construction is a priority, spend the money now. Do the priority. [LB84]

SENATOR SULLIVAN: Time, Senator. The Chair recognizes Senator Cook. [LB84]

SENATOR COOK: Thank you, Madam President. Good morning, colleagues. I also pushed my button what seems days ago, but here I am now taking my place in the queue. And I've had a number of revelations. I should correct that. It's not a revelation. It's something that I in my many years on the planet and my many trips around the sun have noticed about the rules and the process and policies. And my great good friend and brother, Senator Carlson, I believe chastised Senator Conrad for leveraging the rules of the Legislature in an attempt to encourage debate and encourage compromise on the proposal that we see before us and the amendment that we see before us. What I've noticed in my interactions with humans, kind of the hardest thing we do here on the planet, is that when the policy and the rules are something with which they agree, everybody is for it. It's the...these are the rules. This is the policy. Follow the rules. Get in line. As a recalcitrant woman, I run into rules all the time that really didn't necessarily mean to include me. And then this is what I notice. When we memorize the rules, when we help to create the rules, when we are leveraging the procedure in pursuit of something in which we believe, all of a sudden, it's a problem. I just noticed that. I think it's kind of a universal truth. There are probably some philosophers out there, maybe in ancient China. Maybe philosophers right here in Nebraska. Poetry month is coming up. I bet there are all kinds of poems written about it. That's just something that I've noticed. And it goes on in this Chamber every single day. As somebody who has lived in the great state of Nebraska for most of her life as a city girl, and we are allowed to live in the state of Nebraska and be interested in city things and urban things, that's not against the law as far as I know. Maybe there's a proposal coming down the pike from

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what I hear on the floor. Here's my...what I don't understand. Senator Fischer brought up in her opening on her bill and the idea of certainly investing in our infrastructure so that we can look toward a future in Nebraska. And absolutely, I don't understand why it's taken 22, going on 23 years, to execute an idea that we knew was needed then. I don't understand that, but what I would have liked to have seen 22 or 23 years ago, is maybe an investment in our future. We talk about Angel Investment. We talk about Innovation Campus. We talk about remotely working from Senator Brasch's district. What if we would have invested, I don't know, 23 years, maybe 43 years ago in a light rail system? Or some different investments or greater investments in public transportation for larger groups of people. That way grandma and grandpa from Alliance can just be safely delivered to the train station and ride and read a book and crochet and quilt all the way to visit their children at the Bemis Underground Studio in Omaha, Nebraska. What about that idea? And with that, I would relinquish any time, Madam Chair, to Senator Mello. [LB84]

SENATOR SULLIVAN: Thank you, Senator Cook. Senator Mello, you have 1 minute and 15 seconds. [LB84]

SENATOR MELLO: Thank you, Madam President and members of the Legislature. Some of the arguments, I would say so far on the floor today, it's been unfortunate that seems... [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR MELLO: ...that most of the conversation, at least over the last hour and a half, has been targeted towards process. Where I have been debating bills in the Legislature where other colleagues of ours have taken bills to lengthy debates, throwing up motions that whether or not they agreed or not agreed with them, and you still were able to have a full and fair debate on the underlying bill. Senator Fischer has numerous amendments to her piece of legislation in the queue. We have the full ability to read those amendments right now if we so choose to do so. That's something that we have the ability to do and/or talk about those amendments in advance. One thing that...unfortunately, he is not on the floor at this point. It's something I'm sure we'll discuss this afternoon, is talking with our Appropriations Chairman, Senator Heidemann, in regards to getting a better fiscal picture. Since I will reiterate the underlying concern I have more than anything else regarding LB84, is the fiscal impact this bill has because... [LB84]

SENATOR SULLIVAN: Time, Senator. [LB84]

SENATOR MELLO: ...it is substantial fiscal policy changes. Thank you, Madam President. [LB84]

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SENATOR SULLIVAN: Thank you, Senator Mello. Those Senators wishing to speak: Hansen, Fischer, Utter, Pankonin, Lautenbaugh, and others. Senator Hansen, you're recognized. [LB84]

SENATOR HANSEN: Thank you, Madam President and members of the Legislature. I would rise to not be in favor of the reconsideration motion because we've already voted on this, but we'll go through that process again. The rules are the rules and I'm certainly not going to stand here and say when those rules are to be used and not to be used, so that's all I have to say about the process. Yesterday we heard a speech on the floor after a vote about the common good of the state and what we as senators should be looking at when we talk about bills on the floor and maybe have a different view than the majority. And a senator expressed his views and then we got a lecture on the common good of the state and what we should be doing as senators. If roads are not a fundamental responsibility of the state and the common good of the state, I don't know where we're going to go. There are more roads in this state that need repair that have been ignored for years and they can't continue to be that way. I'd like to bring up one example. Highway 92 between...in McPherson County between Tryon goes to Arthur County to Arthur, Nebraska, Highway 92. There's memorials in the high school in the gym at Tryon that have been put up there by memorials given to students, given in the name of students who have died on that road. This is a dangerous road. Doesn't have much traffic, that's for sure. We look at traffic counts in order to set that list of priorities. This is a dangerous road. When you start naming events and scoreboards after young people who have died on dangerous roads, this is a responsibility and the common good of the state for sure. And then you go on to law enforcement. I was looking in the constitution. I went up and asked Senator Adams where the part about schools were in the free schools and common schools up to age 21. That's certainly a responsibility of the state. It certainly is. We have some problems with state aid right now. We have problems across the state in state aid where we have more and more nonequalized school districts. Those school districts don't get any state aid. It's not fair. In the constitution, the word "fair" and "equal" is not used. And it's not equal and it's not fair. State aid will more than likely, in a few years, only go to aid schools in the larger population centers, Hastings, North Platte, Scottsbluff, and on down the road. It's going to be a problem. State aid is...should either level off or diminish. Therefore, the roads department has to look forward, has to plan. And this is what we get stuck on is the planning process. If we would happen to bracket this bill until January of 2012, it would go into effect later in the year. The roads department is expected to do the planning then? I don't think they're going to have time to do that planning. They have the priority list now but they don't have the plans in place. And I think it's a...the Governor says, I agree we don't spend money we don't have. Right now there's three members on your Appropriation Committee fighting this bill. We need to do our job in two years. I intend on being in the Appropriations Committee in three years, in two years, whenever this group of senators.... [LB84]

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SENATOR SULLIVAN: One minute. [LB84]

SENATOR HANSEN: ...that are proposing this now, but we've got to do our job. The Appropriations Committee needs to do their job, stay in place, and do the job. I'd like to yield the rest of my few seconds to Senator Campbell. [LB84]

SENATOR SULLIVAN: Thank you. Senator Campbell, you have 45 seconds. [LB84]

SENATOR CAMPBELL: Thank you, Madam President and thank you, Senator Hansen. I just wanted to finish my comments by saying that I'm not sure that what is expected here is that we be first in line in two years and in four years and in six years, but that we be there. That the discussion of construction of roads in this state is given our attention every year and on into the future. We have let it be just some day we'll get to it. Colleagues, we need to ensure that we give it our attention every year. Thank you, Madam President. [LB84]

SENATOR SULLIVAN: Thank you, Senator Campbell. Senator Fischer, you're recognized. [LB84]

SENATOR FISCHER: Thank you, Madam President and members of the body. I would like to point out to you if you look on your gadgets, a few amendments were filed. I filed three, two of those as placeholders. Speaker Flood also filed an amendment as a placeholder. But the amendment I would like you to look at that we need to discuss in this debate we're having on funding our infrastructure, is AM940. So if you would pull that up and read through it as debate continues, I would appreciate it. The main changes that the amendment makes, it puts a cap of \$125 million for this need, this challenge that we face here in the state of Nebraska. The original bill was a half cent sales tax to be designated to a new fund for our road construction and, hopefully, for new construction of roads, not maintenance. We'll continue to have our Highway Trust Fund, which is funded with the fuel tax, with the sales tax with leased sales of vehicles and with motor vehicle registration. That still goes into the Highway Trust Fund. That still goes through the appropriations process. The concern I have with that process is that in the last ten years the Appropriations Committee has presented a budget to the Legislature with only one increase that could occur to the gas tax. The appropriations process is that they appropriate money for the Department of Roads. Jerry Warner came up with the idea of a variable gas tax which happens to be the envy of every other state. And his idea was that that variable would adjust to just what the needs are for roads in the state. But we all know it's become political and it became political before any of us ever got here. And so as Senator Loudon said in his remarks earlier, what we do through the appropriations process, and what we do on the floor, is we figure out what the program, what the budget needs to be for the Department of Roads so we don't see a gas tax increase. We're all very careful about that because, as Senator Fulton said, the people of this state don't want to see a gas tax increase. So our current

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method of funding is not sustainable. We have more fuel-efficient cars, and I would say none of us in here, we are not going to step forward, we are not going to take that...take that courageous step and say, okay, we've got the funding mechanism, let's use it. So when I hear comments that, oh, we can do this now, we can do it now, it hasn't been done. It hasn't been done and that's why I'm looking at this program that I present to you today. Other states use General Funds. They use sales tax. Nebraska is in the minority of states that we don't. Nebraska is in the minority of states that we do not bond. And under AM940, the bonding element of LB84 is removed. As you know, and as I've said publicly, I'm not a fan of bonding. I like to pay as you go. I'm, you might say, a little conservative. So that was always an issue for me, but it was an option that was brought forward. It was an option that... [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR FISCHER: ...was discussed at the Transportation Conference. And so I brought it forth in the bill with support from many of you in here. But in conversations with you and listening to your concerns, AM940 removes that. We also have \$30 million in for expressways. And please remember, there's \$10 million for cities and there's \$10 million for counties. That in addition to the current tax, gas tax that goes to those entities, to our local governments that helps...that will have for our citizens, property tax relief. That's \$10 million for cities, \$10 million for counties. We voted in LB383. The numbers that come to our cities and counties from LB84 will help them with the decision we made earlier this session. So we have a lot of parts to this bill. I think it's a good bill. It didn't come out of nowhere. [LB84 LB383]

SENATOR SULLIVAN: Time, Senator. [LB84]

SENATOR FISCHER: I've been talking about it five years. Thank you, Madam President. [LB84]

SENATOR SULLIVAN: Thank you. Senator Utter, you're recognized. [LB84]

SENATOR UTTER: Thank you, Madam Chairman and good morning, colleagues. Let me start out by saying that I have great appreciation for the considerable skills that the gentle lady from the Sandhills possesses and her passion for the roads of this state and her passion for other things in this state. And so it is with respect that I stand here and voice some concerns that I see in LB84 and her amendment which will come. Senator Fischer has worked extremely hard and has worked for a long time to develop something for the roads. And I understand and appreciate the importance of the roads, and appreciate the importance of the shortfalls that we are seeing today. And I understand also that the current funding approaches for roads are insufficient and that we do need to have a new look. And with that, I also understand that Senator Fischer has tried to improve that situation. I appreciate very much her removal of the bonding

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portion under her bill because I had great difficulty with the idea that now we were going to incur a large amount of indebtedness. And it seems to me that down through the years not having great debt in this state has served us very well. And I want to make it very clear as I stand here this morning that it is not my intent to oppose this bill, because I do support what she is trying to do. But I support it, I think, with some modifications. I have concerns to be honest with you. Number one, I have concerns about the pace of the recovery in our economy. I think we're living, colleagues, in a changed world today that lacks, maybe, the predictability that we have seen in earlier times. We live in a changed nation, a changed state, and I'm...I stand here today not as a pessimist, but I stand here with concern that the recovery will be at...will improve the revenues of this state as much as the forecasts have been that we are approaching. And if you look at your yellow book that we received not too long ago, why, you could see that we are projecting an average over the biennium beyond the one that we're working on now of 5 percent increase in revenues. I'm concerned that that could not happen. So the...when I look at the '13, '14 year projections, and see that they are projecting \$192 million in net revenue growth over the current fiscal year, '12-13, and then I look at year '14-15 and see that we're projecting \$184 million... [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR UTTER: ...in revenue growth over year '13-14, that totals up \$356 million, and under Senator Fischer's proposal, \$250 million of that would be dedicated to roads. And that, frankly, in my mind, may be a little too heavy considering what the other needs of the state may be at that period of time. That roughly takes up two-thirds of the increase in revenue growth that we're looking at. And so I'm suggesting to our colleagues that we may need to consider a lesser amount in terms of the designation of funds for improving our highways of this state. Thank you, Madam President. [LB84]

SENATOR SULLIVAN: Thank you, Senator Utter. The Chair now recognizes Senator Pankonin. [LB84]

SENATOR PANKONIN: Thank you, Madam President. Senator Utter had, as usual, some thoughtful comments. I just want to add to the debate a little bit today. I'm opposed to the reconsideration. Probably not a big surprise since I'm cosponsor on the bill. I was in the Revenue Committee voting to bring the bill out. Obviously, there's amendments to come. Senator Utter talked about the level of funding, but besides the potential for expansion of our highway system, I want to emphasize this morning that we are falling behind on maintenance. I see it on my drives back and forth to Lincoln and throughout my district. Others have said this as well. But we have first...as a first goal, should be to maintain what we have, and then eventually be able to finish expressways and start new expansion in our highway network. But we are in trouble on maintenance. I can see it. I think many of you have mentioned that. Our roads are deteriorating at a rapid rate and I think we're beyond the point of being able to maintain with the budget

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and the money that we have coming in right now. So that's why I think this initiative of Senator Fischer's should be a policy priority. Waiting is just...we're going to continue to wait, I'm afraid, because I just think there's so many other things that get in the way. But eventually we will be so far behind it will be almost impossible to catch up and maintain our system. So I think action is needed in this legislative session to help all areas of the state down the road. And it's about safety, it's about economic development long-term, and making a commitment that in a state like ours, with our central location in the country and the importance of surface transportation to our state's economy and every part of our economy, that this has to be a priority this session. Thank you, Madam President. [LB84]

SENATOR SULLIVAN: Thank you, Senator Pankonin. The Chair now recognized Senator Lautenbaugh. [LB84]

SENATOR LAUTENBAUGH: Thank you, Madam President and members of the body. I apologize, you caught me off guard there. I want to expand a little bit on something I said the other day, earlier today, I should say because I think it's important to understand, and important that we all hear this. I have a highway in Washington County, 91, that has been closed to semi-traffic. This is the link between Fremont and Blair. I think you have heard of these places. This highway can no longer accommodate semi-tractors because it is falling apart. Now think what that means? I mean, we're not supposedly living in a failed nation, we're not some third world country, and we cannot ship product on the highways that link our cities because we aren't fixing our roads. We simply aren't fixing them to the point where we're losing the ability to travel between town and town and ship goods between city and city in Nebraska. And as I said earlier, people keep talking about this as some sort of choice as everything is between other competing funding needs. But if our schools were in the state that our roads are in, there would be protests in the Rotunda, and there would be drum circles out there, and there would be torch-bearing mobs outside the Capitol saying, something must be done. And we heard someone earlier say, well, we should think about this and find a way. Well, this may be a surprise to some, but some people have been thinking about this for several years as to how to address this problem. And we don't want tax increases. That much is certain and probably not advisable. But we're being told we need to find a way to fix the roads. Well, yeah, we fix the roads by saying we're going to spend this money. And understand further, you can't wake up one morning and say, we're going to fix that road. It doesn't work that way, especially in our regulatory environment. The point in committing to these funds now in an out-year is to allow us to start preparing for the roads we're actually going to build. Every time we delay a project, I know this from Highway 133 between Omaha and Blair, again a heavily traveled road where my constituents, a few of them, die every year. They're not inconvenienced, they don't find it bumpy, some of them just die because this is the most hazardous road at night with the curves and the deer and the narrowness, it's terrifying. And we just...well, a few are going to die every year, I guess that's life, but we can't just keep putting things off. Every

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time we delay 133, the Corps of Engineers has to come back and the EPA has to come back and do another reassessment because something may have happened between the last time they reassessed and this time they reassess, and on and on and on. This isn't something you can do just by flipping a switch and say, tomorrow, let's build roads. We have to be able to plan. So on the one hand you say, well, you're kicking the can down the road two years. No, we're actually giving people a heads up. This is when we're going to start honoring our commitments. This is when we are going to start building the roads. And no one is coming here because we like to slight any other program, we're coming here and saying, we have slighted roads to the point where we are failing in one of our fundamental responsibilities as a society. We've heard, maybe we should have built light rail or something and what a different world we'd be in. Yes, we'd have empty trains running back and forth between the cities like we have empty buses running around Omaha. [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR LAUTENBAUGH: Thank you, Ms. President. It would be a different world. We'd have something more expensive and more empty out there. People drive on the roads. Trucks drive on the roads. One of our primary, fundamental, most basic obligations is to maintain the roads in a society and we're not even doing that anymore. And it's only going to get worse. And to say that we should wait, and maybe think a little harder, and maybe just find a way, those aren't plans. This bill, while not perfect, is a plan, and a plan that I wholeheartedly support because we actually have to do something, not talk about potentially doing something. And if not now, when? Thank you, Madam President. [LB84]

SENATOR SULLIVAN: Thank you, Senator Lautenbaugh. Mr. Clerk, items for the record. [LB84]

CLERK: I do, Madam President. Senators Hansen, Gloor, Krist, and Wallman would like to add their name to LB600 as cointroducers. (Legislative Journal page 942.) [LB600]

And I have a priority motion. Senator Coash would move to recess the body until 1:30 p.m.

SENATOR SULLIVAN: The motion before you is to recess until 1:30 this afternoon. All in favor say aye. Opposed? We are recessed.

RECESS

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen. Welcome to the

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George W. Norris Legislative Chamber for the afternoon session is about to reconvene. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have nothing at this time, Mr. President.

