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Floor Debate
February 26, 2007

[LB12 LB49 LB57 LB92 LB144 LB152 LB211A LB221 LB223 LB239 LB292 LB347
LB370 LB397 LB441A LB441 LB467 LB470A LB470 LB475 LB481 LB497 LB568
LB635 LB699 LR29 LR30 LR31 LR39]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. Welcome to the George Norris Legislative Chamber for this the thirty-fifth day of the One Hundredth Legislature, First Session. Our chaplain for today is Pastor Jim Keck from First Plymouth Church, Lincoln, Nebraska, Senator Avery's district. Please rise.

PASTOR KECK: (Prayer offered.)

SENATOR LANGEMEIER: Thank you, Pastor Keck. I call to order the thirty-fifth day of the One Hundredth Legislature, First Session, to order. Senators, please record your presence. Record, Mr. Clerk.

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: Are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB223, LB441, LB441A, LB470, LB470A, LB239, all those reported to Select File. And your Committee on Health and Human Services, chaired by Senator Johnson, reports LB144 to General File with amendments; LB292 to General File with amendments; LB481, General File with amendments; and LB397, indefinitely postponed. Those reports signed by Senator Johnson. I have a motion from Senator Dierks to withdraw LB635, Mr. President. That will be laid over. That's all that I have at this time. (Legislative Journal pages 661-667.) [LB223 LB441 LB441A LB470 LB470A LB239 LB144 LB292 LB481 LB397 LB635]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Gay, you are recognized.

SENATOR GAY: Thank you, Mr. President. I just wanted to take one minute, a personal privilege here, and thank everybody in the body and friends that expressed their condolences with the passing of my father. It means a great deal to me. He was a great guy, kind of my mentor to get me into politics, 24 years on the Public Service Commission, so he will be missed. But I just wanted to express to everyone, thank you

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so much for your nice words and cards and everything else. That really was very comforting, so thank you very much. Thank you, Mr. Speaker.

SENATOR LANGEMEIER: Thank you, Senator Gay. (Visitors announced.) Mr. Clerk, first item on the agenda.

CLERK: Mr. President, LB568 is a bill by the Natural Resources Committee and signed by its members. (Read title.) The bill was introduced on January 17, referred to Natural Resources, advanced to General File. The bill was briefly discussed, Mr. President, on February 23. [LB568]

SENATOR LANGEMEIER: Senator Louden, we recognize you, due to the passing of a number of days here, to do a reopening on LB568 for us. Thank you. [LB568]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I stated before, this is a simple bill that was...extends the grant program under the Waste Reduction and Recycling Initiative Fund. It does have the emergency clause since this program is scheduled to sunset June 30, 2007. The bill extends the sunset to June 30, 2012, which would be a five-year extension. One of the examples of the program that benefits from this grant is a tire amnesty program. Tire amnesty programs are held in communities across the state, and the grant money helps the communities correctly dispose of the scrap tires collected during the program. Another example are schools who have accessed this money for playground and athletic fields, and the Department of Roads also accessed this fund to assist with the purchase of crumb rubber to use in road construction. There was no opposition to the bill and it was advanced unanimously by the committee. I would point out that the last time there was an extension was in 2003 and that was a four-year extension, and already we're working on it again. The scrap tire fee last year in 2007...or this year in 2007 is estimated to bring in \$1.8 million, and the eligible grants are usually over \$2 million, so there's always a shortfall of money. In other words, all of the money is used in the scrap tire program. With that I would ask that this bill be advanced because I think many of us are familiar with our examples of the amnesty programs in towns all across the state of Nebraska that gets, like the city of Atkinson, I think last year got 600 tons of tires. Kimball, for one thing, got 200 ton, depending on which one you want to pick out, but there's many tons of tires that are cleaned up by these all of the time. Sidney, alone, picked up 400 ton, and you can mostly find any spot in the state of Nebraska where they have collected tires. Also I think...and there's a list that's handed around now of the different towns in the state of Nebraska that have received money for this, and any place in there where it says amnesty, like the city of Lexington, amnesty for 125 tons, this is what that scrap tire program includes. So with that I would ask that this bill be advanced at the present time. It's one of our brighter spots in the recycling program that we have with the environmental trust money, so this is something that needs to go forward. It's funded by the \$1 tire fee that you pay when you buy a new tire, and it's been something that's