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll proceed to the current item on this afternoon's agenda, LB84. The discussion on the floor was the motion to reconsider the vote taken on the motion to bracket. We open the floor up for discussion. Those wishing to speak, we have Senator Mello, Janssen, Adams, Conrad, McGill, Nordquist, Howard, Loudon, and others. Senator Mello, you're recognized. [LB84]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I rise in support of the reconsider motion but I think the reality is this. Unfortunately, Senator Heidemann is still not here on the floor, which I know at some point in time we will have him on the floor and I know either myself or someone else in the Appropriations Committee will be able to ask him a few questions and have a little dialogue because I think the reality is this. We've heard a lot of arguments made today in support of LB84, but I would offer the body to walk through some of these supportive arguments of using the logic that's there. Some of the logic that's being used is that if we pass LB84 and two years from now we can simply remove the funding or we simply don't have to do it, if you read any of the amendments that are currently in the queue on LB84, that's not the case. LB84 even with the amendments as drafted makes this a spending priority of the Legislature and as the state of Nebraska. That has a significant financial impact in regards to how our budget process works. For those who aren't familiar with the budget process, the Governor in 2013 as he's preparing his budget...I should say, in 2012 as he's preparing the budget for the 2013 session will have to put \$125 million, \$250 million in his budget proposal that gets presented to the Legislature. We will not have time and...the time and authority to be able to change that prior to the introduction of the Governor's budget proposal, which ultimately means that the funding that we're talking about in LB84 is in the budget. There's not a chance to remove it. And unless that happens during the legislative process, which it would already be in the budget process, would be very difficult to do because I think as we've seen through the creation of the Property Tax Credit Fund that fund has yet to be changed and there's been multiple attempts to change that during a legislative session similar to how LB84 is crafted. That leads to the next fiscal issue that we continually brought up today. You will be raising taxes by adopting LB84. There's no way around it. You're either raising taxes in two years, otherwise you're eliminating \$250 million in education funding K-12 which will result in property taxes or higher education funding or eliminating aspects of our HHS

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system which will result in an increase in Health and Human Service costs and healthcare costs. There's no way around it. If Senator Heidemann was here on the floor, I would ask him the same question which is, looking at our fiscal status, looking at the structural imbalances that are presented to this body as we adopt a budget this cycle, how do we pay for LB84? The answer will be this. We will either have to raise taxes or we will have to find \$250 million worth of cuts on top of replacing the \$260 million in one-time Cash Reserve funding. Colleagues, it was mentioned earlier today that this...essentially by adopting this bill puts us in a permanent fiscal crisis. It puts us in a permanent fiscal crisis where essentially instead of raising the gas tax, you're going to have to raise some other tax to pay for this bill. It's actually a fairly clever way when you think about it of how to provide additional roads funding without having to push a gas tax increase because there's no way around it beyond either cutting additional funding to pay for it, thus resulting in tax increases at the local level or just raising state taxes to pay for it in General Funds, whether it's sales or income tax. Colleagues, I think we all agree today that, yes, our roads problems in this state need to be addressed. LB84 does not address them. We could go at length which I believe we will in regards to some of the expressways issues. The meager amount of money that goes to expressways would complete less, less, my colleagues, less than one-third of all the expressways in the state even after 20 years. It's a smokescreen of a attempt to try to deal with a much bigger issue and unfortunately it's going to put a tax increase on every single Nebraskan... [LB84]

SENATOR SULLIVAN PRESIDING

SENATOR SULLIVAN: One minute. [LB84]

SENATOR MELLO: ...to address it. What was that, Madam President? [LB84]

SENATOR SULLIVAN: One minute, Senator. [LB84]

SENATOR MELLO: Thank you. We will go into length I think this afternoon talking about where this funding actually does go. But before we get there, it's safe to say that simply reading the basic financial documents that have been presented by the Appropriations Committee shows we cannot afford this bill. We cannot afford this bill in two years. We cannot afford this bill in the future because our revenue projections do not meet it. Otherwise we will be risking massive cuts in areas that will result directly in a property tax increase. There's no way to slice that pie any other way. It's unfortunate but that's the stark reality with LB84. My hope is that we can continue to talk about this fiscal impact that seems to be moved beyond everyone's agenda today just to talk about the need to finance roads. We know that is the issue. But what we currently have in LB84... [LB84]

SENATOR SULLIVAN: Time. [LB84]

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SENATOR MELLO: ...does not do that. Thank you, Madam President. [LB84]

SENATOR SULLIVAN: Thank you, Senator. Those senators wishing to speak: Janssen, Senator Adams, Conrad, McGill, Nordquist, and others. Senator Janssen, you're recognized. [LB84]

SENATOR JANSSEN: Thank you, Madam President, members. This debate reminds me a little bit...well, actually being a member of the Transportation Committee I support LB84 and the underlying amendments when we get to them. It's given me a greater appreciation for roads over the last...now I guess in our third year for me on the committee. But it made me kind of think back to when I was running for this job and talking to former-Senator Lowell Johnson who has passed away probably about a year-and-a-half ago. And I asked him, of all the things he did in the Legislature, what was he most proud of. And he kept going back to the roads infrastructure that he put around North Bend, in particular Highway 79, or he as a group, they helped push to get that done. And of everything he did of his career, that was the number one thing that came to light. And we talked about that for a long time and this is before I even knew what committee I may or may not be on. So this is what I look at as maybe an opportunity to have that discussion maybe some day down the road with somebody else looking to pursue this position and say, well, this is what we did. And I'm hopeful and I believe that will be a good thing. At the time I wrote my notes, I think there was about 20 senators that spoke to this issue and I believe there's many more than that now, and the reason for that is roads obviously affect us all. And I don't think I've heard anybody get up and say, you know, roads are a bad thing. Even if you're against this bill, nobody still said roads are a bad thing. And that's the main reason I wanted to stay on the Transportation Committee is because when I go back to District 15, Dodge County and Fremont, that's what people want to talk about. They want to talk about the roads. It's number one on their agenda. Senator Flood, I can concur with you. I went up to visit him also prior to this undertaking in the Legislature and I drove all the way up there and realized that once I left Dodge County, I was on four lanes for a while, and then it was two lanes. And he had talked to me even at that time about he wants four lanes to Norfolk. And I said, well, we've already got four lanes in Fremont. So I guess from my standpoint we've got what we want. It goes to Omaha and it's a been a boon to Fremont and Dodge County like no other. Most people don't realize it takes 20 minutes to get from Fremont to Omaha. I'm basing that on my house. It takes 40 minutes to get to Qwest Center and to the airport. It was one of the main reasons when I moved my company, which now employs 40 people in Fremont, was the accessibility that we had to Omaha. Two-thirds of our employees now commute daily from what I call Fremont's largest suburb, Omaha. And that's something that we can directly attest, I believe, to that four-lane highway and we still have to tell people when they come to Fremont that. They're surprised when they come from Omaha to Fremont. Wow! It's only 25 minutes! Sitting at the northeast Nebraska chamber function last night, I think the people of

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northeast Nebraska realized how important this funding would be as well, as well as the people out west. It will connect communities. If we can connect Columbus and Schuyler to Fremont, then they're connected to Omaha, and then we're connected to Lincoln, and it goes on up to Norfolk and it happens out west too. So that's something that I wanted to bring up. And I want to bring up right now we're talking about, you know, kids versus concrete and whatnot. I got about 15 letters from the senior class at my alma mater Logan View High School and I think most of them forgot that I went there. But what they talked about was exactly what Senator Lautenbaugh talked about--Highway 91. One girl even was...feared for her life, and she knows nothing about LB84 but she wanted to talk about how dangerous that road was. What she said is the condition is even worse. This road has gone from bad to worse to dangerous in just a few years, talking to Highway 91. Another one basically told me that: my name is J.D. and I've got some discussing to do. You might want to work on the education funding out there a little bit, so I might be going against myself. [LB84]

SENATOR SULLIVAN: Time. Oh, excuse me, one minute. Excuse me, Senator. [LB84]

SENATOR JANSSEN: (Laughter) Wow! Thanks, Madam Chair. If you've seen the traffic on Highway 77, you'd know it needs to be redone fast. I know construction goes slow sometimes. Trust me. I remember when Highway 275 was redone. The sooner, the better. But, please, do not let this slip. How are we to be productive if our infrastructure is less than perfect? Please do something. And I got three different letters for that. That seemed to be an issue that was really pushed by them because it affects them. They're 16, 17, 18 years old. They're driving on these roads. I do know Highway 77. I do know Highway 91. It's no longer open to truck traffic, which is hurting economic development. Cargill uses that. That helps economic development. We want Cargill to use that. We want it to be a safe road for the students of Logan View High School, the residents of Nebraska, and visitors to our state, as well as the farmers and ranchers. And I encourage your support of LB84. Thank you, Madam President. [LB84]

SENATOR SULLIVAN: Thank you, Senator Janssen. The Chair recognizes Senator Adams. [LB84]

SENATOR ADAMS: Thank you, Madam Chair. Would Senator Fischer come to the mike, please? I'm going to race through a little soul searching here very quickly because then I'm going to ask her the question that has been looming in my mind since she introduced this bill. And I want to provide her enough time to try to answer. I've got a district like everybody in here that has roads that need to be completed. I've got an 81 Expressway that needs to be completed and smaller roads as well. And Senator Fischer knows because we've had hours of conversation about this that I've tried to help in my first four years here on everything she's tried to do on roads funding. And you know what? What we put together in the Highway Trust Fund worked then, and I'm not telling you anything you don't already know, it's not working now. And year after year we say to

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the Chair of the Transportation Committee, find us a way out because it's not working, and she does so. Now she's put a recommendation out here. And I told her before she ever dropped the bill, I said, doggone you. Doggone you! I want to support you. We need to do something about roads, but whoa! Now I'm speaking as much as the Education Chair more than the senator from a 24th District I suppose. So like many of you in here, or maybe I'm wrong, I'm talking with one leg on both sides of this deal. And you know what? I went to her and I said, and we sit next to each other in Revenue so we jabbed each other about this a lot, I said I don't like the bonding. That goes away. And I said, imagine if we keep doing this what a half cent is going to get you two years from now, three years from now, four years from now. Cap it. Okay? She's been accommodating. You know, what I'm telling you here is that she's come a long way...I didn't say all the way, a long way to convincing me this might work. But now, Senator Fischer, whatever time remains, what are we going to do the next time, maybe you won't, maybe I won't be here, the next time the floor drops out from under our revenues here in this state and we're facing what we do now...well, bottom line is, what are we going to do? [LB84]

SENATOR SULLIVAN: Senator Fischer, you have 2 minutes and 10 seconds. [LB84]

SENATOR FISCHER: Thank you, Madam President, and thank you, Senator Adams. We really don't jab each other too much in Revenue now, you know. Come on. Senator Adams is correct. We've been talking about this for months and months and he has always been a huge supporter of roads, always, and I thank him for that. Yes, we have tried to reach some compromises here. Yes, we're on our way and I believe we're going to get there. The beauty I think of this proposal is that every year we can make those decisions. We put a cap on it. I wanted it to be at \$125 million because I want to make a statement. I want to make a commitment and I want to make a statement and I want this body to say to the people of the state of Nebraska that we're going to do something about the roads, because we're stepping forward and we're going to do it. And, no, we're not going to do it right now, and some of you have asked that in here. We're not going to do it right now because the plans aren't ready, because we haven't given any money... [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR FISCHER: We haven't given any money for new construction. And so I think the Department of Roads properly has not spent money with plans with environmental impact statements with dealing with the Corps of Engineers, which Senator Krist will address. When revenues are good, I hope we can give \$125 million to roads. When revenues aren't good, maybe it will be \$100 million. When revenues hit the bottom again, maybe it will be nothing. But at least we are making a commitment. We're saying roads are a priority. We say we're going to take care of you, we're going to keep you safe. We're going to fund education as we always do. We're going to fund the needs of

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the people of this state who cannot care for themselves as we always do. We do not cut them out. But we need to step up and make the commitment and say, when the revenues are there, roads is at the door, roads is at the door first when it opens... [LB84]

SENATOR SULLIVAN: Time, Senator. [LB84]

SENATOR FISCHER: ...and the revenues are available. Thank you, Madam President. [LB84]

SENATOR SULLIVAN: Thank you, Senator Fischer. The Chair recognizes Senator Conrad. [LB84]

SENATOR CONRAD: Thank you, Madam President, and thank you, Senator Adams, for that good question, and I was listening very intently to Senator Fischer's response. And let's be crystal clear on this exact topic. I'm so glad my light came up right after this dialogue. I challenge Senator Fischer or any supporter of this bill to show me in LB84 or AM940 or any other amendment pending where this so-called flexibility exists. It does not exist. It's a mandate. It is an earmark, and to suggest otherwise is untrue. And it fails to understand the budgetary process because we first fund things that have a statutory obligation. We then work through the rest of the discretionary spending. Senator Campbell artfully says, all this does is put roads at the table. Senator Fischer has said that is solely her intent as well. But, colleagues, what this does is it puts roads in the VIP slot at the table. It says you get a guaranteed mandated amount each year and there is nothing in any (laugh) pending amendment or the legislation that has been introduced that provides the flexibility Senator Fischer talks about. It doesn't exist. Show me where it exists in the language before us. It doesn't exist. I've actually filed an amendment to provide that flexibility and I'm hopeful we'll have the opportunity to get there later. But back to some other points. Let's talk about this in context. Nebraska roads funding according to the U.S. Census Bureau from '07 to '08--the quickest search I could find--ninth in the country. State funding for K-12 education, 50th, Senator Adams, 50th. So let's compare these apples to apples if we will. Good analogy for school days, apples to apples. We've heard passionate pleas from members who represent districts with an expressway system yet to be finished or a dangerous stretch of highway, but this generates more inconsistency in terms of the debate proponents have brought forward. They say we need this for planning, but if the money is not there that, then we won't fulfill those plans. But what if we start entering into contracts with these dollars? Will we be able to turn our back on that at that point in time? Doesn't that further limit our flexibility? What if we have to meet those contract liabilities? We frequently hear, well, we have to have this money for the expressway. Again, I mentioned earlier, \$30 million a year over 20 years doesn't pick up even half the tab of the expressway system. So in a 22-year period, this doesn't even pick up half of what it cost to build the expressways. And I ask you, where is that definition for state expressway? Where does that exist? Because I contend it may pose additional legal questions as to special legislation

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because we do not politicize which roads we will...projects we will be funding because that is indeed special legislation. So when you stand up with maps about how this is going to affect your district, think carefully about moving down that road and the legal and constitutional implications that argument brings with it. And to mention, there is no severability clause in the legislation. So if that component is found to be special legislation, the whole thing is void. I've heard that this is important to fix our crumbling infrastructure. Colleagues, the \$125 million earmark, the \$2.8 billion or \$2.5 billion spending earmark in LB84 or as amended which we cannot afford doesn't go to fix our crumbling infrastructure. It only goes to new construction. So if your worry is... [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR CONRAD: If your worry is the state of roads in your district today or these dangerous stretch of highways that senators have talked passionately about, nothing in this legislation guarantees those are fixed. Nothing in this legislation guarantees that the safety is improved there. This is all new construction. Keep that in mind. Colleagues, we're going to have plenty of opportunity to talk about this as it moves forward. And Senator Fischer has a variety of amendments pending in order to generate more support and that's fine. But the legislation as introduced and as before us in its present sense also contains bonding in it, and a significant bonding component at that. The amendments that she has put forward which strips that out of the legislation has not been subject to public hearing, was not part of the original bill. And if you go back and you look at what happened at the committee level,... [LB84]

SENATOR SULLIVAN: Time, Senator. [LB84]

SENATOR CONRAD: ...I contend there may have been a different result if those amendments were the original bill. [LB84]

SENATOR SULLIVAN: Time, Senator. [LB84]

SENATOR CONRAD: Thank you, Madam President. [LB84]

SENATOR SULLIVAN: Those senators wishing to speak are McGill, Nordquist, Howard, Loudon, Ken Haar, and others. Senator McGill, you're recognized. [LB84]

SENATOR MCGILL: Thank you, Madam President. Thank you, members of the body. Senator Conrad did a great job of explaining or talking about many of the things I would have liked to have. So I'm going to move onto some solutions or what I think we could be doing moving forward because I know that's something that we're all waiting to hear is some discussion about, okay, what's the alternative. I'm with Senator Lathrop in that if we're going to take this seriously, we should be doing something this year. Several members of the Appropriations Committee, I know we have three who have spoken

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against and three who have spoken in favor of this bill. Well, I challenge those who are in favor of it to look in the committee and make the tough choices now and come to us with at least half of what Senator Fischer is asking for here--\$75 million. I'd be happy with \$50 million actually. So I challenge the members sitting on Appropriations right now to find \$50 million each year over the next biennium. If we really want to show our commitment, we don't have to put this off for two years. We can talk about what cuts we want to be making right now. And, honestly, I haven't heard a good reason why we shouldn't be doing that right now if we really want to show this commitment. And we can still be working on legislation for the future. And I actually have an amendment I plan to introduce that I think goes after or taps into, yes, a fee, but one that I think is appropriate to look at. As I was looking through the LR152 booklet, there were many fees and taxes addressed. And Senator Fischer talked about how they didn't take into consider...they didn't want to consider any of those because they were taxes or fee increases. But what's the number one type of vehicle that beats up our roads? It's the semitrucks that carry the goods into Norfolk, into York, into Columbus. And yet we're not looking at all at the fees that we charge them as they're coming into the state and are the number one culprits of deteriorating our roads. Senator Lautenbaugh talks about how he can't get semis on one of his anymore. And the semitrucks were indeed the number one cause of the deterioration in the first place. I'm passing around information right out of this committee booklet on page 44 and 45 that talks about overweight and oversized permit fee increases. If you take a look at this as it gets passed around, you'll see that Nebraska's fees are far lower than many of our surrounding states. Nebraska and Iowa's are about the same. But for...there are a couple of charts here. One is, "Assume a load of 200,000 pounds on 11 axles making a trip of 200 miles across each state," it's only \$20 in Nebraska. In Colorado, it's \$130; in South Dakota, \$255; Wyoming, \$538; Missouri, \$760. This is a fee we should be discussing. I'm drafting an amendment that would be a statutory change authorizing the Nebraska Department of Roads to charge an additional analysis fee or per ton mile fee, which would bring additional revenue into the Highway Cash Fund. That's directly from the recommendations within this report. This should at least be part of the discussion. I don't think that this is the complete solution. This isn't enough money to fill the void Senator Fischer is talking about but it should be a piece of the puzzle. We don't need to be asking for this much sales tax revenue if we can find other ways to help make it up. And I would like people to discuss why this shouldn't be an option when trucks, these oversized, overweight trucks cause so much damage. I've done some research. One legal 800,000-pound GVW tractor-trailer truck does as much damage to road pavement as 9,600 cars. Just one of those trucks versus almost 10,000 cars. [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR MCGILL: Overweight trucks chronically underpay their fair share of taxes and user fees for the repair of U.S. roads and bridges. By damaging roads, larger trucks further degrade highway safety. This is from a report from the U.S. Department of

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Transportation. Again, this isn't the sole solution. I'm not saying we should raise these fees any higher, maybe...and not even as high as some of our surrounding states. But this has to be part of the conversation because we need semis to be bringing our goods in and out of our state. They're going to continue to use the roads. And we can't expect just the everyday taxpayers with sales tax revenue coming from largely Omaha and Lincoln to be funding all of these projects when it's these semis that do the most damage to our roads. So I hope that this can become one element of a larger discussion about other sources of revenue that we can be using to fund road repair. Thank you, Madam President. [LB84]

SENATOR SULLIVAN: Thank you, Senator. (Visitors introduced.) The Chair now recognizes Senator Nordquist. [LB84]

SENATOR NORDQUIST: Thank you, Madam Chair and members. You know, earlier today Senator Hansen talked about the Appropriations Committee and says in two years we need to do our job. Well, I think our job is taking the resources we have at the time and constructing a budget that reflects our priorities at that time, not promising things two years down that we can't afford. We don't do that with our pension systems. We don't do that with other aspects of our state government. Last year, I clearly remember a member of the Governor's staff coming down and speaking to me about a bill Senator Hadley had which would have put an exemption, a sales tax exemption on for two years. And his point was, we don't budget like that. That is why we are in a good fiscal position comparatively with other states. We don't put off obligations two or three years. We find the money, we take the money we have now, and we construct a budget around those priorities at this point in time. I passed around a sheet, a legal-sized document earlier, a graph. Actually it came originally from Senator Pankonin, gave it to me a couple of weeks ago out of the Wall Street Journal. The bottom line shows Nebraska, way, way at the low end when we look at the state's pension and long-term debt liabilities. That's because we don't promise into the future more than we can deliver. You know what? This is probably the best economic development tool we can have for our state is to go around to businesses in other states and say, look at this. We're in a great shape fiscally as a state. We don't have a lot of liabilities. We're not promising out into the future. We make tough decisions now. LB84 will take us down a different path. And I think this bill doesn't acknowledge the reality of the fiscal situation in the future. It's still a volatile situation, our economy is nationally and in our state. And as I said earlier on our fiscal status, our structural revenues versus appropriations, even considering the projected increase in revenue, isn't going to get us anywhere near what we need for LB84. So the consequences, Senator Fischer said we're going to fund education, we're going to fund roads, we're going to fund providers. You can't. Unless money is going to start falling from the sky, you're not going to be able to fund all of that. So you're either going to have to make cuts. You're going to have to go tell the physicians. You're going to have to tell the dentists. You're going to have to tell the nonprofit providers, the people who belong to organizations like CAFCON, you're going

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to have to tell the university, you're going to tell Boys Town, organizations like that, you're going to tell behavioral health provider, you're not seeing an increase in the next biennium and probably the biennium after that and who knows after that because this is cyclical. And even as we're coming out of this, our status sheet shows that we're not going to be able to afford LB84. Other consequences. I was at a meeting this summer of young professionals that was hosted by the Chamber of Commerce. The Governor said that in his time as Governor, he will propose another tax cut. There's no way with LB84 that's going to happen. That's off the table. So if you're promising your constituents tax relief into the future, it's not going to happen with LB84. Senator Heidemann, I don't know how much time I have left. I don't know if he's still on the floor. I'd like to ask him a question if he would. I know he's been... [LB84]

SENATOR SULLIVAN: Senator Heidemann, would you yield? [LB84]

SENATOR HEIDEMANN: Yes. [LB84]

SENATOR NORDQUIST: Thank you, Senator. I know you've been busy this morning and I don't know if you'd had a chance to look at the status sheet I handed out, but it's the one of February 25 which shows a 5.2 percent and a 5.1 percent revenue growth in the next biennium, leaving us an excess shortfall in the next biennium of \$39 million. I know we... [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR NORDQUIST: ...we still have a lot of issues in Appropriations to take up. Do you see LB84 fitting into those confines going into the next biennium? [LB84]

SENATOR HEIDEMANN: Well, as a member of Appropriations, you're well aware you make it fit. And we've been doing that for the last three years, we've been making things fit. Whatever is given to us, according to the law, we have to make it work and we have to present a balanced budget. With LB84, you're either going to have to see an increase of revenue of up to at least 8 or 8.5 percent, otherwise you're going to have to...if you don't get that increased revenue growth, you're going to have to start on the other side and that's spending. I mean, that's nothing new to us by any means. [LB84]

SENATOR NORDQUIST: Sure. So you're saying according to your calculations, we would need revenue growth... [LB84]

SENATOR SULLIVAN: Time, Senators. [LB84]

SENATOR NORDQUIST: Okay. Thanks. [LB84]

SENATOR SULLIVAN: Thank you, Senators. The Chair now recognizes Senator

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Howard. [LB84]

SENATOR HOWARD: Thank you, Madam President and members of the body. A week ago I took a bill into the Appropriations Committee for \$250,000, requesting \$250,000 for a program that helps moms who are living on the street who are using drugs to get their lives back together. That's a small amount of money to pay to fund a program that gives people the opportunity to parent their own kids and for those children not to go into our foster care system. You might remember some of the moms came down here and they were sitting up in the balcony and one of them had her baby with her, baby Ernie (phonetic). And she talked in the committee about how hard her struggles have been, how in her life she didn't have the support that she needed, and how this was her one opportunity to do right by her baby. And I'm telling you this story because it is so difficult in these times to get \$250,000 to support a program that gets moms going in the right direction, that allows their children to stay with them and basically gives us all hope. We're looking at a huge amount of money here, \$140 million that we're going to be committing. And, yes, it's going to take away from programs for families and from children and for education. There's no other alternative. We're not going to go out, we're not going to raise taxes on whatever we choose to raise taxes on. So the other programs are not going to have the funding, even the small amount of funding that they deserve. And I'm hoping this program that I brought in, the families works program, has a chance for the funding that's needed to keep these kids out of foster care. I want to share with you, too, an e-mail that I just got from the AARP. It says: We will be listening for an explanation of how removal of \$140 million from the General Fund will affect the sustainability of programs that are currently funded by the General Fund. We will be listening to hear how Medicaid funding will be maintained so that we will avoid the hidden tax of medical cost shifting the inevitably occurs when Medicaid is cut. We will be listening to hear how the homestead exemption will be maintained in light of increasing residential property taxes and division of resources from the General Fund to build and maintain roads. We will be interested to hear how state aid to education will be maintained. A recent AARP survey of Nebraskans over the age of 50 found that 74 percent of those surveyed thought it was very or extremely important to maintain state support for K-12 education. We will be interested in hearing how the long-term care services that provide in-home supports that have served to effectively control Medicaid spending over the last eight years will be maintained for a growing population of older Nebraskans. And we will be interested in hearing how public transportation services will provide...will be provided on General Fund supported roads for those who don't own or can't drive a car. Nebraska needs to develop and maintain its transportation infrastructure, but that development and maintenance should not come at the expense of other critical services. And I'm going to offer the remainder of my time to Senator Nordquist if he would want that so that he can finish what he was presenting a few minutes ago. [LB84]

SENATOR SULLIVAN: Thank you, Senator. Senator Nordquist, you have 55 seconds.

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[LB84]

SENATOR NORDQUIST: Well, real quick, just another question for Senator Heidemann. We were talking about he said that we would need 8 percent and 8.5 in the following year. Right now our statutes shows 5.2 and 5.1 to fund what is required in LB84. Is that correct, Senator? [LB84]

SENATOR SULLIVAN: Can you yield for...excuse me. [LB84]

SENATOR NORDQUIST: Oh, sorry. I would yield to Senator Heidemann for a question. [LB84]

SENATOR HEIDEMANN: Yes. I'm talking about the out-years here. From what I can gather it would take about 8 to 8.5 at least probably of revenue growth to accommodate this. The thing about that though is once that revenue growth is gone, then you're going to have to face the music of that lost revenue. You could accommodate it for that period of time as long as you have that...if you would always have 8 percent revenue growth, then we'd be okay. [LB84]

SENATOR SULLIVAN: Time, Senators. (Visitors introduced.) The Chair now recognizes Senator Louden. [LB84]

SENATOR LOUDEN: Thank you, Madam President and members of the body. As we listen to some of these passionate speeches today on what we should do about our roads and the shape of our roads and that sort of thing and what's happening to them, that isn't that hard to fix if you got the willingness to do it. How many of you here in the Chamber today would vote for a 5-cent gasoline tax? We'd be out of here by tomorrow if we passed that. And by doing that, even with the bill that Senator Fischer has brought forwards--and any of you I'm sure have read the amendment, AM916 which took over the bill, we haven't talked about it yet but I'm sure you've already read it--that with the 84 percent of it going to the Highway Capital Fund I think it's called would be about \$50 million, a little over. And the other one, the Highway Allocation Fund which would go to cities and counties would be a little over \$9 million. So that would put money everywhere in the counties and cities and also for this state to use something and we could start that. You could start that tomorrow for that matter. So this isn't something you had to wait two years down the road and you wouldn't have to tinker with your sales tax in two years or wonder where your revenue is coming. Sure, it's coming out of here. But as I point that out, if you're going to have a six-lane interstate built from Lincoln to Omaha or from Omaha to Minden or wherever that it's supposed to end up at, it's going to cost money. And you can't do it with the same amount of money that you've been trying to build your maintenance with. That's all there is to it. If you want to build them, you got to pay for them. So how are you going to do it? Well, you usually do it with user fees. That's the way Nebraska has always done it. And this is what we have to consider.

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There's all kinds of hand-wringing about, oh, there's less fuel used. But really when you look up the fuel consumption, we've been using over 800 million gallons of diesel fuel every year for several years, and that consumption stays pretty stable. And then the gasoline consumption has went down. But over the last nearly ten years it's went down about 50 million gallons and it's down around 800, a little over 800 million gallons, again, 820-some million gallons of gasoline. And we have hand-wringers that when we go to these meetings, say oh, we're going to have electric cars. We're not going to be using gas or anything else. Well, I point out to you we've been down that road before. If any of you can remember back in the eighties, and I'm sure most of you can except Senator Larson because after the debate we had yesterday, he was told that I think 1986 or something like that or '84 whenever it was when he was born, but in the early eighties when we had diesel-powered cars and pickups and those of us that had on-farm storage before the days of dyed diesel fuel, we had to pay a surcharge if we had a diesel-powered car or pickup and had on-farm storage when we bought our license plates. I think it was around 75 bucks. Didn't matter whether you filled up in town or not. If you had on-farm storage, you had to pay the surcharge. So there's ways of getting around these cars that are going to use electricity or something else. Put a surcharge on them when they get their license plates. No problem. We've been down that road before. It's happened before and nobody seemed to be concerned about it then. The way we got away from it is you had dyed diesel fuel. And any of you that do any commercial trucking or anything know that you don't dare have dyed diesel fuel in your trucks. You've got to have clear... [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR LOUDEN: ...clear diesel fuel. So there are ways of getting around it. But as I've point out before, we're concerned about the money and stuff. And I said the formula is there, folks, the formula is there. It's been there for years. Just don't play games with it. Use it like it's supposed to be done and we could be out of here, have this over with by tomorrow. There's no problems if you assess the matter like it should be assessed. Thank you, Madam President. [LB84]

SENATOR SULLIVAN: Thank you, Senator Louden. The Chair now recognizes Senator Ken Haar. [LB84]

SENATOR HAAR: Madam Chair, members of the body, I'd like to yield my time to Senator Nordquist if he'd like it. [LB84]

SENATOR SULLIVAN: Senator Nordquist, you have 4 minutes and 52 seconds. [LB84]

SENATOR NORDQUIST: Thank you, Madam Chair. Sorry for being interrupted but I'll continue my discussion with Senator Heidemann. And he was making a point that...and we're looking at right now we have projected revenue growth of roughly 5 percent a year

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in the out-biennium and that would not be enough to sustain this. And he suggested a higher percentage of around 8, 8.5 percent. Senator, if we don't hit those projections, if your current revenue structures and rates don't generate that kind of...hit that 8 percent level, what are we...not dollar amount but what processwise would we be looking at in the next biennium? [LB84]

SENATOR SULLIVAN: Senator Heidemann, would you yield? [LB84]

SENATOR NORDQUIST: Sorry. [LB84]

SENATOR HEIDEMANN: Yes, I would. What do you mean processwise? [LB84]

SENATOR NORDQUIST: I guess if we're not...if we don't hit that 8 or 8.5 percent revenue growth, right now we're projected at roughly 5 percent, I mean we're talking a deep amount of significant shortfall according to our structural revenues versus appropriations, is that correct? [LB84]

SENATOR HEIDEMANN: For every dollar of extra revenue growth you wouldn't get, you would have to take a dollar away from spending. [LB84]

SENATOR NORDQUIST: Okay. So, I mean, would it be accurate to say that based on our current revenue growth right now of 5.2 and 5.1 in the out-years, without adjusting other appropriations we would not be able to fund LB84? [LB84]

SENATOR HEIDEMANN: You could fund it by making room for it in other places. [LB84]

SENATOR NORDQUIST: Okay. So we would have to make cuts to that amount. Is that correct? [LB84]

SENATOR HEIDEMANN: You would have to drive spending down by at least a couple of percentage points if not more. [LB84]

SENATOR NORDQUIST: So if we look at this sheet with \$39.2 million currently shown as excess shortfall for the minimum reserve in the next biennium and we maintained our...if we hit our estimated revenue growth which is currently 5.2 and 5.1, that number, the \$39.2 million, would turn into a negative at this point? [LB84]

SENATOR HEIDEMANN: With our posthearing adjustments probably, yes. We already know we're going to be negative in the out-years, without a doubt. [LB84]

SENATOR NORDQUIST: Okay. [LB84]

SENATOR HEIDEMANN: When you add LB84, and actually we're probably going to

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have to put some costs for healthcare reform, you're going to see a significant shortfall in the out-years. And because of that if you're going to balance, what you're well aware of... [LB84]

SENATOR NORDQUIST: Um-hum. [LB84]

SENATOR HEIDEMANN: ...you're going to have to get more revenue growth to come in or you're going to have to cut spending. [LB84]

SENATOR NORDQUIST: Okay. So the revenue growth...the only variable we control in revenue growth is changing tax rates. Is that right? If we want to increase or have more revenue growth, we can't really control how much people are spending and how much income tax is coming in outside of the rate. Is that right? [LB84]

SENATOR HEIDEMANN: But we can't do that in Appropriations. [LB84]

SENATOR NORDQUIST: Yeah, that's right. Okay. Great. I think that's all I have for you, Senator Heidemann. I think the point that we made here is that with our current, you know, projected revenue or status sheet here by the Legislative Fiscal Office, we can't afford LB84. It would take a significant increase right now over our projected revenues. And that either has to come through some miracle of the economy or through tax increases. And the other alternative is going out and telling all those people who are serving, vulnerable Nebraskans, serving our kids, you're not seeing increases. [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR NORDQUIST: Those are the alternatives here, folks. That's why I think it makes more sense to make this decision when we have a better picture. I mean, I went back to my first comments of the reports that our Legislative Fiscal Office gets about the state of the economy and how vulnerable and how it's going to change in the coming years, how it's going to change in the coming weeks and months with...certainly with increasing energy prices, a flat, stagnant home market, jobs that just aren't coming in like we need them to. We're not out of the ship and we don't have the parachute that we've had the last few years. We started I believe, I don't have the number in front of me, but back my first year in the Legislature, I think we came in with about a \$600 million Cash Reserve Fund. Last biennium through the special session we transferred out... [LB84]

SENATOR SULLIVAN: Time, Senator. [LB84]

SENATOR NORDQUIST: Thank you. [LB84]

SENATOR SULLIVAN: Those senators wishing to speak are Senators Dubas, Burke

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Harr, Council, Schumacher, Krist, and others. Senator Dubas, you're recognized. [LB84]

SENATOR DUBAS: Thank you, Madam President. Listening to the conversation, especially the conversations that have been going on between Senator Nordquist and Senator Heidemann I think is pointing out for those of us who will be here for the next four to eight years, we will have a decision to make in the next biennium without a question, without question. If those figures remain what they appear to remain right now, we're going to have to make some even more difficult decisions. It's been said that this isn't a kids versus concrete issue, but I would have to respectfully disagree. This is an issue. We are going to have to make some decisions about where we spend our money. Would Senator Fischer yield to a question, please? [LB84]

SENATOR SULLIVAN: Senator Fischer, would you yield? [LB84]

SENATOR FISCHER: Yes, I will. [LB84]

SENATOR DUBAS: Thank you, Senator Fischer. And, again, I do appreciate what you've put out here for us to discuss because it is so vitally important. But I'm going to ask you to look into your crystal ball. And if in two years we are where we're at, what the numbers we're looking at right now and we don't have the money, and I believe one of your amendments allows us some flexibility, but if we don't have the money, what have we gained with this bill? And we're holding out some promises to our cities and counties that there's going to be some money there for them if we're able to put this bill into place. If we don't have the financial resources and we have to make that decisions that, no, we're not going to put any money into this particular program, what have we gained by passing LB84? [LB84]

SENATOR FISCHER: You know, Senator Dubas, I think your constituents would tell you that at least you've given them a commitment, which is more than they have now because we've given them nothing. We have given them nothing. We can't even maintain and preserve the system we have now. We are not even funding that because through the appropriations process, through our budgeting process, we have not even done that. What this bill does is say when the revenue is there, we will make that available for these projects that you've been waiting for. And I know your district is especially interested in connecting up to the expressway system. And to be able to do that and be able to get the commodities to market, to be able to get our kids to school, to be able to get the trucks that go through this state to deliver their products, to be able to build roads which is economic development. We haven't even talked about that. There's 40,000 jobs in the construction of roads. You know, we talk about economic development and tax credits. Hey, folks! This is economic development. Let's talk about that. So at least we're going to say to them when that money is there, we're going to make the commitment. The \$30 million a year for expressways, the department, how they do it, they accumulate that money when they have it available to meet a project

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which they will have planned because we've made a commitment, when they have the available funds collected and available, they will let bids and there will be construction made. And the citizens of this state are going to realize that we're going to keep our word and we're going to take care of them with safe highways. [LB84]

SENATOR DUBAS: I appreciate that answer, Senator Fischer, and I agree with you. We need to make a commitment to roads. I think we need to make commitment right now. I'd prefer not to put this off two years because I know the condition of our roads are in. [LB84]

SENATOR FISCHER: If I could respond to that. The reason we have to put it off is because the department has no plans. They haven't wasted money on plans because we haven't appropriated any money for any construction. So if you want to give \$125 million now and \$125 million next year and put it in this new fund, then those hard decisions on what to cut, I guess they're here right now. And the department can have that... [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR FISCHER: ...the department can have that fund and start making those plans. As I said, Senator Krist is going to be able to discuss, especially with the Corps, how long it takes to get an environmental impact statement. You know, it can take four to six years for a federal project. It can take three years for a state project. So these things take time. But if you want to start a fund now, we can determine an amount to put in it now. And then we'll be ready to go when those projects are done, and I'm sure not just the Department of Roads but every citizen in this state will be excited to know that their plans are in the pipeline and they're going to get done. [LB84]

SENATOR DUBAS: Again, I appreciate that, Senator Fischer. And, you know, one of the reasons I ultimately ended up voting for taking the aid away from counties and cities dealt with honesty and not holding out false hopes or false expectations to our counties and cities. And I just feel like with passing LB84 we're going to give that hope that that money is going to be there, and I want that money to be there. [LB84]

SENATOR SULLIVAN: Time, Senator. [LB84]

SENATOR DUBAS: Thank you very much. [LB84]

SENATOR SULLIVAN: The Chair now recognizes Senator Burke Harr. [LB84]

SENATOR HARR: Thank you, Madam President and fellow members of the body. This is a little bit more difficult for me. This is one that I would like to support. I'm on the edge of the cliff, I'm about ready to jump off and say I want to support this and will support it,

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but I'm not there yet. We're about to head down a path that is very, very dangerous and it's something that I do not normally do. I actually stand in opposition to it normally. So I'm at that point, but unfortunately I'm also at a point that I need...I realize that we need to have a funding source for this. And if this is and not this, then it needs to be something else. We've had I think two years to come up with a solution and we don't have one yet. Now these words were spoken by Senator Lavon Heidemann on LB689 two years...well, no, just a year ago, February 22, 2010. I think they are great words of caution as we go forward to think about what we're doing here. Now on LB689, we were moving money but we were...we had a program we had money to do in two years, still not funded but we're working on it and that's why we have LB229. But we're doing the same thing here again. We're saying, body, have faith in the future. Don't worry. Well, if ifs and buts were candies and nuts, every day would be Christmas and it isn't. We have to be ready. We have to have a sound financial house. As the Governor says, we don't spend money we don't have. Senator Adams, if Senator Fischer is the queen, then you're the king. It seems like everything you've asked for, you've gotten. I haven't gotten anything yet. Where's my candy? (Laughter) Someone needs to show me the money. Show me how we're going to do this. This is a \$250 million investment we're making in Nebraska, and it's an investment. I don't doubt that. But just because it's an investment doesn't mean we don't have to be careful and prudent about how we go forward. Senator Loudon said he wanted a 5-cent gas tax increase. I didn't raise my hand. I'll be honest. I want a 10. (Laughter) I think we need to find a way to support the roads. The roads are huge. They are the best part of what we can...of economic development. This is what we can do as a state. Senator Flood was up here very impassioned this morning about how important the roads are and will be to the future of our state, and I agree 110 percent with him. But we have to find a way to pay for it. We have to...if they are so important, gosh darn it, let's bite the bullet. Let's go ahead. Let's do what we need to do, not what's convenient. Convenient is cutting. We can all cut. But let's actually go out and find a way to pay for this. In January when I took this job, gas was \$3.05 a gallon. I just filled up this morning and I paid a little over \$3.64 a gallon. Now I haven't changed my driving habits one iota. I still come down here everyday. I still drive when I'm back in Omaha the same way I did before. Is it going to have an effect raising a gas tax? Yes, it is. Is it going to hurt? Yes, it is. But at least we're paying for...the people who are using the roads are the ones who are paying for it as opposed to coming out of a General Fund. I feel like what we're trying to do here...and I'll use one more pun and then I'll be done, but it seems like what we're trying to do is we're trying to take the golden goose, split it in half and still try... [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR HARR: Thank you, Madam President...and still try to have the golden egg and we just...we can't do that. I support the concept of LB84. We need good roads. But as the only fiscal conservative in this body apparently, we need to pay for these roads, and that's what I'm advocating for today. Thank you very much. [LB84]