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worked quite well for the state of Nebraska for several years now, and I would like to see it extended for a five-year period so we don't have to come back right away and reextend the thing. Thank you, Mr. President. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Louden. You have heard the opening on LB568. Mr. Clerk. [LB568]

CLERK: Mr. President, Senator Preister would move to amend the bill. (FA31, Legislative Journal page 667.) [LB568]

SENATOR LANGEMEIER: Senator Preister, you are recognized to open on your amendment. [LB568]

SENATOR PREISTER: Thank you, Honorable President, friends all. This is an opportunity to, I think, help people to understand a little bit about the scrap tire fund. I think it's doing good things. I don't question that. The amnesty programs are doing good things. But I think five years is too long to extend the extension. Even in its original form it was never supposed to be implemented for five years. I handed out a sheet that shows you when it was adjusted, how long it's been in existence. At the top of the paper it says scrap tire fund time line. My amendment would reduce the time line from five years to two years, so instead of the sunset being in five years, we, as a body, the Natural Resources Committee in particular, would at least have an opportunity to get an update from NDEQ to see how the fund is doing, to see what amounts of tires are being disposed of, where the grants are going, are we using all of the grant funds. And I think one of the important things is, are we utilizing the money most appropriately? So if you look on the bill, you'll see my name is on it as a cosponsor. I'm not trying to eliminate the fund entirely, but I think we need more accountability. And for me, the issue is accountability, and I don't think it's too much to ask the Legislature to look at and assess and see how these funds are being spent and how they're going on a two-year basis. If you look at the sheet that I gave you, the program was first implemented in 1994. It was for less than five years that it was originally established, even less than the extension that we're currently looking at in LB568. And it was done for a couple of reasons. One of the main reasons was to clean up the large scrap tire mounds, mountains that we had in various parts of the state, including one in my district. That was what it was supposed to do: get rid of those huge scrap tire piles. In '97, we did an extension even before the five years was up, but we essentially established a...well, we eliminated the original loan program because the loans weren't working and we broadened the list of activities eligible for the grants. So we visited it within three years originally. Then, that '97 extension of the 100 percent cost of cleanup was for under one year, so we decided we needed to revisit this before even a year was up. Then in '98 we did an extension, and that was for under one year. So again we said it's important that we keep a handle on this, we revisited it, and not let it go too long. In 1999, the extension again was under one year, from June 1 until September...I guess that was just over a year...June 1,

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1999, until September 2000. Then in 2000, we extended it and that was from June 1, 2000, until June 1, 2002--two years. Then in 2000, when that was up, we extended it until 2004--two years. All of these extensions have been for a very limited amount of time to give the Legislature an opportunity to assess how the funds were being used, if we can do a better job, are we cleaning up these huge scrap tire piles. And to my knowledge we have pretty much eliminated all of the large tire piles--a good thing. The money was used wisely in most cases. It was used for infrastructure startup. It was used for equipment to crush the tires, to make them into smaller pieces. Those tires are under Memorial Stadium as part of the Astroturf. They are on school and other athletic fields around the state. We invested in that infrastructure and in those systems to be able to provide a beneficial use--as true as we can get with tires, recycling of those tires. But we need to keep monitoring that fund. We need to keep monitoring the status of what happens with these tires. Then in 2003, the last extension that we did, and this is the longest extension we've ever done, that one was from 2003 we extended it to June 2007--three years. We have not done a five-year extension. Even the original bill was less than five years. So my amendment is, I view, as a compromise with Senator Loudon. It would extend it for two years, very much in keeping with the way this body has done it time after time after time. It gives us an opportunity to revisit, to get updates from NDEQ to see what they have been doing. I'm not trying to stop this program. I'm not trying to stop the process. And I had offered, when I signed up on the bill, to Senator Loudon, that NDEQ should give an update to the committee and do a report. When I looked at the committee statement, I didn't even see DEQ testifying, so unfortunately I don't think they even provided the committee with the kind of information that I think could have been useful to them. I just think it's important that we look at this fund and that when we're talking the amount of money that goes into it, approximately \$2.5 million a year, that we assess it, that we look at it. And to look at it every two years, in my view, is not excessive. The extension would be reduced in my amendment from five years to two years, very much in keeping with the way it has been done. As I said, any of these extensions that I've outlined have been for a year or less, up to two years, and one extension from June 1, 2004, to June 30, 2007, is just three years and a month. So the amendment, I think, is an opportunity to say the Legislature does need to revisit this issue. The extension is made. And one of the big reasons I think we need to do this is because although there is an amnesty and it's doing good things, I think we have people avoiding that \$2.50 to \$5 fee on a tire, and they're waiting for these amnesties and then their free disposal of their tires. And not only individuals but even some businesses are taking advantage of that. I think that skirts the intent of the fund and I think it's important for our committee and this body to assess that periodically. With that, Mr. President, I will conclude. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Preister. You have heard the opening on FA31 to LB568. The floor is now open for discussion. Senator Chambers, you are recognized. [LB568]