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SENATOR SULLIVAN: Thank you, Senator Harr. Those senators wishing to speak are Senators Council, Schumacher, Krist, Cook, Lathrop, and others. Senator Council, you're recognized. [LB84]

SENATOR COUNCIL: Yes, thank you, Madam President. I guess it's fortuitous that I follow on the heels of my colleague Senator Harr because I doubt that there's anybody in the body who would characterize me as a fiscal conservative, although I absolutely view myself as one. And that's why I have difficulty supporting LB84, not because of the priority that is established therein, and that priority being our transportation infrastructure. My objection is to the means of funding that priority. As I said during debate this morning, I believe that if we're really serious about public transportation being elevated in terms of its priority status, we ought to look to identifying a way to appropriate additional funds for transportation infrastructure development and maintenance. And I stated and I firmly believe that we have the opportunity to do that without getting into a situation, as some of my colleagues have eloquently alluded to, of putting ourselves in the next two years in a budgetary crisis in terms of trying to raise enough revenue to cover a commitment, an earmark that is set forth in LB84. I believe that if we are serious about providing funding, that...and I've looked at some of the amendments and I really don't see it there, but...and I think I've heard Senator Fischer say that she's open to considering it, we amend LB84, provide for an appropriation commencing with this biennium of an amount up to \$125 million as funds are available. And every opportunity I get I must remind the body that when we look at the property tax credit refund statute it says: any credit refunds granted after 2008 would be if funds are available. And I submit to you funds are not available or at a minimum if available, we have today identified through a lot of the debate that a higher priority should be given to transportation infrastructure. With that, I will yield the balance of my time to Senator Ashford if he would desire. [LB84]

SENATOR SULLIVAN: Thank you, Senator Council. Senator Ashford, you have two minutes. [LB84]

SENATOR ASHFORD: Thank you, Madam President. I'm intrigued by the concept that is now on the table here. Senator McGill raised it I believe right after lunch--I was listening--and Senator Heidemann and now Senator Council have raised it and maybe others have. This is a great idea. Senator, the idea of paying for things as you go is a great idea. It's a conservative idea. It's the way we should go. Roads are a high priority. We need to address the roads issue, no question. The conversation we had in Omaha in December with Senator Fischer's...I was very happy to be part of that meeting that day, and what was clear was to me was certainly that the trucking industry was very willing to pay their fair share for these road improvements. Senator Council's idea of... [LB84]

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SENATOR SULLIVAN: One minute. [LB84]

SENATOR ASHFORD: ...creating an idea or an amount of money for roads, \$125 million is now in the bill, and then making certain that it is funded as the funds become available is absolutely the way we ought to go. And I can support that. I hope we have an amendment to that effect. Then as the resources become available, we prioritize roads in this bill as well we should. The trucking industry can pay its fair share as they are more than willing to do, at least they indicated as much at this convention or this meeting we had. And there may be other funding sources that we can allocate, and to some degree sales tax I think is a legitimate funding source. But let's make sure that we're telling the public, the people of Nebraska, yes, roads are a priority but, yes, we are going to show you how we're going to pay for them so we are not kicking the can down the road. It is a... [LB84]

SENATOR SULLIVAN: Time, Senator. [LB84]

SENATOR ASHFORD: ...very important idea that Senator... [LB84]

SENATOR SULLIVAN: The Chair now recognizes Senator Schumacher. [LB84]

SENATOR SCHUMACHER: Thank you, Madam Chairman, members of the body. I think we have to thank Senator Fischer for bringing this to the body. It is an extremely important issue. It is one of the three things that pretty much everybody can agree we must do. Transportation, education, public safety. There are other things out there that we like to do and probably will do, but those are the three core issues that we must deal with. Also we need to thank Senator Conrad for the bracket motion because it opened up the forum so that we can begin to discuss this very difficult issue of how do we get things and how do we manage to pay for them. And to let the cameras that are in the room roll, the microphones, and radio, and television people began over the next day or two or three or four to broadcast to the people of the state the problem that we have. I was playing with the numbers a little bit and the need is clear. The need for roads is there. My district wants a piece of road fixed between Schuyler and Fremont. Senator Flood's district needs a piece of road fixed. Most of your districts need a piece of road fixed. But we can't figure out how to pay for them because we don't have any money. That's a problem. I'm going to just...I'm not going to be necessarily very free flowing here but this bill doesn't make a whole lot of sense. In year 20, if we hold at \$125 million and assume a 7 percent inflation rate, the purchasing power of what we're appropriating here is \$32 million. That's not what we need. If we are really serious about doing this, we have to say this bill means one of two things. It means we're going to appropriate anywhere from 0 to \$125 million or maybe higher each year depending on what we feel like or come hell or high water we're going to appropriate \$125 million a year. And if that is our intent to appropriate \$125 million a year and if the people of this state really, really, really want these roads, then what are we doing trying to do it with this theoretical

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mechanism? Let's suspend the rules. Let's put a resolution on the ballot. Let's call a special election and say, folks, folks, we want to float at 4 percent interest a billion seven in bonds and we want to build roads and we're going to pay for that with \$125 million a year of your tax money come hell or high water and let them vote it up or down. We will have roads. We will have made a commitment though. The Department of Roads can plan and apply for federal grants and buy land and do whatever else they need and we will know we're on the hook for that amount of money. And it is the same money because under this plan we write a check for \$125 million a year. Under that plan, we write a check for \$125 million a year. Either we want roads or we don't want roads, and that maybe is not our decision. But maybe it's a decision that the people need to make. And I think that we have an obligation to stay here and to debate this issue and to toss ideas back and forth on whether we're going to supplement those road funds with a gas tax or a trucking tax or whatever until we can offer the people a concrete mechanism for doing what needs to be done and get their consent to do it. Right now we're having an excellent discussion and one that I hope goes on and on for some time... [LB84]

SENATOR SULLIVAN: One minute. [LB84]

SENATOR SCHUMACHER: ...because it's alerting the people to the quagmire that we're in. And we may have to make other hard decisions in conjunction with this, taking into account our population demographics, population shifts, and all of that. But I've been bellyaching for no forum in which we can have an intelligent discussion about policy. Thank you both, Senator Fischer and Senator Conrad, for creating that forum and I hope this goes on for some time as we struggle with this problem. But we need to come up with the money to do this, the people need to give their consent, and then we need to build roads. Thank you. [LB84]

SENATOR SULLIVAN: Thank you, Senator Schumacher. The Chair now recognizes Senator Krist. [LB84]

SENATOR KRIST: Thank you, Madam Chair...or President. And colleagues, good afternoon. I've been quoted a few times as having things to say, so I hope I live up to that value. First of all, I'd like to ask Senator Janssen a question if he'll yield to one please. [LB84]

SENATOR SULLIVAN: Senator Janssen, would you yield? [LB84]

SENATOR JANSSEN: Certainly. [LB84]

SENATOR KRIST: How long have you been waiting to put a bridge across that river? [LB84]

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SENATOR JANSSEN: I think I was in high school when they started it which was ironically 1988 and we also were promised the expressway and it was needed then. [LB84]

SENATOR KRIST: Okay. Thank you. Thanks for yielding. And if Senator Lautenbaugh was here I would ask him how long that they've actually been trying to fix Highway 91. I won't bring you back up, Senator Janssen. But that project actually started about a year-and-three-quarters, a year-and-a-half ago. If anybody has any better information, I welcome. I don't claim to know all the facts but I do have a few. And that is still nine months away from being let to construction. Nine months. So that will be a total of two-and-a-half years before Highway 91, which is in trouble of not being able to support tractor-trailer semis and a critical link between two of our bigger cities. If you start a...and this is straight from the Department of Roads, if you start a new highway construction today, how many years do you think if it's just state funded will it take to actually start construction? Three. If the feds are involved, how long do you think it will take to start new construction? Four to five. I'm going to tell you one of the long poles in the tent in this construction process is something that we cannot control in this state. It is called a permitting process. That permitting process starts with an EPA survey. It involves the Corps of Engineers. It involves structural...it involves a whole bunch of stuff. And when you come right back to the Corps of Engineers, which I have some knowledge of, it comes back to the regulatory office to say: yes, sir, you can proceed with this construction. All the EPA has been done. All the surveys have been done. The road can go through there. There aren't any crustaceans. There aren't any endangered species and on and on and on. So if we want to fix a road in 2012, we're already at least a year and a half late in the process of starting the planning. I hope that you heard Senator Fischer loud and clear when she said that that two years, the two years that we're talking about, it's going to take the Department of Roads two years to put a plan together to get things going because they haven't planned for it yet. I know this process. I dealt with it on the federal military side, on the DOD side. It's called the palm cycle. If you wanted something three years from now, you'd better have funded it last year. This is not unreasonable I don't believe in my mind. In my opinion, it really is not unreasonable to say that in two years we're going to dedicate funds to start a construction program. Now is LB84 the right vehicle to do that? Have we structured it the way it should be? Should it be 20 years long? Does it have to be that amount of money? I think we still need to debate those issues. And some of the excellent comments that have been made today would lead us to believe that the 49 of us need to come together and get some consensus, so that may take some time and some more honest debate. But until you go back and realize what's involved in building a road, and getting the permits... [LB84]

SENATOR COASH PRESIDING

SENATOR COASH: One minute. [LB84]

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SENATOR KRIST: ...and putting everything together and following through with it, and again, in building a bridge that's taken almost 20 years to put together, this is not a "let's erect the barn." This is in some cases a five- to six-year process. So as you're running through this in your mind and figuring out if you can support it in whole, in part, or some, it is our obligation to provide for transportation, education, and safety. If this is one of our priorities, we need to think about funding it. There's no gimmick here, folks. The money has to be there in order for the plan to start and for the construction to start two to three to four years down the road. Factor that into the conversation, if you will, for me please. Thank you, Mr. President. [LB84]

SENATOR COASH: Thank you, Senator Krist. Senator Cook, you are recognized. [LB84]

SENATOR COOK: Thank you, Mr. President. Good afternoon, colleagues. I would like to take some time to also thank Senators Fischer and Conrad and all of the other senators who are getting us back focused on the policy issues at hand. We started out, we've got lots of themes working this year. We've got "what's in the toolbox." We've got "let's work it out between now and Select" which is working, by the way. But I do think that it is time for us to dig down deep and determine and advocate for what we believe to be the primary roles of our state government here in Nebraska. And to that end as a representative of a district that has a road, Senator Lautenbaugh mentioned Highway 133 that also runs through Legislative District 13, has roads that are unpaved, I absolutely recognize it to be a necessity for industry and also for private development and homeowners. What I'm concerned with just with our previous policy making patterns in this body is that we will...may never or we may prioritize the infrastructure over our commitment to public and higher education and to human services of the most needy. With that I would like to offer Senator Ashford what remains of my time. Thank you, Mr. President. [LB84]

SENATOR COASH: Thank you, Senator Cook. Senator Ashford, you are yielded 3.5 minutes. [LB84]

SENATOR ASHFORD: Thank you. And I will try to talk faster than I did the last time. And, you know, Senator Cook is right. This is a good discussion. This is...we're not at the end of this and we don't have the conclusion. We don't have the solution yet and it may take us the rest of the session to figure out how we're going to do roads. What is clear is that we are going to do something about our infrastructure thanks to Senator Fischer. We don't have the answer yet. And it's a combination of things. Senator Schumacher makes great points, and he does a great job on the committee that we serve on together because he asks the tough questions. We need to find a way to raise the revenue to cover this cost. Whether it's an increase in gas tax which is highly unlikely--the body has voted not to do that just as recently as two or three years

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ago--the trucking fee on the axle weights, the permit fee is obviously something we need to seriously look at in the context of this bill. We need to...and there may be other sources like Senator McGill suggested. There is a rationale for putting sales tax into roads funding because in fact better infrastructure results in more economic activity, resulting in higher sales tax. And so it's...there's a legitimate, in my view, nexus. But what we have here is a great coming together of the appropriations process and the revenue process. And if we discuss nothing else this year...I know we will certainly, but if we discuss nothing else of importance, this process that we're going through right now of putting together the appropriations process with the Revenue Committee process is so important. And the public is watching. When we get down to...they look at some of these special interest issues we do for a couple of days. But all of the taxpayers watch us when we do these sorts of things. How are we...we want better roads, how are we going to pay for them? And I think we owe it to ourselves and we certainly owe it to the taxpayers to tell them how we're going to pay for it. Raising the fees for trucks should be an easy thing for us to do because we... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR ASHFORD: ...we compare very well with our surrounding states, and the trucking industry certainly was very clear in their willingness to support such a fee increase when we met in Omaha in December. So that has to be one piece of that. Let's figure out what it is. Is it \$10 million or \$20 million? Great! We need to discuss Senator Gloor's cigarette tax. We need to get it on the floor and we need to discuss it because, as was discussed earlier this morning, we have immediate healthcare needs in our state. We should not kick it down...kick those needs down the road. We should get that cigarette tax issue out here and we should debate it. It is critical that we do so. So as we discuss revenues or as we discuss needs and as we discuss our priorities, we need to discuss how we're going to match revenues with those priorities, and it is so important that we do that. [LB84]

SENATOR COASH: Time, Senator. Mr. Clerk. [LB84]

CLERK: Thank you, Mr. President. Some items. New resolution. Senator Price offers LR140. That will be laid over. I also have amendments to be printed: Senators Conrad and Utter (re LB84). And I have a series of confirmation reports from the Education Committee. And an additional amendment to be printed, Senator Council (re LB204). (Legislative Journal pages 943-945.) Thank you, Mr. President. [LR140 LB204 LB84]

SENATOR COASH: Senator Lathrop, you are next and recognized. [LB84]

SENATOR LATHROP: Thank you, Mr. President and colleagues. Good afternoon. I've noticed when I try cases that sometimes about 3:00 you look around and the jury is getting a little heavy-eyed. You're wondering if they're listening to you. It's disheartening

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to say the least. And I was waiting for my time to come up and I said, this is going to be 3:00 when my number gets called, and it is five till. And I don't have anybody to call a recess and let everybody get up and stretch, so I'm going to weigh in. And I've been listening carefully this morning, and I say to Senator Fischer I am very sincere when I say I get the point with LB84. I agree that we need to do something about roads. But while I listened this morning and I don't tell you this because I think it's unique because I think it's pretty common, my friend Senator Utter made what I think is maybe the most important point that we've come to so far today in this debate. And that is when you look at what we are committing and assume the rate of growth that we are assuming, which is 5 percent, and two years from now this will eat up two-thirds of whatever the growth is going to be in our revenue. And that's two-thirds of our growth and we haven't put a dime away in the reserve. And that's happening after we've been through the LR542 process, after we've cut everything there is to cut this year. We are in the crisis year. We've cut not just fat, we've cut muscle and we're into the bone. And in two years from now if we have to...this passes and we need to set \$125 million aside for roads, all of the increase in revenue we'll have one-third of it left for everything else, including putting money aside for the reserve. Now if you're leaving in two years, that's not a big deal. It's somebody else's problem. But if you're going to be here in two years, and now I'm talking to the people inside this room and I'm talking to the people outside this room because I kind of looked at that list of folks too and they'll be crying about this isn't fair and where are we going to get the money, and the only conclusion I can come to is that somebody is going to have to raise taxes in two years because this thing doesn't cash flow. It does not cash flow. And if you are going to be here in two years, you have an interest in this. If you're leaving in two years, somebody else's problem. If you're going to be here in two years whether you're on this side of the glass or on that side of the glass, we got a problem because this isn't going to cash flow. We're not going to have money to put into the reserve let alone give a little increase and bring state aid to education up where it ought to be and take care of the DD waiting list and take care of some of those things. I'm not excited about voting on this bracket and I hope no one calls this question because I don't think we're done talking about this. I would like to be party to a solution that's thoughtful. Senator Fischer, you have a lot of votes and you have a lot of leverage right now and this is the time to be talking about it. And you have the attention of 49 people in this body and everybody out in the lobby, and I think it's time to do something about roads. But it isn't one or the other. It shouldn't be a bracket or LB84 because LB84 isn't going to cash flow in two years. And somebody that's left behind to be a senator in two years... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR LATHROP: ...is going to have to figure out where we're going to come up with the money. Now think about that. You're going to be voting to eliminate something, some tax rebate or you're going to be voting to increase property taxes or rather sales tax or you're going to be voting to raise income tax. But you need to do the math and

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you need to be thoughtful about this because Senator Utter has done the math. My banker...I may...if he's still running a bank, I may move my money to his bank. He's right about this. He's right about it. It's not going to cash flow. And that's a very sobering question and we ought to have an answer for it before we stop debate, shut people down, and either kill LB84 or stop the people who are trying to have a thoughtful discussion. Thank you. [LB84]

SENATOR COASH: Thank you, Senator Lathrop. Senator Mello, you are next and recognized. [LB84]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Interesting debate so far this afternoon. And primarily I find it intriguing in part because the Chairman of the Appropriations Committee essentially reiterated on the mike for the record what was discussed most of this morning, which is unless we see unprecedented revenue growth, we will have to cut \$250 million to fund LB84 as it's currently drafted or with the amendments that follow that still designates \$250 million per biennium for the next ten bienniums. In reference to solutions and ideas, hypothesis, that was what I started out this morning talking about, the laboratory of democracy will have various ideas of how to go about trying to find ways to solve problems, an idea that was thrown out before, an idea between Senator Nordquist, Conrad, and myself we've discussed extensively. We see this as a fiscal problem. This is a fiscal issue. Why not look for a fiscal solution? An idea, an amendment that's drafted or being finalized, being drafted as an idea we discussed with Senator Fischer amongst others, which is when the years are good, when we see unprecedented revenue growth that is over our Forecasting Board projections, why not split half of that revenue growth with a Cash Reserve and with the Highway Trust Fund? If this policy that we have drafted as an amendment was enacted ten years ago, you would have seen a half billion dollar increase to roads funding, the largest increase in roads funding in the history of the state with this amendment that we have. That's a solution. That's an idea. Now once again, all ideas and all solutions are not perfect. Other people have discussed the lack...it doesn't provide the opportunity for the Department of Roads to plan. That's correct, because only do they get this additional revenue when times are extremely good and we see additional revenue over projected economic forecast. That's an appropriate, responsible way to provide additional funding that's not General Funds to an important priority that we as a Legislature see fit. It doesn't tie any future Legislatures in regard to spending items. Why? Because it's responsible. It says that we only provide additional roads funding from this diverted Cash Reserve appropriation when we see additional funding. Colleagues, if we're looking for ideas, we can look to many solutions and many ideas besides raising taxes or raising fees. I think the idea that Senator Nordquist, Conrad, and myself have proposed is a fairly good idea. It still keeps faith with the concept that we pay for our infrastructure through user fees with the exception that when we see unprecedented economic times in our economy at a state level, we ensure we prioritize funding for roads. That doesn't seem out of the ordinary. Now granted it might not be

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the same principle that LB84 is because it's not continuously earmarking \$125 million of existing general funding spending. This only provides additional funding to roads when we see good, economic times that are reported well above our revenue forecasts. Because at the end of the day, Senator Nordquist was very crystal clear in his conversation with Senator Heidemann that unless we see an 8 percent revenue growth--which right now we're slated at 5.1 and 5.6--we cannot fund this bill as drafted or as amended without making the appropriate cuts or raising taxes. That, essentially, is what Senator Heidemann said... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR MELLO: ...that either we increase revenues or we reduce spending to pay for LB84. The amendment that we have does neither because it provides appropriate roads funding when times are good. When times are not good, as of what we have seen over the last three years, they would not receive additional funding even though as we're working on a preliminary budget right now for day 70 in the Appropriations Committee, you will see a \$40 million increase in roads funding this biennial budget. We're cutting K-12 funding. We're holding higher education flat, essentially making them provide cuts. We're cutting provider rates and other critical human service needs, but yet we're providing \$40 million additional funding for roads. It's not a question of priorities in regards to everyone understanding the importance of infrastructure. The question is, how do we do it with less money? How do we do it right now of looking at other financing mechanisms that doesn't over-rely... [LB84]

SENATOR COASH: Time, Senator. [LB84]

SENATOR MELLO: ...taxation. Thank you, Mr. President. [LB84]

SENATOR COASH: Senator Conrad, you are recognized. [LB84]

SENATOR CONRAD: Thank you, Mr. President. Thank you, colleagues. It's an oft quoted idiom that all roads lead to Rome. I'm going to slightly alter that in terms of the context of this debate that indeed all roads lead to the budget. So I'm glad that my light came up after Senator Mello so that we can continue down that pathway. And if...and I don't know how to be more clear about this but sometimes I forget that when we're stuck in Appropriations dealing with budgetary issues while other jurisdictional committees are working on the issues before them, we can sometimes lose touch. But, hopefully, through reading the paper and reading your e-mails, you have to acknowledge where we are, and we're in a period of great economic uncertainty and great difficulty. We've made deep budget cuts in the last few biennial sessions. We've even had a special session to cut over \$300 million from the budget. In the current budget before us, we are making cuts to K-12 education. We are keeping higher education flat and making small cuts in certain institutions. We are making cuts to

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human services now. How will we ever recover from these cuts if we tie our hands in the future? And I don't mean this to be sarcastic. I mean it 100 percent seriously. I've posed before on the mike during the course of this debate, show me in the amendment, show me in the bill where this so-called flexibility exists. No one, not one proponent has shown that to me. I've read the amendments. I've read the bill. They don't exist. It is a mandate. It is an earmark. There is no flexibility. It doesn't exist. It's so...you can't say that it exists when it doesn't exist. Let's be accurate. Let's also talk about some other issues in terms of our future obligations which aren't on the status sheet yet. It's without question that we have an aging population, and as more baby boomers need more services, that's an issue we have to deal with. What impact is that going to have on the homestead exemption? Will we be able to fully fund that, not to mention long-term care, Medicaid, other issues, children's issues, vulnerable citizens issues. You know that else isn't on the out-years? Status, financial status, implementation of federal healthcare reform. What about that and what's that number going to look like? I've heard a range of different issues, a range of different numbers, I mean. How are we going to pay for those issues? We don't have flexibility in the bill. We don't have flexibility in the amendments. And I think Senator Schumacher was right in terms of the fact that we utilize these motions and these procedures to allow time, not only for thoughtful debate and building a record, but to allow interested parties with competing interests the time to negotiate and find a more appropriate middle, because there is one. There is one out there. I've heard a variety of different changes being proposed in terms of the amount we would shift, the triggers that would be utilized, those are good ideas. That is helpful debate. That is how we do things in a democratic system. Finally, I wanted to talk to you a little bit about...what this really means for...I'm just going to use my community, Lincoln, because I've got a media report that specifies this and it's an area that I'm familiar with. The city of Lincoln testified that... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR COASH: ...with the proposed funding plan, Lincoln could be in line for \$1.5 to \$2 million in additional roads funding. Great. That's good news. What's that mean in the context of Lincoln's roads issues? Should we mortgage the future of our children and our most vulnerable citizens in order to build, and this is a quote from the Lincoln Journal Star, that money to Lincoln represents construction of about a third of a mile of a four-lane roadway. So we can build a third of a mile in Lincoln while we mortgage the future of Nebraska. I contend that's a very, very bad deal for Lincoln and for Nebraska. Thank you, Mr. President. [LB84]

SENATOR COASH: Thank you, Senator Conrad. Those wishing to speak: Senator McGill, Nordquist, Ashford, Loudon, and others. Senator McGill, you are recognized. [LB84]

SENATOR MCGILL: Thank you, Mr. President. I didn't realize I was next. It was such a

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long, long list. Members of the body, I just want to let you know, give you an update. I'm trying to get in touch with the folks from the Truckers Association so I can try to work with them on, perhaps, some sort of fee that they would be accommodating to. As Senator Ashford noted, the summit in the fall they did say they wanted to be part of the solution. And I do think if you look at the chart that I passed out from the handbook that we need to be looking at folks who are willing to come together and work with us. I'm liking the direction of some of this debate in terms of, we all want to find some sort of solution here, some sort of way to fund roads or to make sure that we're not overcommitting ourselves. I also...I've looked on the gadget and saw Senator Utter has an amendment for Select File, which is half of what we're looking at here. I appreciate that being brought into the discussion. I appreciate Senator Ashford and Senator Lathrop's comments about how this is the time now that we have everyone's attention to come together and try to find a way to work with the roads issue in a manner that we can all be supportive of, or, hopefully, most of us can be supportive of. Like I said earlier, my district in the city has some gravel roads and has some of the worst roads in all of Lincoln. I understand the importance of needing additional roads funding. But I do want to note, though, that for so many people who are standing up and talking about how this money will help their areas, they should look at the list of priorities from the Department of Roads. When you look, for instance, at this expressway, again I'm reading from the executive summary of this committee report, that the expressway, these projects in addition to the quantified needs due to the Nebraska Department of Roads revised criteria standards for warranted four-lane expansion are based on average traffic, daily traffic counts, do not include the expressway, and any of those plans. And really, all of the plans go around I-80 expansion from Omaha-Lincoln, the Lincoln South Beltway, Blair to Omaha. There's the Kearney bypass in there, but most of them focus around a pipeline directly into or around Omaha and Lincoln. This money isn't going to be spent in other parts of the state. The expressway system, the amount of money that's supposed to go in towards that, as has already been said, isn't sufficient, not even nearly sufficient. We need to find ways to, yes, make sure that we have enough money to upkeep roads. I'm suggesting with my amendment that I may be dropping in a little bit, once I talk to the Truckers Association, would create a 3.5...or would allow the Department of Roads to charge an additional bridge structural analysis fee not to exceed \$40 per hour, and/or a per ton mile fee not to exceed 3.5 cents per ton mile. This money, I would say, should go directly into the Highway Trust Fund. So I know that many of the fees currently tacked on to various elements of, or things related to roads, go to a variety of different places. But I would suggest that this particular fee, that I would like to see looked at, go directly into the Highway Trust Fund to help with those infrastructure issues all over the state. And to also, hopefully, help in some of our city and local areas. And with that, I just hope the discussion will continue here for a while, and we can really get some discussion about other ways and suggestions so that when we do pass a bill on roads funding, it's really the best possible bill that does the least amount of damage to the state, and that doesn't overcommit us in a way that we'll have to come back in a couple of years and make a change to this. And actually,

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Senator Fischer, would you yield to a question? [LB84]

SENATOR COASH: Senator Fischer, will you yield to a question from Senator McGill?
And one minute. [LB84]

SENATOR FISCHER: Yes, I will. [LB84]

SENATOR MCGILL: This just popped into my head. I know Senator Conrad, on the
mike a couple of times, has talked about how she doesn't see flexibility in the language
of the bill. Can you go ahead and address that? [LB84]

SENATOR FISCHER: The flexibility comes from the fact that any one of the 49 of us
can offer a bill and introduce a bill every session. The flexibility comes from that bill
being introduced and having a discussion on the floor instead of it taking place in
Appropriations Committee where we don't see the funding for roads coming from, where
we haven't seen the support previous years. As I said before, in ten years, we've seen
one increase in the gas tax and none of us want to vote for a gas tax increase. You
know, Senator Louden talks about putting in a five cent gas tax increase. Senator Haar,
I think, I don't want to get him in trouble, but I think... [LB84]

SENATOR COASH: Time, Senators. [LB84]

SENATOR FISCHER: Thank you, Mr. President. [LB84]

SENATOR COASH: Senator Nordquist, you are recognized. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. I think it's important
to take a look at that aspect of flexibility so this bill is giving us the amount of flexibility
that any bill we pass in this Legislature does. I don't know that that...I would call that that
flexible. We put things in statute for a reason. We pass laws for a reason to implement
them, not to come back in two years and repeal them. That's not good policy. That's not
good policy to promise people that we're going to fund roads when we can't, when our
status sheet says we can't. As Senator Lathrop and Senator Utter have reiterated, we
can't cash flow this. Unless you're willing to vote for a tax increase in this body in two
years, we can't cash flow this. This is not like the property tax relief credit where we can
just take money in and out as we so choose. This would have to be a statutory change.
You would have to debate it on the floor through three rounds of debate. I would
imagine at that point if you're going to try to take it out of statute, you're going have to
overcome a filibuster too. I don't think it's that flexible. It's not like the property tax relief
credit where five members of Appropriations can make a decision to appropriate or not
appropriate money. A better way to budget is in two years when we have a clear picture
of what the revenue Forecasting Board says we have to divide that pie up, based on the
priorities of the Appropriations Committee, and then the full Legislature. At any point, we

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can appropriate General Funds to highway construction. I can't say until the LB84 came up, anyone had even suggested that. No one had suggested that. I sat down with members of the highway construction industry while I campaigned and in my time in the Legislature, and they all said they were never looking to get in a battle versus education or Health and Human Services. They were looking for other revenue streams. And then LB84 comes onto General File. I think the bottom line is that we can't cash flow this. As Senator Heidemann said, it would take 8 percent revenue growth. I don't know how many of you expect that, especially with everything that's going on in the world with oil prices, with stagnant job growth in our country. I don't know how many of you are expecting a 8 percent revenue growth but I'm not. In the projections even on here, 5 percent, I think are going to be tough to meet in the coming years. And we need that to maintain the scaled-down budget we have now. We've been in Appropriations Committee making gut-wrenching decisions that are going to impact every community in this state. I know Senator Harms, Senator Hansen, and Senator Wightman have expressed a lot of concern about the impact to providers, for behavioral health providers, and other health providers in their communities. Some of the testimony we heard before the Appropriations Committee was pretty touching. We're looking at cutting provider rates right now in our preliminary work, 4 percent. We're hopeful we can do better but there's no guarantee of that. Some of the testimony we heard from the Nebraska Association of Behavioral Health Organizations cited the stat that we're in the bottom quarter of states nationally in per capita spending on behavioral health. NorthStar Services in Wayne came in and they said, for their organization, they're in the second year of salary freezes, and they can't find people to work. They said right now, they say that their services top to bottom, the quality has declined and we in community-based services have been holding on so as not to... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR NORDQUIST: ...so as not to repeat the serious issues that we had at the BSDC. That's what we're facing and we are going to continue to face that if we pass LB84. We will not be able to give them an increase in the next biennium. And their costs are going to go up and access to services, to behavioral health services, to Medicaid services, long-term care, all of that is going to be declined. And it's going to decline in rural areas and it's going to decline in urban areas. We need infrastructure in this state, folks, but LB84 cannot fit into our current fiscal picture. The choices are tough, but at this point we cannot move forward with LB84. Thank you. [LB84]

SENATOR COASH: Thank you, Senator Nordquist. Senator Ashford, you are recognized. Moving on, Senator Louden, you are recognized. [LB84]

SENATOR LOUDEN: Thank you, Mr. President and members. Sorry to be late. I was expecting Senator Ashford to give us a passionate speech here, so I thought this would be something to listen to. We discussed this all day and I think where Senator Ashford

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and Senator Lathrop and some of them have said that we got the attention of everyone, and so we need to work on this and try and come up with a solution. Whether we have LB84 as it's written as a solution, or something else, but whatever we do is going to have to be fiscal responsible. We can't push something, as they say, I think the description was, oh, kick the can down the road on some of this stuff. Well, this is certainly more than kicking the can down the road. As I said before, this is actually kicking the pot over in the neighbor's yard because this is something that is two years from now, you're talking \$125 million, in the way the original bill was written. And we know that that isn't possible. That isn't feasible at all because right now we're having budget problems with what we're trying to do. We've cut everything to the bone. All the agencies have probably cut about all they can. We've gotten rid of things that we shouldn't have. We've gotten rid of railway inspectors, and here we've gotten rid...done away with state aid to cities and counties. And that never even had a chance to materialize. That wasn't supposed to go into effect until here in July. We worked for several years to finally get that formula in place and everything, and then we have a Legislature that comes along and repeals the thing. Now as we look at what we're trying to do today with LB84, you're pushing it out two years out there. What do we do? We have a Legislature in two years comes along and repeals the thing. So this could be a complete exercise in futility if we don't come up with a plan that will work and is fiscal responsible, that can do some good, can improve our road system, and take care of what we have. Now as I've said before, there's a formula in place that should address this problem. This is thought out several years ago by some...probably some people that put a lot of thought into the matter on how this road formula should be taken care of. If you start tinkering with it, then that's when you get into trouble. So I think this is something as we go on, and I hope that we can have this discussion the rest of the day and sometime tomorrow, and in the meantime, perhaps there can be some solutions drawn up. As we used to say whenever you had a real tough problem, you go home and sleep on it, you might come up with better ideas. So I think this is something that everyone has had their choice to speak today. They've all talked on the issues. It's been around the room many times and I think this is the way we do business. I think we will come up with something. Thank you, Mr. President. [LB84]

SENATOR COASH: Thank you, Senator Loudon. Senator Ashford, you are now recognized. [LB84]

SENATOR ASHFORD: Thank you, and I appreciate Senator Loudon's comments. I think we should continue to discuss this. We, obviously, are for an hour and a half more, and then take some time and think about what Senator Utter has said and Senator Loudon and Senator Fischer and take this opportunity to address this issue. We have time to do it. We have time to find funding sources. We have time to identify funding sources that can...and it's hard to do. I mean, it's a lot easier to spend \$150 million on something we want to spend it on. And I think we do, generally, want to deal with our infrastructure. It's a lot harder to find the way to do it, but I think this conversation is

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healthy. I like the bill that Senator Fischer has proposed. I like the idea of prioritizing infrastructure. It's going to help the entire state. But I do also think, as Senator Utter has said and Senator Loudon, that we need to get real about the funding sources and the amount so that they start at some point to coalesce and come together. With that I appreciate you coming back to me, Mr. President. Thank you. [LB84]

SENATOR COASH: Thank you, Senator Ashford. Those wishing to speak: Senators Ken Haar, Dubas, Gloor, Sullivan, and others. Senator Haar, you are recognized. [LB84]

SENATOR HAAR: Mr. President and members of the body, sometimes when I get up to speak I forget to thank people and to recognize that what we do in this Legislature is the result of a lot of hard work. And so, as it's apparent, I don't agree with LB84 but I do want to recognize Senator Fischer's work and the work of that committee on coming up with this bill. And, of course, then the purpose is that we debated and we vote and that's what becomes law. For me again, this is not...it's not for me so much a discussion about roads as about tax policy. Obviously, all of us favor roads. We have...also obviously, identified how to finance those roads, but for me the real issue here is the way this is being financed. The tax policy of setting aside sales tax for a specific purpose because I think there's no end to that process. In Texas someone has suggested setting aside 2 percent of their sales tax for education and then maybe some people will want to set aside money for the environment and etcetera, etcetera. I think it's a bad way to do budgeting. And the thing that I'm going to have to become clear on through all of this is, if this is an earmark as we've been talking about it, is it a promise or what exactly is it? Because in two years, it's my problem, assuming I can get reelected. I did get reelected by 20 votes the first time. Assuming I can get reelected and I'm back, then in two years it's my problem to deal with. And again, I was rather distressed hearing from Senator Heidemann that this would require an 8 percent growth in the budget to keep ahead of this, to be able to clear this amount of money, and not cut education and those other kinds of things. And I think it's really important that we...you know, for me to understand, is this a promise, is it a commitment or what is it? If we can't cash flow this promise, then it becomes a very false promise. I was Googling around the Internet around promises and what promises mean and so on. And stumbled across an interesting thing called the promise/commitment ring. Apparently, it's a new fad between being engaged and just liking each other a lot. So now there's a promise commitment ring out there. But it raises the, you know, what is this bill? What is LB84? Is it just a promise that if there is available money that we'll put it into this, or is it a commitment that's going to resolve in contracts that we can't back out of? I also looked up on Google quotes about promises and I thought this was a very good one. A promise is a cloud, fulfillment is rain. This is an Arabian proverb. And if we pass LB84, then our constituents are expecting rain, and I'm afraid that LB84 is simply a promise. It's a cloud. Thank you very much. [LB84]

SENATOR COASH: Thank you, Senator Haar. Senator Dubas, you are recognized.