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SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I think Senator Preister is far too generous. I'd like to ask him a question if he will yield. [LB568]

SENATOR LANGEMEIER: Senator Preister, would you yield to a question? [LB568]

SENATOR PREISTER: Yes, I will. [LB568]

SENATOR CHAMBERS: Senator Preister, if your amendment is not adopted...well, let me get right to the heart of the matter. If this bill is killed, what happens? [LB568]

SENATOR PREISTER: The fund will not get the extension and the money that would normally go into that fund, \$1 million of that, would stay in the Waste Reduction Fund, and it would still be available for these same grants but they wouldn't have a higher priority, up to \$1 million. [LB568]

SENATOR CHAMBERS: Thank you. Mr. President, I would like to ask Senator Louden a question or two if he will yield. [LB568]

SENATOR LANGEMEIER: Senator Louden, would you yield to a question? [LB568]

SENATOR LOUDEN: Yes, I would. [LB568]

SENATOR CHAMBERS: Senator Louden, does all the money which goes into this fund come from that \$1 per tire which a person pays when purchasing new tires? [LB568]

SENATOR LOUDEN: Yes, into this grant...what do you call it?...recycling program or whatever it is, yeah. [LB568]

SENATOR CHAMBERS: Okay. And how long ago was that \$1 fee or tax placed on tires, if you know? [LB568]

SENATOR LOUDEN: Well, I suppose 20 years or more. I don't know. It's been years ago. It's before I got into politics anyway. [LB568]

SENATOR CHAMBERS: And, Senator, this is a tax, isn't it? This \$1 on each tire is a tax, isn't that true? [LB568]

SENATOR LOUDEN: Well, most people call it a tax but it goes into this recycling fund, and that...I mean, it's...what would you say?...an earmark tax, I guess, because it's made...it's supposed to dispose of the tires. [LB568]

SENATOR CHAMBERS: Now, if...I'm going to ask you the same question I asked

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Senator Preister. If this bill is killed, what...first of all, what is being done right now that will be extended by this bill? [LB568]

SENATOR LOUDEN: What would be done right now is extending the grant part of it for tire amnesty, and that would be the part that comes out of that Waste Reduction and Recycling Fund that would be set aside for recycling tires. I think in the fiscal note said they set aside up to \$1 million annually. And if this was bill was killed then that money wouldn't be set aside for just scrap tires. They would have to go into the grant funding like anybody else would be getting grant funding to get rid of scrap tires. [LB568]

SENATOR CHAMBERS: What is the meaning of this amnesty? To whom is it granted and of what does it consist? [LB568]

SENATOR LOUDEN: Well, I think that's a loose wording for the thing is because these communities usually leverage some grant money, and however much they can leverage, then they go out and say, well, we're going to have a day or a week or two days and you can bring in all your tires and you don't have to pay anything to the landfill or anything like that. And whenever they get enough tonnage of tires that takes care of the grant money they leveraged to haul them off, then that's the end of the amnesty for that time until they apply for a grant the next year or so. There was a list that I put out of the some of the towns that do that all over Nebraska. [LB568]

SENATOR CHAMBERS: Thank you. Senator Louden, is it your view that this \$1 tax should never go away, and as more money may be generated, more uses can be found for spending that money? [LB568]