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[LB84]

SENATOR DUBAS: Thank you, Mr. President. I do feel shades of Senator Chambers in the Chamber this afternoon because we actually are debating and this is what we're here for. We, you know, we're using the rules and procedures that are placed before us. There are a lot of amendments that have been filed. I think that's appropriate. Again, you know, everybody has stated how important of an issue this is and I do, again, want to thank Senator Fischer for sparking this very important debate. Does LB84 make a commitment to roads? Without a question it makes a commitment. But if the financial resources aren't there, we can't pave roads with commitments. Senator Lathrop and Senator Utter are on the mark when they're talking about cash flow and those of us who are in the business of ag know and understand cash flows very, very well. I like doing my cash flow in January. It always looks wonderful and I usually get a little bit excited when I look at that bottom line and I think this just may be the year I'm going to get to do some home improvements. And then June and July roll around and it's either hot and dry or cold and wet or a hail storm or the markets have crashed, and my cash flow isn't quite what I thought it was in January, and so I have to begin to make changes in how I think I'm going to run the rest of my business and how I'm going to meet my obligations by the end of the year. And that's where we're at with LB84. And I do...I firmly believe that somewhere between this bracket motion and LB84 is an answer. There's some answers in there that will get us on track sooner rather than later in addressing our roads issues. Maintenance only, right now, is even falling behind. We have a lot of roads out there that...we're not looking at new roads, we're just looking at trying to make the roads that we have safe for travel. For those of us who have been through a budget cycle before, we know that this General Fund status sheet, it's the first thing you're going to look at when you come to the floor in the morning. And you're going to look at those boxes and you're going to look for the parenthesis and you're going to look for what those numbers are. We live and die by this status sheet. And for those of you who haven't been through this process before will understand this very quickly. Those of us who will be here in the next biennium are going to be held accountable for whatever decisions are made, for whatever decisions we reach now on this issue. If there's a perception by the passing of LB84 that there's going to be financial resources available for maintenance or new roads construction, if there's a perception by our cities and by our counties that there's going to be additional revenues to come in to hopefully make up for the loss in the county and state aid, if there is that perception and we can't deal, we can't deliver on that perception, we are the ones who are going to be held accountable. We're the ones that our county supervisors and commissioners and city councils and anybody else who deals with budgets are going to come forward and say, but yes, you said when you passed LB84, this is what's going to happen. And I don't want to be able to not deliver on a promise or a perception. We have to deal with realities. And just like I said when I made my final decision to vote on the repeal of the state, city and county aid program, we owe those people who are in the similar positions that we are to set budgets, we owe them honesty. And I think whatever decision is

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made about LB84, we have to be able to say to them, we're going to be able to deliver. I hope this discussion goes on. I think there's been some very constructive amendments introduced. I hope we get the chance to talk about those amendments because I do believe somewhere... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR DUBAS: ...in the course of this entire dialogue, we're going to be able to vote on something that we will, as a body, as a collective body, will stand in support of and will be able to deliver to our citizens. Thank you. [LB84]

SENATOR COASH: Thank you, Senator Dubas. Senator Gloor, you're recognized. [LB84]

SENATOR GLOOR: Good afternoon, Mr. President. Good afternoon, members. I want to thank Senator Ken Haar for the uses of his pulpit for a few minutes. And I want to thank Senator Fischer, along with everybody else, for introducing this bill. I'll elaborate on that a little bit. Knowing that the issue of highways was coming up this session, I spent some time at a Highway Commission meeting, board meeting, last year. And one thing led to another and ultimately on a cold December day, spent a full day traveling with two roads engineers around portions of my district in work boots, climbing underneath bridges, chipping away at concrete, putting my nose next to the spalling going on, on concrete roads, and found it interesting, fascinating, and, of course, a little disturbing because our roads need work. Not a surprise. By the way, I was fascinated to be able to note, and I would pass along to you, there were a tremendous number of cigarette butts along the side of highways, (laughter) which fed into my overall passion for another topic that Senator Ashford was polite enough to bring up as a potential solution to some of this. I also went to a document that some of you have heard of and it's our legislative planning document and there's a section that has to do with transportation. And I pulled that out and highlighted portions of it that I've kept in mind. I'll read you a few portions, and if you thought you were going to get glassy-eyed based upon Senator Lathrop's comments about the three o'clock hour, reading from our plan ought to put you under or in a coma anyway. Ninety-nine percent of Nebraska's interstate highways were rated smooth as were 92 percent of its other principal arterials, which are primary rural. The comparable national figures are 94 percent. So the road smoothness in this state is above the national figures. And by the way, this information comes from the Department of Transportation based upon information that we give it. In terms of cost-effectiveness, Nebraska's state highway system ranked seventh in the nation in 2007. And that's a measure of quality of roads versus our spending rates. And that's put together by an organization called the Reason Foundation. In 2008, Nebraska recorded 1.09 traffic fatalities per hundred million vehicle miles. It's below the national average of 1.25 traffic fatalities. We rank very well there. On a per capita basis Nebraska spent relatively more for highways than the rest of the nation. In 2006 and '07,

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total highway spending was \$258 per capita, per capita, \$316 per capita at the full state level. Comparable national numbers were 189 and 296. We spend far more on a per capita basis than most other states but that, of course, is because we rely far more on private vehicles for transportation than most other states. That's one of the reasons we have higher spending. We also have a higher share of structurally deficient bridges than the nation and that's also more common in rural areas. Nebraska highway fatalities relatively low. Fatalities involving high blood alcohol levels were lower in Nebraska than the national average. Pleased to hear that. Safety belt use is at the national average. However, Nebraska has a higher percentage of fatalities involving large trucks, 14.4 compared to 8.1 nationally. Some information in your legislative plan that is interesting, and I think worth taking a look at during this discussion. It doesn't speak to a crisis, but it points out a lot of what's has been laid out around here and that is, we need to keep taking a look at how we're going to fund for the current maintenance of our roads as well as expansion of the road system, which I also agree is important for economic development. I'm struggling with this decision nonetheless,... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR GLOOR: ...thank you, Mr. President...because of the dollar amount and because what it means for other things that are important to me. We have three priorities of the state, I believe. We have priority of K-12 education, we have the priorities that relate to Medicaid spending, provision of services from handy buses to acute care and physician services, and roads. I'll say this for Senator Fischer, and that is, as chairman of a committee that has a responsibility for one of these areas, she's stuck a stake in the ground and said, hey, this is what we're going to do about this. We're going to at least take care of one of these priorities. This is how we're going to do it, and to use the term, common in her neck of the woods, at least in this aspect she is not all hat and no cattle. She has done the right thing to put this in front of us. I join others in saying, what a great debate and an enjoyment it's been to be a participant and listen to it. I hope to be back on mike. [LB84]

SENATOR COASH: Time, Senator. Thank you, Senator Gloor. Those wishing to speak: Senators Sullivan, Mello, Council, Conrad, and others. Senator Sullivan, you are recognized. [LB84]

SENATOR SULLIVAN: Thank you, Mr. President and good afternoon, colleagues. I, like I'm sure many of you, have received plenty of e-mails and feedback on LB84. The vast majority of the e-mails and contacts that I've received have been very supportive. I'm not quite sure, though, that even in light of this support, the constituents that are in support of it and also the ones that sent me down here to serve them, have sent me down here with a blank check. They expect me to exert a great deal of critical thinking and weigh all the issues very carefully before casting my ballot. There's no doubt about it that all of us in this body support roads, and I certainly support the intent of LB84. But

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in this quest of critical thinking and evaluation, I'm trying to determine just exactly what it does, what the trade-offs are, what we're potentially giving up, because at the end of the day this is a totally new paradigm that we are trying to get our arms around, if you will. We're also looking at setting priorities. When the rubber meets the road, no pun intended, it makes us just a little bit uncomfortable because we are identifying what our priorities are. In the LR542 process, we talked a lot, or at least some of us did, and some of the chairs did, of this process is allowing us to transform government. Well, I would suggest to you that LB84 presents the opportunity to transform government, but that in and of itself makes us quite uncomfortable. Change doesn't come easily to this institution. Change doesn't come easily to anyone for that matter. And I think we should approach it very carefully. And that's why all the discussion and the debate that we're having right now is so very important. But also in my quest to determine what LB84 presently presents to us, what it doesn't do, what it might do, I do have some questions for Senator Fischer, if she would yield. [LB84]

SENATOR COASH: Senator Fischer, would you yield? [LB84]

SENATOR FISCHER: Yes, I will. [LB84]

SENATOR SULLIVAN: Thank you, Senator Fischer. One of the things that you have said is that now in two years if the money is not there, maybe there wouldn't be any money designated for this effort. But you've also indicated that this presents the opportunity for the Department of Roads to do some planning. Does that present a possible conflict in that there are some...planning made with expectations and then not being able to be fulfilled if there's no money available? [LB84]

SENATOR FISCHER: Senator Sullivan, I don't view that as a conflict because I'm optimistic, as I said earlier, that the economy is turning around, that revenues will increase. Right now the bill, as it's up, is for a half cent sales tax. We, again, have not gotten to the amendment that caps that at \$125 million. But I believe that that will happen. I believe we need to make that commitment. We need to say that, as I've said before, that our infrastructure is a priority of government as Senator Schumacher said. It's a priority of government. It needs to be there. It needs to be in line so when we meet those other core responsibilities we don't, as Senator Raikes liked to say, we don't spend money like drunken sailors in here. When the economy turns around the revenue is going to be there. I saw that in my first two years. [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR FISCHER: Bills were introduced which just spent a lot of money and then priorities were not funded. It...you know, I'd love to introduce a bill, ask for \$12 million to build a visitors center on the Niobrara River outside of Valentine, Nebraska. That's what you're going to see in this body, I believe, when revenues turn around and start coming

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in. I don't want to see that. I want to see infrastructure be funded. I want to see the priorities of a limited government be funded and I don't want to see that money frittered away. [LB84]

SENATOR SULLIVAN: And Senator Fischer, just to clarify, in the present bill as you have it, isn't this a designation for new construction or does it include maintenance? [LB84]

SENATOR FISCHER: Could I have a gavel please, Mr. President. [LB84]

SENATOR COASH: (Gavel) [LB84]

SENATOR FISCHER: The funding within this bill can be used for maintenance and preservation. It's at the discretion of the department because the first concern of the department... [LB84]

SENATOR COASH: Time, Senators. [LB84]

SENATOR FISCHER: ...is safety. Thank you. [LB84]

SENATOR COASH: Thank you, Senator Sullivan and Fischer. Senator Mello, you are recognized and this is your third time. [LB84]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. I know we've had extensive debate today on...I think the fiscal realities that are...the underlying aspects of this bill in the sense that as currently drafted, as well as the amendments that are currently in the queue from Senator Fischer, we just can't afford this bill. I can't emphasize it enough in the sense that either, one, we will cut \$250 million out of our budget two years to pay for this, or we will raise taxes. It's not, it's not, we might do this. It's an either or. That is the one reality I think after a day's worth of debate we've come to realize on LB84. In talking with some of our colleagues, once again I think anyone who has followed some of the dialogue today, primarily from my fellow colleagues on the Appropriations Committee, is that we don't take this lightly in the sense of not trying to provide solutions to what is obviously a very difficult issue. But the stark reality is, the preliminary budget as it's laid out significantly cuts key state priorities, cuts education funding, cuts Medicaid funding, cuts funding to developmental disabilities, cuts funding to children's programs and child welfare, a host of other priorities that we have laid out in this Legislature over the last few years. So the reality is to say that we're not doing enough for roads, that's understandable. But I think the other reality is, we're in a fiscal crisis as a state. And right now as we're negotiating and developing an appropriations finalized budget, we see an additional 40-plus million dollars being designated to the Department of Roads that's currently not in their budget. I think that is unique and needs to be reiterated to this body because it's not in a sense that we've had conversations

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today that Department of Roads needs more money, we need more road infrastructure financing, that's being done. Forty million dollars is no small amount to laugh at. That's more...that's a larger increase than pretty much every other agency in the state of Nebraska's budget right now. So to say...to not acknowledge that as a body, I think, is a bit concerning because as we debate LB84 and the ramifications of either a sizable tax increase in two years, or a significant cut in existing critical programs without acknowledging that we're giving an additional increase this biennial budget to Department of Roads for road construction, we'd be doing a disservice, I think, to the entire debate which is LB84. The second component, and I mentioned it earlier when I spoke on the mike, Senator Conrad, Nordquist, myself, in debating some of the issues that are the underlying aspects of LB84, as well as preparing our preliminary budget, we have an amendment. It's filed. AM974. It's another approach that I feel is the most fiscally responsible way to help provide additional funding to roads infrastructure. It does it in a sense of ensuring that we have a transparent budget process. It ensures that we do not have spending obligations that last in decades long that does not tie the hands of future Legislatures. And it does not put road infrastructure in odds and in competition with other General Funded programs. It's a very key, colleagues. Now I assume we're going to be able to debate AM974 as well as the other amendments that have been placed forward. But at the end of the day, as we discussed on the mike earlier this morning, we don't have to solve this problem over night. And to some extent acknowledging that, yes, we have... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR MELLO: ...some financing issues, is part of the issue, but solving it in one fell swoop in one piece of legislation is just not practical. And I would be willing to say that we all acknowledge Senator Fischer's hard work on LB84, but even she would say that doesn't solve the problem, provides more additional funding which we all can all see. So I think we need to keep that in the back of our minds as we continue to debate on this legislation, because while we may have an idea that's thrown out, there are other colleagues may have ideas that are thrown out there. I fully expect for us to have a fruitful dialogue on all ideas that are presented, but understanding the fiscal realities that we're in, that there's not an appetite for tax increases, there's not an appetite for fee increases. I think Senator Fischer has acknowledged that. I've acknowledged it, other colleagues have acknowledged that, and I think we're going to look at amendments that try to satisfy that. All I ask is that we understand the fiscal realities that Senator Heidemann laid out... [LB84]

SENATOR COASH: Time, Senator. [LB84]

SENATOR MELLO: ...crystal clear this afternoon. Thank you, Senator. [LB84]

SENATOR COASH: Senator Council, you are recognized and this is your third time.

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[LB84]

SENATOR COUNCIL: Thank you, Mr. President. And since my colleague was mid sentence when he was last on the mike, I will yield my time to Senator Mello, if he would desire to have it. [LB84]

SENATOR COASH: Senator Mello, you are yielded 4 minutes 45 seconds. [LB84]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature, and thank you, Senator Council. As I was finishing up my comments, Senator Heidemann, as the chairman of Appropriations, I think most times when we discuss any bill that has a fiscal impact, I have seen numerous senators on this floor turn to him to ask his feedback. Why? Because as a Legislature we trust the chairman of the budget writing committee. We trust where his perspective is in regards to understanding the fiscal realities in regards to revenues and expenditures. It can only be so crystal clear in regards to his explanation of our current financial status that's located on nebraskalegislature.gov, or to the sheet that Senator Nordquist handed out this morning, which lays out that unless we see a significant revenue increase over the next two years, it's impossible to finance LB84 without a tax increase or without a spending reduction. We've started to scratch the surface today in regards to what those spending reductions could or possibly might be. Senator Conrad and Senator Haar, Senator Council, Nordquist, others have laid out the ramifications it would have on education. K-12 education primarily would be a focal point as would the Department of Health and Human Services. Why? Because they're the largest budget items in the state budget. Throw in higher education and you're talking the third largest budget item. Colleagues, we're going to be able to debate some substantial, I would say, changes in LB84. That's coming. Yes, some of the amendments change and caps the amount of General Fund dollars that we appropriate, but really those amendments don't change the underlying focus of the bill. The underlying amendments that we've yet to discuss simply change from appropriating a half cent of sales tax to appropriating \$125 million a year. That's really the substantial aspect. There's a...there's an amendment as well that removes the bonding authority associated with it. I think most colleagues in the body today have talked with someone and expressed their opinion on whether or not you support that component of the bill. It seems like there's an overwhelming sense to remove that. Those are the two underlying substantial amendments that we will debate. But the underlying issue that I've yet to hear a logical response to, and Senator Conrad discussed this when we reconvened this afternoon, is the lack of flexibility that is in any of the substantial amendments that does not solely earmark \$2.5 billion over the next 20 years to the Department of Roads. There's no flexibility. There's no ability for the Appropriations Committee to say we want to appropriate \$10 million this year because we face a \$956 million budget shortfall. There's no language like that put in the bill. And to some extent, Senator Burke Harr, while in his humorous comment, really struck a chord, which is the fiscally responsible and frankly what we've seen in this body over the

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last few years, the fiscally conservative thing to do would be to pay for it now. That if we're going to finance an earmark for the next 20 years, let's start doing it now. [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR MELLO: Let's not delay, let's not put off decisions based on projected revenue suggestions. I think his comment was fairly key and to the point, which is that's not how we do business here, that's never how we have done business here, and there's no reason to start doing that now because it's irresponsible budgeting, it's irresponsible fiscal policy, and all it does is it provides a shadowed perspective of what the reality is. And the reality, as Senator Heidemann said it today, is without a significant revenue increase, i.e. tax increase, we will pay for LB84 with a significant spending reduction. Sometimes things can be so crystal clear it's tough to stomach. In developing the budget this year, this is one of those issues that in two years, we will raise taxes... [LB84]

SENATOR COASH: Time, Senator. [LB84]

SENATOR MELLO: ...or we will cut significant spending. Thank you, Mr. President. [LB84]

SENATOR COASH: Thank you, Senator Mello. Those wishing to speak: Senators Conrad, McGill, Nordquist, and others. Senator Conrad, you're recognized and this is your third time. [LB84]

SENATOR CONRAD: I figured it was getting close to my third time, thank you. Thank you, Mr. President and thank you, colleagues. I want to continue in the area that I left last time in terms of where we are in the current budget cycle, and I also want to talk a little bit about what I really think is at the heart of this debate, and what lays in terms of my key opposition to the legislation as it's currently written. And before us, is...Senator Fischer has said time and time again, and other members on this floor have said time and time again, we have to get back to the core duties of government, we have to make a commitment to roads. Couple things. It has already been stated, but from all sources, federal, state and local, last year, 2010, Nebraska spent over a billion dollars on roads. If that's not a commitment, I'm not sure what is. Additionally, when you look at the changes that we have made through the gas tax, through the variable gas tax to the earmarking of other revenue sources away from the General Fund to roads construction, whether it's the lease on cars, motorcycle training, etcetera, etcetera, the list goes on and on. In 2008, Senator Fischer proposed and I fully supported and helped to fight for LB846 which was to alter how the fuel tax was collected and touted as the solution to Nebraska's road funding woes. Yet it's barely had time to work, colleagues. It's just starting to work. It was only adopted in 2008. But it is working. As Senator Nordquist, Mello and others have noted, when you see the preliminary budget from the

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Appropriations Committee and when we're finalizing our budget currently, you're going to see an additional ten or twenty or thirty million more dollars to roads this year in this budget. Show me one other agency, one other program that has seen that increase because it doesn't exist. And let's talk about the real budget issues that are before us today before we even start to figure out how we're going to pay for this unfunded mandate that has a price tag of \$2.5 to \$2.8 billion. We're trying to decide whether or not we can afford a computer system so Bill Drafters can write bills in the Legislative Council because the budget is so tight. We're looking at making a 5 percent cut to the Supreme Court which affects county courts in every community out there. And what kind of layoffs are those going to look like? This is under current funding. We have current budgetary crisis. We're making a heartbreaking decision, so to allude to the fact that somehow magically in the future we're going to have this robust economic recovery, the likes of which we've never seen before in the history of Nebraska, is not grounded in reality. Let's go through some more cuts. We're trying to decide whether or not we can pay for water litigation in the Attorney General's Office. They've requested \$2.4 million to do that, General Funds. What more will they need in the future to protect Nebraska's water interest? What about a long-term water solution that will impact General Funds? In terms of education, any member who sits on the Education Committee can tell you how difficult their work has been right now. [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR CONRAD: Colleagues, LB84 will make their work harder, if not impossible, well into the future. I'm hoping that we'll have time to talk about every single budget cut that's proposed and that we're wrestling with in the budgetary process right now, because to act like we haven't made a commitment to roads is untrue. It's a billion dollar commitment today. It's going to be increased by a significant amount of money in this budgetary cycle. No other agency or budgetary program is going to see that kind of support and growth. And I'm okay with that, but this takes it over the top. This takes it to a place that is unsustainable, unaffordable, and fiscally irresponsible. Nebraska's kids, Nebraska's schools, Nebraska's most vulnerable citizens, courts, public safety, and water interest cannot afford LB84, no matter which way you look at it. [LB84]

SENATOR COASH: Time, Senator. [LB84]

SENATOR CONRAD: Thank you, Mr. President. [LB84]

SENATOR COASH: Senator McGill, you are recognized, and this is your third time. Senator McGill, you're recognized. [LB84]

SENATOR MCGILL: Mr. President, I yield my time to Senator Conrad. [LB84]

SENATOR COASH: Senator Conrad, just under 5 minutes. [LB84]

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SENATOR CONRAD: Thank you, Mr. President and thank you, Senator McGill. We'll have an opportunity to go through cuts a little bit more because I think that is telling an important...but I also want to go back to the issue about, let's make a commitment to our core duties of government. And what's that really mean? Well, our core duties of government are spelled out in the Nebraska Constitution. And I challenge a member to show me where significant roads construction is spelled out as a core of state obligation. I read the constitution, I don't see it in there. But you know what is spelled out as a core government function, the provision of a quality public education. Thank goodness our founders had the foresight to ensure our public schools have the priority that they deserve in order to protect this great state and its great future, because when we forget our priorities, when the political winds sway as they will, when issues like this are presented that deviate from what our core government functions should be, our constitution reminds us. So if we should earmark anything for Nebraska's future, it should be for education, it shouldn't be for roads. If we should ensure anybody has a place at the table with VIP status, is the first to compete, it should be K-12 education. The constitution demands it. So my work here today is in protection of the Nebraska Constitution. It's nothing less than that. And to suggest otherwise does not bear out by looking at the Nebraska Constitution or by talking about what a core duty of government is. What's a core duty of government if it's not in the Nebraska Constitution? And that should be our first priority. We're going to hear a lot about, you know, we should build Nebraska, we should do this for economic development. And I agree we should build Nebraska. That's our role here, but we can't do it at the expense of kids, vulnerable populations, public safety, water, and every other General Fund obligation that exists. We're making cuts now. These will be minimal, minimal in terms of what is to come if this legislation moves forward. I'm going to go through some more of those cuts. Seeing cuts to the Department of Agriculture, we're seeing cuts to the State Fire Marshal, we're seeing cuts in the amount of training the State Marshal will be able to provide for the volunteer firefighters in your districts across Nebraska under the current budget. We're seeing cuts to the Labor Department which ensures appropriate enforcement of our labor standards, important issues like employee misclassification. We're seeing cuts in those areas. We're seeing cuts in motor vehicles. Oh, Agency 27, Roads, we're not seeing cuts to the roads construction budget. I'm going to reiterate that time and time again. We're seeing cuts in Natural Resources. Let's talk about some of the cuts that we're seeing in the Military Department. Let's talk about our priorities. This body has gone on and on and on about the importance of protecting our troops and our men and women in uniform. I hundred...I agree 100 percent. But while roads remained untouched... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR CONRAD: ...and rather see an increase, we're seeing reductions in our Military Department. What's that say about our priorities, colleagues? We're seeing cuts

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at Game and Parks which impact every single one of your districts in this great state. Parks...roads are seeing an increase. We're seeing cuts at the Library Commission, not only in their operational budget, but cuts in terms of the state aid that they provide particularly to rural libraries across the state. Roads are seeing an increase. Libraries are getting cuts in the current budget, only be worsened by the future actions if this legislation passes. We're seeing cuts to the needs of educational telecommunications. Roads are being increased in the current budget. Nebraska's important information sources related to what's provided by educational telecommunications isn't. We're seeing cuts to postsecondary coordinating commission... [LB84]

SENATOR COASH: Time, Senator. [LB84]

SENATOR CONRAD: ...scholarships for kids, while roads budget goes up. Thank you. [LB84]

SENATOR COASH: Senator Nordquist, you are recognized and this is your third time. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. Senator Fischer in her comments said, when the revenues turn around the money will be there. Well, the revenues are turning around but the money is not there. We are projecting a 5.5 percent...or 5.2 percent increase in revenues in the next biennium, but that's not enough money to pay for LB84 and the other priorities of this state. The money is not there. Senator Fischer says, I want to see infrastructure. We can do that. If somebody would come to the Appropriations Committee and say, a top priority of our state is to fund roads, we can use General Funds to do that. There's nothing stopping us. Nothing. We have never been approached in my time. Maybe some members who have been around the Legislature longer, but never been approached about using General Fund money for road construction money before LB84 came about. If you think this is a need, then we need to fit that into the pie of revenue that we have available when we weigh all our other state obligations. This bill will spend money that the...will spend money that we do not have. It's like the old saying, your mouth is cashing checks, your body...or your mouth is writing checks your body can't cash. Well, this bill will write a check our State Treasurer can't cash because the money won't be there. The Cash Reserve Fund, folks, something that hasn't had enough discussion today. In '09 when I came in to the body and sat on the Appropriations Committee, we had about a \$600 million Cash Reserve Fund. Through the last session, the last biennial budget and special session, that was dwindled down to about \$300 million, so at the end of the current fiscal year we're looking at about \$313 million. Our current budget that we're packaging together in appropriations right now, we're building it with twine and chewing gum, pretty much. We're using \$260 million out of the Cash Reserve Fund again to not...and we're not giving anybody increases. We're holding the university flat, provider rates are taking deep cuts. We're borrowing right now to give people cuts. That's where we're at and

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we're coming out of this in the next biennium with \$60 million, \$60 million in the Cash Reserve Fund. We've gone from \$600 million to \$60 million. And now with this bill included on the bottom line of the status sheet, you're going to be seeing in the next biennium \$120 million in the negative. We've got about \$40 million sitting there, so actually about...more than that, it would be 250 minus 40, about \$210 million in the negative with LB84. Two hundred and ten million dollars in the negative and we only have \$60 million in our checking account or savings account. That's not a good fiscal position to be in. Know what got people in the housing market when they used to buy those adjustable rate mortgages and they used to do the five year interest only, that's kind of what we're doing with this bill. We're doing the two-year, no paying at all. Until that bill comes due in two years, there's going to be a lot of paying and it's going to be taken out of providers, it's going to be taken out of the university. A few years ago we had the safe haven crisis. Before I was elected the Legislature in the fall, I believe of '08, addressed that issue, or the winter of '08 had a special session to address it. And then in the spring of '09 we passed legislation making critical investments in services for those kids. We're not going to be able to maintain that with LB84. Right now we're looking at cuts to some of those services. [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR NORDQUIST: And it's not getting any better. The revenues have turned around and the money is not there for LB84. We need to be more responsible at budgeting than that. Thank you, Mr. President. [LB84]

SENATOR COASH: Thank you, Senator Nordquist. Senator Cook, you are recognized and this is your third time. [LB84]

SENATOR COOK: Thank you, Mr. President. I would like to yield my time to Senator Ashford, if he would like it. [LB84]

SENATOR COASH: Senator Ashford, just under 5 minutes. [LB84]

SENATOR ASHFORD: Thank you. Just slightly under 5 minutes probably, but thank you, Mr. President. I have the utmost respect for my good friend, Senator Nordquist. He's passionate and makes great argument and I agree with a lot of what he says. We have many needs out there. We have \$234 million that we could appropriate to those needs. We can fund roads at \$125 million and we can take \$234 million and we can put it out and meet the needs that Senator Nordquist is talking about, and meet the needs that we're all concerned about, every single person in this body. We have \$234 million that goes to a Property Tax Credit program we don't need to fund. We're not required to fund it. It's not in the constitution that we fund it. We have the money, members, to meet the needs that Senator Nordquist is talking about and they are real. They are important. It's up to us in this body. It really, it really...I think this has been a good discussion

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because it...people are giving great point, making great points. But the reality is that I cannot remember in my years going back when we've had these fights over the budget and where we always had the reserve, of course, to deal with. And sometimes we'd cut into the reserve as we have this year. And we had that discussion. But I don't remember...I could be...Bill Lock will have to tell me whether I'm right or wrong because he knows. He was there on the revenue side. But to think about a situation or the appropriations side as well, is to tell me, did we ever had a situation where we actually had a program like our tax credit, property tax credit program which is funding a local tax, which is...it's not a state tax. It's actually a property tax credit. We're actually sending money back to the local subdivisions by sending it to the taxpayers to deal with the property tax issue. It's not a state tax. And quite frankly, I don't think it was good policy when we enacted it in the first place. In fact, it was bad policy when we enacted it in the first place, in my view. So if we're talking about the needs of the state which are legitimate, it's...and I'm going to defend my good friend Senator Fischer on this issue. She cares deeply about roads and I think everybody in this body cares deeply about infrastructure. I mean, when I drive to Lincoln every morning and I see all the cars coming into Omaha that aren't paying any wheel tax anymore, anyway...(laugh) that are not paying their fair share, but anyway they, from Sarpy County, for God's sake, but anyway they come in...it's a great county. Don't get me wrong. But they're...and I know that there's a need for infrastructure, and Senator Fischer is not trying to take money away from needs, other needs. That's not her goal. Her goal is to fund roads. It's legitimate. There are other funding sources to deal with the needs that we recognize if we want...it's us, it's our decision. It's our decision. Do we want to take \$234 million or a portion of that \$234 million and allocate it to education, to behavioral mental health? I would prefer doing that. I'm one of 49 people. Senator Howard would do it. Senator Lathrop is hiding behind...(laugh) Senator Lathrop has just done a magnificent job with Senator Utter on the CIR thing and I know we're not supposed to applaud our colleagues yet, because it probably...if it goes up in flames... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR ASHFORD: ...but Senator Lathrop has really done a great job on the CIR issue. We are and always have been, in my experience, a group of people who care so deeply about what we talk about. My only point is, I don't think it's an issue of Senator Fischer taking away something from somebody else. I think it's an issue of, do we want to address some of the needs that Senator Council so eloquently talks about every day, every day? And that my colleagues from the rural areas talk about their issues on education. Senator Fischer talked...we were just talking about the needs of rural education in this state. The money is there. We send \$60 or \$70 to individual taxpayers and money to large landowners that don't even live in the state. For goodness sake, how does that...how does that increase... [LB84]

SENATOR COASH: Time, Senator. [LB84]

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SENATOR ASHFORD: Thank you for not turning it off. (Laughter) [LB84]

SENATOR COASH: Senator Ken Haar, you are recognized. [LB84]

SENATOR HAAR: Mr. President and members of the body. We've heard that we can't cash flow this promise and I go back to the theme that this is poor tax policy, I think, to earmark General Fund monies. Reading from a paper from the Strom Thurmond Institute which is connected with Clemson University, there's a paper called, "To Earmark or not to Earmark", a policy brief. And I want to read a couple of the things out of this policy brief. It says, earmarking can make a budget crunch even worse when the economy turns down. And it says, when revenues are earmarked, they are removed from the process of weighing one expenditure against another that lies at the heart of good budget practice. We always have to weigh issues one against another. One of the things we've been hearing a lot about in the Natural Resources Committee is the need for more water funding. That hasn't even been talked about today. And so not only do we have the need for roads, and our constitutional obligation to education and so on, Medicaid, all those kinds of things, but we also have water needs. And if we begin to tie our hands with earmarks, then as this says, in spite of its political popularity, most economists advise against earmarking as a general principle. Most of the revenue needs to be available to the General Fund so that legislators have the freedom to make trade-offs among spending priorities. We have many spending priorities and the priorities of this year may not be our spending priorities two years or four years from now. And my concern again is, if we pass LB84, it becomes a promise. We've heard that it's a flexible promise, a flexible promise, a flexible commitment. But as one saying is, it's an immutable law in business that words are words, explanations are explanations, promises are promises, but only performance is reality. And I believe that if we pass LB84 in its current form, this promise is going to be looked on as a commitment, not as a promise if...a promise if the money is there. A promise if the Legislature decides on other priorities and so on. I think if we make this promise in terms of LB84, we are committed to follow through every year and use that one-half percent of sales tax for roads. And if we don't, and that's going to be my problem in two years or four years, whatever, then I think it will be looked at not only as a broken promise but as a broken commitment, and I think we owe more than that to our constituents. I would yield the rest of my time to Senator Mello, if he would like it. [LB84]

SENATOR COASH: Senator Mello, you are yielded 1 minute 25 seconds. [LB84]

SENATOR MELLO: Thank you, Mr. President and members of the Legislature. And thank you, Senator Haar, for your time. Quickly, I think I described it a little bit on the last time but I would like to reiterate and draw attention to the body AM974, because we're talking about potential solutions to the issue of financing roads. [LB84]

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SENATOR COASH: One minute. [LB84]

SENATOR MELLO: It shouldn't look past us in the sense of ensuring that we stay true to the current model we currently have, which is ensuring that we do not use General Funds to finance roads. Instead we use user fees from a host of variety of areas as well as the gas tax. AM974 is a fairly innovative financing model which is kind of a trigger, so to speak, that when the state receives an additional influx of revenue, over the projected revenue expectations from the Forecasting Board, that instead of all of that additional revenue going to the Cash Reserve, that money is split between the Cash Reserve and the Highway Trust Fund. As I stated earlier, if this amendment, so to speak, would have been state law back in 2000, you would have seen roughly \$504 million be diverted from the Cash Reserve before it actually went there... [LB84]

SENATOR COASH: Time, Senator. [LB84]

SENATOR MELLO: ...and instead gone to the Highway Trust Fund. Thank you, Mr. President. [LB84]

SENATOR COASH: Thank you, Senator Mello. Senator Ashford, you are recognized. [LB84]

SENATOR ASHFORD: Could I ask Senator Mello a question? [LB84]

SENATOR COASH: Senator Mello, would you yield? [LB84]

SENATOR MELLO: Yes. [LB84]

SENATOR ASHFORD: Senator Mello, the issue...can you explain to me the \$234 million because it comes through the appropriation? How do...I think I generally know how it works but could you explain to me how that property tax credit works? [LB84]

SENATOR MELLO: Essentially, Senator Ashford, the way the Property Tax Credit Relief Fund operates is that when it was passed into law in 2007, it created it as a spending program instead of a "tax"...a permanent tax cut or a permanent tax structure, which a special fund was created in the Department of Revenue in which then the Governor and the Legislature are able to appropriate as much funding as they would like into that fund to then be sent out to the county governments in the form of...like a...in the form of somewhat homestead exemption. But it's not limited just to a residential homestead, it's...it goes out to all property owners. [LB84]

SENATOR ASHFORD: Thank you. And it needs to be appropriated every biennium, correct? [LB84]

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SENATOR MELLO: Essentially the way it's set up now, is the Governor has the first ability since it falls along the budget process, the Governor is the first one to designate whether or not he wants to appropriate funding towards that fund in which...whatever funding is put towards that fund, it follows the process I just laid out. And the Legislature has the ability to add or subtract the amount that the Governor recommends that we put in that fund. [LB84]

SENATOR ASHFORD: And...thank you, Senator Mello. And that's a good answer. I think when we talk about tax policy on the state level, I feel much more comfortable dealing with state taxes, whether it's sales tax or income tax or other fees that we assess. When we start...and I voted for the property tax credit. I much preferred Senator Raikes' alternative in reducing the spending lid and increasing sales tax at the time, but I voted for it. We voted for it as a two-year measure, that's my recollection. And we funded it since then and that's what we've done and I voted to do that. I think we're at a point where we need to take a very hard look at that fund, whether it is...let me ask Senator Mello one more question, if I could. [LB84]

SENATOR COASH: Senator Mello, would you yield? [LB84]

SENATOR MELLO: I would yield, yes. [LB84]

SENATOR ASHFORD: Senator Mello, do you have...does the appropriations...and this is where I get fuzzy, does the Appropriations Committee have the ability to reduce that amount? Do you need substantive legislation, for example, underlying bill to reduce or change how that fund is...how that fund is computed, or...? [LB84]

SENATOR MELLO: Essentially, no, to give you the short answer. The Appropriations Committee...and actually I shouldn't say just the Appropriations Committee, the Legislature as the appropriating branch of government has the full authority within the budget process to determine the amount of General Funds we would like to put in that specific fund. So it can be done. The Appropriations Committee through the budget that we release as a committee, or it could be changed, if so be, by any member on the floor when we debate the budget bill. [LB84]

SENATOR ASHFORD: So we...members, we have the reserve, our required reserve, and then...that we have and we haven't touched, and that...correct? Is that correct, Senator Mello? [LB84]

SENATOR MELLO: We, in the preliminary budget you will see we roughly have \$60 million left in the Cash Reserve. [LB84]

SENATOR ASHFORD: Cash Reserve, but then we have our constitutionally required or statutory... [LB84]

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SENATOR MELLO: Our constitutionally required minimum reserve which is about two hundred and... [LB84]

SENATOR ASHFORD: Sixty million. [LB84]

SENATOR MELLO: Yeah. [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR ASHFORD: All right. Folks, we have the money to meet the needs that we're talking about here and we have the money and we have the ability to meet those needs without putting the state in any sort of financial bind or crisis. We have that ability. We can do this. We can address the needs of the healthcare, the healthcare needs that have been so appropriately identified. We can address the needs of the other needs. We can certainly address the roads needs and we've already appropriated substantial dollars to the roads fund this year. So the money is there to address these needs. The question is, do we want to, again, spend whatever it is, \$50 or \$60 per property taxpayer, in effect giving a credit on a local tax or do we want to appropriate that money to the needs that the state has identified as are appropriate? [LB84]

SENATOR COASH: Time, Senator. [LB84]

SENATOR ASHFORD: Thank you. [LB84]

SENATOR COASH: There are no more members wishing to speak. Senator Conrad, you are recognized to close on your motion to reconsider. [LB84]

SENATOR CONRAD: Thank you, Mr. President. Just as a point of information, how long do I have to close, please? [LB84]

SENATOR COASH: You have five minutes. [LB84]

SENATOR CONRAD: Five minutes. Thank you, Mr. President. Colleagues, let's bring this debate back to where we started, and before I get to that substantive nature, I do want to talk a little bit about process. Again utilizing the motion strategy that we have available to us is fully allowed under the rules, and indeed important to bringing competing interests together to the table to negotiate and make the legislation better, and that's exactly what's happening through this. So I'm very glad to see movement in that regard. And it's been pointed out that we haven't had full and fair debate on LB84 or on AM385 and I contend to those who have that criticism, that lies not on my head, Senator Nordquist, or Senator Mello. Proponents have had all day to get up and talk about whether or not they think AM385 or LB84 or any other pending amendment is

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good, bad, or otherwise and to build their record, and to make their case. If they have failed to do that, if they have lost control of the debate, that is not our fault. We have every right to utilize the strategy we think best and to make the points we think important to build the record from our perspective. So if people are worried about what fair and full debate has been on the substantive amendments, or the legislation, then they should have started talking about them a long time ago. Again, what is this legislation? This is an earmark. There's no other way to classify it. It earmarks a half cent of existing state sales tax to go to the Highway Construction Fund. It will result in a loss of \$125 to \$140 million a year to the General Fund. I understand there's a pending amendment which caps it at \$125 million. So be it. The earmark would begin in 2013. It doesn't address the crisis today. It puts it off for at least two years and then 20 years into the future. It's a 22 year solution to a crisis that allegedly we have today. And it would result in a \$2.8 billion loss to the General Fund, which is already constrained, which is already constrained to the point when we're at 5.6 percent in terms of revenue growth, coming out of a recession with 4.3 percent two year average on the horizon, we'll never be able to fulfill our other obligations which are spelled out for us in the constitution, and in other statutory configurations. Senator Fischer and others contend, we have the flexibility to fix this if the robust economic recovery does not occur. Again, show me in any amendment, in any line of LB84, where that flexibility is listed out. It doesn't exist. It's a mandate. It's a mandate with no flexibility. All the bracket motion and the reconsideration motion does is say, let's wait. Let's get more information. Let's have a better sense about what our economic recovery and economic future is going to look like. Let's wait and have other people come to the table and talk about how we can figure out a way to provide for all of our obligations, because we have to do just that. We can't single out roads construction as the most important thing in the state, because indeed, K-12 education has to be so... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR CONRAD: ...according to the Nebraska Constitution. I believe this legislation violates a well-established prohibition in the Nebraska Constitution and in numerous court cases in terms of binding future legislations, Legislatures. It's a 20 year continuing appropriation which is outside of the budget process. It may be an illegal appropriations. It spells out potential special legislation problems with the expressway issues that have been identified. It is the largest earmark in state history, three times as big as the revenue lost under LB775. Think about that. We had a comprehensive statewide study of infrastructure financing conducted by this Legislature and this committee in 2009. Thirty one options were presented that were sustainable to address this issue. LB84 was not among them. In fact... [LB84]