SENATOR LOUDEN: Say that again, Senator. [LB568]

SENATOR CHAMBERS: Is it your intent that this tax never go away? [LB568]

SENATOR LANGEMEIER: One minute. [LB568]

SENATOR LOUDEN: Well, I imagine as long as we generate tires, yeah, we probably just as well have that disposal fee on it because it seems like it's the best way to get rid of a lot of these tires so they don't start to pile up. [LB568]

SENATOR CHAMBERS: And if more money is generated, more ways for spending it can then be found, is that true? [LB568]

SENATOR LOUDEN: Well, I suppose at the present time they just put in, what, \$1 million for this grant tire program. The rest of the money goes in...I think the Department of Roads got \$300,000 to grind some of those tires up and put them in the roads. I think there's other grant funding that goes into, I think that circular that was sent around

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shows where some of the money goes to different projects. I think they grind the rubber up and put it in football fields and that sort of thing. [LB568]

SENATOR CHAMBERS: Why should the Department of Roads and the football field gain the benefits from this \$1 tax that everybody pays each time a new tire is purchased? [LB568]

SENATOR LANGEMEIER: Time. Thank you, Senator Chambers. Senator Louden, you are recognized. Your light is on. [LB568]

SENATOR LOUDEN: Yes, and I'll continue this with Senator Chambers. The reason...if Senator Chambers would yield please. [LB568]

SENATOR LANGEMEIER: Senator Chambers, would you yield? [LB568]

SENATOR CHAMBERS: Yes. [LB568]

SENATOR LOUDEN: I think the reason that the state of Nebraska does that, part of it was their experimental deal but it's...the fee is paid to dispose of tires, and that's what the state of Nebraska Road Department decided they're doing when they're grinding it up for their crumb rubber to put in their tax base on some of their highway work. This isn't being done all over the state but I know they do quite a little bit of it so that's the reason \$300,000 isn't that big of a deal, but there is a big pile of crumb rubber, I think it was used there on the interstate, oh, in there around Kearney or some place. I see it when I go by it anyway. [LB568]

SENATOR CHAMBERS: Okay. Senator Louden, I think as I said, Senator Preister is being generous. If there is to be an extension, it should be one year at the most. We are the ones who provide the oversight. Without us there is none. We have no idea and will have no idea of precisely how this tax money is being spent. This \$1 is a tax. Down through the years I have opposed increases that the Department of Motor Vehicles wanted because I saw them as taxes which were hidden and misnamed. Would you support... [LB568]

SENATOR LOUDEN: Well, if I would interrupt, Senator, since we're on my time. [LB568]

SENATOR CHAMBERS: It's your time but here was the question I was getting to: Would you support extending it for one year rather than an effort to kill the bill? [LB568]

SENATOR LOUDEN: Well, no. I think the last time we did it was four years, and even two years you have to come back every other year and look at the thing. Somewhere along the line I think the DEQ or somebody, whether they put it up for five years. I don't know who decided five years or so. But it is a program that's working very well, and I

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think instead of keeping micromanaging the thing, if we would go ahead and extend it. We've done it four years at the time; I don't see why we shouldn't be able to do that and that worked out quite well. I don't think there's any money wasted in this particular program as far as the environmental trust money or the money that comes from this tire through the recycling fund. I don't think this is anything that's out of the ordinary or would be asking that much, but I think when you start doing it every two years, then we're here every other year trying to overhaul the thing again. So I can't support Senator Preister's amendment. I would like to see the five-year extension go in there. I think this is something we have, so many communities across the state of Nebraska that are doing such a good job with this. And this is always volunteer work that these communities do. They don't make money on the thing. They usually...the idea is to get rid of their old scrap tires that are lying around, and it works quite well. I think everybody has been surprised at the amount of tires that they do pick up. Hall County, Grand Island, 820 tons of tires came out of Grand Island or Hall County there. And when you look at over at Lancaster County here in Lincoln, right here where we're supposed to be having places that already clean that all up and we pay a \$2.50 tire fee besides the \$1, they still had 600 tons of tires that come out of here. Keith County in Ogallala was 100 ton. One of the smaller ones was a rural area, that's Swan in northwest Nebraska, and that's all rural area, and they only had 50 tons so they have already cleaned up a lot of tires in that part of the country. [LB568]