SENATOR COASH: Time, Senator. [LB84]

SENATOR CONRAD: ...sales tax were rejected. Thank you, Mr. President. [LB84]

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SENATOR COASH: Thank you, Senator Conrad. You have...Senator Conrad. [LB84]

SENATOR CONRAD: Could I get a call of the house, please? [LB84]

SENATOR COASH: There has been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Mr. Clerk. Record, Mr. Clerk. [LB84]

CLERK: 36 ayes, 0 nays, Mr. President, to place the house under call. [LB84]

SENATOR COASH: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Pirsch and Smith, please return to the Chamber. The house is under call. All members are present. Those in favor of the motion to reconsider, vote aye; those opposed...Senator Conrad. [LB84]

SENATOR CONRAD: Yes, thank you, Mr. President. I'd like to request a roll call vote in regular order, please. [LB84]

SENATOR COASH: There's been a request for roll call vote in regular order. Senator Pirsch, the house is under call. Senator Conrad, Senator Pirsch is unaccountable, how would you like to proceed? [LB84]

SENATOR CONRAD: Let's proceed with a roll call vote in regular order. Thank you. [LB84]

SENATOR COASH: Record, Mr. Clerk. [LB84]

CLERK: (Roll call vote taken, Legislative Journal page 946.) 7 ayes, 34 nays, Mr. President, on the motion to reconsider. [LB84]

SENATOR COASH: The motion to reconsider is not adopted. I raise the call. Mr. Clerk. [LB84]

CLERK: Mr. President, the next motion, I do have other amendments, however, a priority motion. And if I may, Mr. President, may I read in a couple of items before I do that? Two amendments to be printed (re LB84) by Senator Loudon and Senator Mello. (Legislative Journal pages 947-950.) [LB84]

Mr. President, a priority motion: Senator Nordquist would move to recommit LB84 to the Revenue Committee. [LB84]

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SENATOR COASH: Senator Nordquist, you are recognized to open on your motion to recommit to committee. [LB84]

SENATOR NORDQUIST: Thank you, Mr. President and members. I make this motion for a few purposes, for three real key purposes, I guess. First would be to give a better opportunity for persons to come in before the committee and express their concern with it. That certainly is in bounds, according to the Mason's Manual. It is one of the stated purposes for referring a question to a committee. I think that we've all received e-mails one way or another on this. I know I have, Senator Hadley said he received e-mails in opposition to this bill. A number of people have been contacting us that did not attend the hearing. I think that we need to make sure that everyone in the public has a chance to voice their concerns that potentially were not able to attend the first meeting. I know before the Appropriations Committee we asked behavioral health providers, Medicaid providers. We asked other people who are impacted by the General Fund and they all had thoughts on the bill that were not expressed before the Revenue Committee. The other reason, I see Senator Fischer has an amendment below which will substantially change the legislation, remove bonding, put in a cap on the dollar amount. I think the committee should go back and reconsider those provisions as part of the committee process. I think also they need to take a look at how, in two years, if revenues don't hit those projections, how as a Revenue Committee they're going to pay for this. We know that this does not cash flow in two years and I think too many people are writing that off, saying, ah, we'll worry about that in two years. We don't have a crystal ball here, folks. We don't know what it's going to be like. But the best guess that our Legislative Fiscal Office has says we cannot afford it. I think that's absolutely critical. And then the third component, the third reason I'm suggesting that we recommit this to committee is to address the issue of flexibility. We've heard about that today, but really there is no flexibility. We're saying in statute that you have to appropriate this money. The Governor is going to have to build his budget with that amount of money in his proposal to the Legislature. There's no flexibility here. The flexibility is...that would be like saying every bill we pass is flexible. It's just not. I think the Revenue Committee, if they want to have true flexibility, should go in and look at structuring this like they did the property tax relief credit. That's flexibility. That gives the Appropriations Committee the ability in good times to appropriate money for that program and not in bad times. That's responsible budgeting. That's the fiscal responsibility that we all talk about on campaigns, that we don't promise more than we can deliver. It starts right here. I think we need to move this back to committee, seek public input, consider the provisions that Senator Fischer has filed as amendments to this bill, and consider the issues of flexibility and whether or not we can afford this in bad times and we tie the hands of the Legislature or whether or not we make it truly flexible like the property tax relief credit. Thank you, Mr. President. [LB84]

SENATOR COASH: Thank you, Senator Nordquist. Those wishing to speak on the

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recommit to committee motion: Senators Conrad, Mello, and Hadley. Senator Conrad, you're recognized. [LB84]

SENATOR CONRAD: Thank you, Mr. President. Thank you, Senator Nordquist. I rise in support of the motion to recommit to committee. I think Senator Nordquist gave a great overview about some of the background and context utilized when filing a motion like this and I think that it's a good option for how to move forward. Senator Nordquist noted appropriately that some of the pending amendments dramatically change the bill from its original introduction, so it would be great to be able to see if that list of proponents is still 100 percent in support or not or if allegiances have changed or not. And as issues move through the Legislature they move into the public dialogue and into the public purview, and I'm starting to hear a lot more in my e-mail accounts from people who are concerned about LB84 and everyday people who aren't represented by the 30 or so lobbyists that are working against us on this issue right now out in the Rotunda. A lot of these folks don't have the time to go and figure out when exactly the hearing is going to be, how to come down and engage, but now as they see it moving through the process they're saying, wait a minute, I'm all for roads but this is crazy, this is a huge dramatic departure from our history and jeopardizes some of the things that we hold most dear. Let's give them a chance to weigh in. Let's give them a chance to full and fair debate at the committee level and see if there will be any changes that would be presented. There's nothing wrong with that. We have time in the session. We're barely over halfway through. I never understand why people are concerned or scared about more information or more public dialogue. I actually think, being a one-house Legislature, that's critically important to our process. The people are our second house and the people should have a right to weigh in, considering the impact of this legislation is so great, the pending amendments are so dramatically different from the underlying legislation, and now they've been contacting us and stating just that. So I think this is a good motion that should receive favorable and full consideration, and I'm hopeful that as we move forward again we'll have the opportunity to talk, to talk about where maybe there are some points for negotiation down the road or in the present sense. That's a bad pun. I'm sorry. It's a little late in the day and it got away from me. But the good news is we're all still talking and we're talking about the issues at hand and they are important issues. It's well-established. And as I noted to Senator Fischer in our private conversations, we don't have a values problem here. I understand what she's trying to achieve. We just have a very sincere difference of opinion in terms of the policy component meant to achieve that objective, and that's okay. I know it might be scary for some people who are watching beyond or new colleagues in the body saying, oh my gosh, all of this debate is making me anxious or I feel like it's a little acrimonious or otherwise. This is why we came here, to debate important issues of the day. And we're all professionals. We maintain the level of civility, respect, personal relationships that we have with each other despite sincere differences in policy issues, which is what we have in the present sense. So again, I think we've had a lot of really good thoughts about the questions raised with this legislation and the pending amendment, and we've yet to hear

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any of the answers, the answers that we have posed that opponents have asked in a sincere way about if this recovery doesn't happen,... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR CONRAD: ...how are we going to meet all of our obligations? I haven't seen proponents jump up and say, I'll be the first to put in an income tax increase, I'll be the first to put in a sales tax increase, because that's what's going to have to happen to hold the line with where we are with present obligations and investments in other areas that are impacted by the General Fund. I have yet to see where the flexibility exists in the amendment if the recovery does not occur. I'm not, again, asking that in any way other than sincerely. I've read the amendments. I've read the bill. The flexibility doesn't exist. To suggest it does is just inaccurate. So let's fix that with substantive amendments that have been filed or at the committee level. Either one would be a good option for how we move forward with this issue. I'm hoping to continue our dialogue in terms of other budgetary... [LB84]

SENATOR COASH: Time, Senator. [LB84]

SENATOR CONRAD: Thank you, Mr. President. [LB84]

SENATOR COASH: Senator Mello, you are recognized. [LB84]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. I rise on the recommit to committee because I think it was something that was very startling as we started this conversation, not just this morning with a comment that Senator Hadley mentioned which was not lost on me or anyone else, or this entire issue as it came out of committee, which was LB84 came out of committee with essentially no opposition. And this is the largest earmark in the history of the state, essentially committing our state to spending \$2.5 billion in General Funds over 20 years, the largest spending earmark in the history of the state without any general opposition. That in itself raised red flags to me as I was looking through legislation, in part because as we've known, and I think Senator Adams can attest and Senator Campbell can attest as being Chairs of the Education Committee and the Health and Human Services Committee, that over the last three years we have seen nothing, nothing less than an ongoing war for General Fund dollars to fill critical...essentially critical state priorities: K-12, higher ed, HHS, safe haven, child welfare, you name it. So to see, I would say, LB84 move through the legislative process in committee, and Senator Hadley was absolutely right today that it did not really have any opposition, no major opposition from anyone in the education community, anyone in the healthcare community, anyone from any, frankly, general funded state agency. Whether or not it was someone who deals with the Game and Parks, whether it's someone who deals with the Department of Environmental Quality, whether it's someone who deals, you know, with...you name the general funded

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state agency, the arts, public safety. None of them came in opposition. I think in part...and once again for us to I think fully understand this issue and what Senator Nordquist's amendment or motion is essentially is recommit this back to committee and let us start finding out what other entities' or individuals' interests or concerns may be, because I know I have seen a significant number of e-mails, phone calls, and people wanting to meet on LB84 and it's a question I continually remind them, which is why did you not come in opposition of this bill when it came in front of committee. That is the one opportunity that everybody Nebraskan or every organization has to be able to share their opinion, whether or not you support the bill or whether or not you oppose the bill or whether you come in neutral. It's a question I've asked everyone who comes to me and says they have concerns: Why didn't you bring this up to the Revenue Committee? This was on the agenda. The bill is fairly crystal clear in the way it reads that it earmarks a half-cent sales tax of existing sales tax dollars to fund roads infrastructure for 20 years to the tune of roughly \$2.5 billion. So I see the logic and I support the logic that Senator Nordquist is putting forward because I think in all reality we're all getting these e-mails, phone calls, and people wanting to explain their viewpoints now on LB84 after the fact. Now the question is whether or not as a body we feel that that's a move that we want to go, because I think also, as you see, there are some...I think some amendments that Senator Fischer has put up to the underlying legislation, essentially changes the legislation. But also, there's other committee...there's other noncommittee amendments that other senators have put up--myself, Senator Conrad, Senator Loudon, I think other senators are looking to put up other amendments as well--that I think warrants whether or not as the way it's currently drafted LB84 is even the same potential legislation as it was... [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR MELLO: ...as it was passed out of the Revenue Committee. So I think for anyone to make the claim or to jump to the logic that this not I think a relevant motion, I have a tough time stomaching that because it is, because it's a relevant motion because we've all received the e-mails and all received the phone calls and meetings expressing opposition to LB84 when the opposition wasn't there in the committee. So it's only logic to say, as a Legislature, should we consider recommitting this bill to the committee so that people can share their input with the Revenue Committee? Maybe there is other options. Maybe there's a better option. I believe that there is. I think other senators on this floor also believe that there's a better option than what is currently drafted in LB84. I urge you to take a consideration, a serious consideration of this motion, because it's not lost on us, the ramifications that we're hearing from the education interests, the healthcare interests, the public safety interests, the arts interests. [LB84]

SENATOR COASH: Time, Senator. [LB84]

SENATOR MELLO: Thank you, Mr. President. [LB84]

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SENATOR COASH: Senator Hadley, you are recognized. [LB84]

SENATOR HADLEY: Mr. President, members of the body, I started this, this morning, I think at a little after 9:00. I might be close to the end. Would Senator Nordquist yield to a question? [LB84]

SENATOR COASH: Senator Nordquist, would you yield to Senator Hadley? [LB84]

SENATOR NORDQUIST: I'd be happy to. [LB84]

SENATOR HADLEY: I think Senator Mello touched on it but why...what is your opinion why some of these very organized groups around the state, very highly organized that come in and testify on most any bill that impacts their area, did not show up at the Revenue hearing? [LB84]

SENATOR NORDQUIST: Well, I think it's pretty simple in that LB84 is a very general bill that has an impact on the General Fund, and I think the dollars aren't directly related to them but it is indirectly. It will have an impact in two years. And now that they've seen us go through the budget process and in Appropriations Committee see what position they're in, they're now worried about what it's going to be like in two years. They know we're not going to be able to afford to restore a lot of these cuts in two years, especially if LB84 goes forward. Now I don't speak for them. They're all well organized. They, a lot of them, have lobbyists out here. [LB84]

SENATOR HADLEY: Thank you. Thank you, Senator Nordquist. I just wonder should this be a policy we look at in the body, that if no one shows up and then there's opposition on the floor, let's recommit it all the time, right? [LB84]

SENATOR NORDQUIST: Yeah, I... [LB84]

SENATOR HADLEY: I mean that doesn't make much sense to me. Would Senator Adams yield to a question? [LB84]

SENATOR COASH: Senator Adams, will you yield? [LB84]

SENATOR ADAMS: Yes, I will. [LB84]

SENATOR HADLEY: Senator Adams, would you consider TEEOSA an earmark? [LB84]

SENATOR ADAMS: (Laugh) Well, this thing called autopilot that would make one thing that it is, but I can't recall a time I've been here where we haven't gone in and made

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adjustments. [LB84]

SENATOR HADLEY: No, no, but it is to be used for K through 12 education, isn't it? We're earmarking it for K through 12 education. [LB84]

SENATOR ADAMS: Whatever amount this body votes on. [LB84]

SENATOR HADLEY: That's right. Then just out of curiosity, why does the Education Committee get into looking at funding of TEEOSA when we have the Appropriations Committee? [LB84]

SENATOR ADAMS: Because the Education Committee determines what the needs are educationally, which in a sense is half the formula. [LB84]

SENATOR HADLEY: Okay. Well, I'm just wondering, I guess I'm wondering why the same kind of concept couldn't work in this. In two years, if we don't have the funding, somebody...we come to the Revenue Committee and say the funding isn't there, put in a bill, we'll cut out the \$125 million or \$250 million for that budget, send it on. Why...you know, everybody says there's no flexibility. Well, in TEEOSA we have flexibility every two years, at least the time I've been here, and it runs through the Education Committee and then the Appropriations Committee. So I think there can be flexibility in this and to say that it's not, I don't believe it. And secondly, I want to reiterate I think TEEOSA is an earmark. It goes to K through 12 education. LB84 goes to highway funding. I guess I support education. I've always supported education. I would support education over concrete. But to me, they are both an earmark. Thank you, Mr. President. [LB84]

SENATOR COASH: Thank you, Senator Hadley. Senator Conrad, you are recognized. [LB84]

SENATOR CONRAD: Thank you, Mr. President. And thank you, Senator Hadley, for providing that important example. And I think let's define earmark because I contend that TEEOSA is not an earmark. It doesn't have a dedicated revenue stream and it doesn't have a set amount, so that's very, very different than what earmark means in a legal perspective, in a political perspective, and in the common lexicon. So we can say it's an earmark, but it's not. (Laugh) And we can say LB84 isn't an earmark, but it is because it has a set amount from a dedicated revenue source for a specific project. So I've got out my Black's Law Dictionary to see if they have a handy definition of earmark. If they do, I'll be happy to read it into the record. Otherwise, I'm sure we could get a useful definition from the NCSL or any other professional organization that might be able to shed some light on this. Earmark, Black's Law Dictionary: To set aside for a specific purpose or recipient. That's the definition: To set aside \$125 million a year for a specific purpose or recipient--roads funding. That's an earmark. TEEOSA does not fit within that definition I contend. If you have another definition that we should be utilizing,

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I'm happy to look at that and I will stand corrected. But let's do talk about what an appropriation is and what it isn't. Appropriation decisions must be made within the budget. According to the Nebraska Legislature's Web site, a legislative bill, like LB84, is a proposal to create, change, or delete one or more laws. An appropriation is defined as the action taken by the Legislature to authorize the expenditure of a designated amount of public funds for a specific purpose. So a legislative bill you can create, change, or delete one or more laws. An appropriation you authorize expenditure of a designated amount of public funds for a specific purpose. So we may have disagreements about the policy but let's be accurate with our terminology and those terms are well-defined. Again, what is LB84? It's the largest earmark in the history of Nebraska with the potential to impact K-12 education, higher education, healthcare, public safety, and other important General Fund obligations to a level that we've never seen before. We've heard that there's flexibility that may exist. No one has presented any clear indication of where that is in the legislation or the amendment. We've heard that if we don't see a robust economic recovery, mind you, that is far in excess of what our current forecasts utilize, which is a 4.3 percent average over the next biennium, so if somebody has got different figures that we should have in the game let's look at them now. Now is the time to put them on the table. But using the information that we have provided to us from a nonpartisan, objective source with our Forecasting Board and our Fiscal Office, let's use the numbers that we have available as the best numbers we have, and they don't anticipate the kind of growth we're going to need in order to fully fund LB84 and all of our other General Fund obligations. So what is the result? [LB84]

SENATOR COASH: One minute. [LB84]

SENATOR CONRAD: The result is simple. It's two options: deep cuts in education and human services, or tax increases. I still didn't have an opportunity to hear from opponents (sic), when and if that point in time comes, where do we start? You want to start raising income taxes or do you want to start raising sales taxes? To what amount? To what level? To what degree? I'm open to hearing more about those ideas because at least then we'd have a plan. We'd have a contingency plan for how to deal with the impacts of this legislation if revenue growth actually doesn't exceed this robust recovery that isn't verified in any of our forecasts. So let's start talking about that and building a record on that so that no one is surprised, including the public, which have a right to know. And we have a right to...we have a responsibility... [LB84]

SENATOR COASH: Time, Senator. [LB84]

SENATOR CONRAD: Thank you, Mr. President. [LB84]

SENATOR COASH: Mr. Clerk, items? [LB84]

CLERK: I do, Mr. President, thank you. I have an amendment to LB84 to be printed. I

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have a new resolution, LR141, by Senator Price. Senator Karpisek would like to add his name to LB600, Senator Bloomfield to LR40CA, Senator Cook to LB600. (Legislative Journal pages 950-951.) [LB84 LR141 LB600 LR40CA]

And I do have a priority motion, Mr. President. Senator Schilz would move to adjourn the body until Friday morning, March 25, at 9:00 a.m.

SENATOR COASH: You have heard the motion to adjourn the body until March 25 at 9:00 a.m. All those in favor say aye. Those opposed, nay. We are adjourned.