SENATOR LANGEMEIER: One minute. [LB568]

SENATOR LOUDEN: So I think is something that has been quite well. I think the city of Valley only had 16 ton. They were probably some that had the fewest amount of tires to clean up. But this is something that you are going to generate tires every year. It isn't like in two years tires are going to go away. There will probably be more tires coming out in a couple years than what there is now--more cars on the road and that sort of thing. So I don't see where we're out of line by asking for the five-year extension. I think the two-year extension is not enough. Thank you, Mr. President. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Chambers, you are recognized. [LB568]

SENATOR CHAMBERS: Mr. President and members of the Legislature, I resent that \$1 tax on tires. All this talk about tax cutting, here is a tax that affects people to a greater extent than others that exist right now--than most others. I want to kill the whole thing. And since Senator Louden wants to have a knock-down-drag-out to see if he can get it extended five years, I'm going to try to kill it right here today, and I'm going to see how important my colleagues think extending this tax and the way the money is spent for five years really is. Would you be willing to say that a state agency is going to be allowed to have a certain amount that we appropriate for it this year, and that it can...if it's not going to spend any more than that, it doesn't have to come back, that will ride on for five

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years? But if they think they need more then they come back. See, if these...let me ask Senator Louden a question. [LB568]

SENATOR LANGEMEIER: Senator Louden, will you yield to a question? [LB568]

SENATOR LOUDEN: Yes, I will. [LB568]

SENATOR CHAMBERS: Senator Louden, if it turns out that more money is needed than what is being generated now or more will be needed to do exactly what they're doing now, would these people want to come to the Legislature and increase the amount that would be available to them? [LB568]

SENATOR LOUDEN: Well, I don't think so because I think they plan on working within the parameters of what they have, the way it has been done. They grant the amount of money they have because they were short last year, what, \$97,000 or something like that for the amount of grants that were asked for. So they're already using up all of the grant money, and I haven't heard them asking for more or anything. They are willing to work within that \$1 tire deduction. [LB568]

SENATOR CHAMBERS: Well, the grants are...the work being done with those grants is not essential. That's tack-on work. That is gravy. That money is not needed by any of these entities to do what they do. They have found a way to use a hidden tax to get grants. If the tax is paying for an essential service it should not be a grant. Whoever wins the race to whoever is making or approving of the grants, there should be earmarking so that a certain specific amount is made available. But these are not essential services. Grants are always based on that notion of who wins the race. So you would rather go ahead and fight this out this morning, if I understand you correctly, is that true, Senator Louden? That's a question if Senator Louden will yield, Mr. President? [LB568]

SENATOR LANGEMEIER: Senator Louden, you are still...you are on. [LB568]

SENATOR LOUDEN: Okay, thank you. Well, I would...no, I wouldn't want to fight it out to the death because it's something that needs to be done, but I'm telling you that I don't think two years is enough. We did four years the last time and it worked out quite well. [LB568]

SENATOR CHAMBERS: Okay. [LB568]

SENATOR LOUDEN: So I think somewhere along the line, if you think five years is way too much, then all right, then I suppose we can do some kind of a compromise, but two years is too soon. We would be right back here again. [LB568]

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SENATOR CHAMBERS: Thank you, Senator Louden. We come back here every year. That's one of the most lame arguments I have ever heard. Is he so lazy? Is his job as Chair so difficult and onerous that if this question comes back next year it's going to exhaust him? It's going to exhaust the committee and they're going to say, oh, my God, here it is again, here it is again? I feel like Van Helsing: Every time I think Dracula is dead, here he comes again. That is preposterous. I know we don't make a lot of money but to review... [LB568]

SENATOR LANGEMEIER: One minute. [LB568]

SENATOR CHAMBERS: ...how money is being spent is too onerous? It's too hard? They can't come back every two years to justify what they're doing when other agencies come back every year? I'm going to fight it and I will fight it to the death--not mine, not Senator Louden's--the death of this program. These people who gave him the figure, five years, he said he doesn't know why they did it. They pulled it out of a hat. So we've got to be stuck with five years as members of the Legislature because somebody gave Senator Louden a figure. The committee sent it out here and I've got to go along and rubber-stamp it? I'm not a rubber stamp and I'm not going to rubber-stamp this extension just because they bring it. I don't like the program anyway. He ought to take his two years and run with it, but, no, they told him take the five or nothing. [LB568]

SENATOR LANGEMEIER: Time. [LB568]

SENATOR CHAMBERS: So it's my job to see if I can see that he gets nothing. Thank you, Mr. President. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Chambers. We have wishing to speak Senator Stuthman, Wightman, Chambers, and Louden. Senator Stuthman, you are recognized. [LB568]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to first of all engage in a little conversation with Senator Louden if he would respond please? [LB568]

SENATOR LANGEMEIER: Senator Louden, would you yield to a question? [LB568]

SENATOR LOUDEN: Yes, I would. [LB568]

SENATOR STUTHMAN: Senator Louden, how many total dollars does this generate, this fee on the tires, annually? [LB568]

SENATOR LOUDEN: Well, \$1.8 million is what they expect in 2007. [LB568]

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SENATOR STUTHMAN: So that dollar fee on a tire or the \$2 or whatever it is on truck tires and stuff like that, that... [LB568]

SENATOR LOUDEN: It's a \$1 fee on a your truck tire...on your car tires...on tires. [LB568]

SENATOR STUTHMAN: Yes. And that generates \$1.8 million then. And this money is given out to people that apply for grants, to hopefully make the best use out of those tires, out of those salvaged tires so that they can utilize them in the future. But you know, we've been going on this program for fives years already, and have we, Senator Louden, come up with something that we can beneficially use these tires for and have that so that a company would be willing to buy these tires from a tire shop so that this \$1 wouldn't have to be checked off from the person that is having his tires changed? [LB568]

SENATOR LOUDEN: Well, right now, Senator Stuthman, you not only pay the \$1 to the state of Nebraska, you pay a \$2.50 tire disposal fee, too. That's between you and the service station when you have your tires removed. So if Senator Chambers is fussing about a tax of \$1, instead of paying \$2.50 on the bottom end of your tire when you get rid of it, you take this \$1 tire off and you'll pay \$3.50 probably, because these people still want to get rid of the tires. All this \$1 does is set it up so that communities can get rid of the tires that are lying around, causing mosquitoes and everything else. And this was the communities were the ones that wanted the five-year extension instead of the two or the three or the four. They just thought it was working out so well they would do it for fives years and they wouldn't have to be down here in the Legislature getting it redone again. But this is...your \$1 will always be there and your \$2.50 that you already pay isn't part of the state business. [LB568]

SENATOR STUTHMAN: So, Senator Louden, in other words the state is paying this \$1 for the recycling efforts of communities? [LB568]

SENATOR LOUDEN: The state collects a \$1 and they collect that \$1.8 million in grant money. And this is what they set it aside, a million of it they set aside for, as they call it, their tire amnesty for the communities to get the money to work to dispose of these tires. And they are always short. They were, what, short \$97,000 last year for the amount of grants that were applied for. [LB568]

SENATOR STUTHMAN: So in other words, Senator Louden, that \$2.50 or \$1 or whatever it is that my tire shop charges me if I would happen to leave a tire there, that is not part of this \$1 that we're talking about? [LB568]

SENATOR LOUDEN: The \$2.50 isn't. The \$1 is. But the \$2.50 isn't part of this tire recycling program, no. That's between you and the service station. If you take that tire

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home with you, you actually don't have to pay that \$2.50. [LB568]

SENATOR STUTHMAN: But do you have to pay the \$1? [LB568]

SENATOR LOUDEN: You've got to pay the \$1 whether you take the tire home or not, and it doesn't matter whether you buy a big tractor tire or whether you buy a little bitty tire for your 4-wheeler. It's going to be \$1 either way. [LB568]

SENATOR STUTHMAN: So in other words, even if I take my tires home, which I normally do, I'm still going to have to pay that \$1 fee, and that fee is charged on the new tire then, not on the old tire, right? [LB568]

SENATOR LOUDEN: Yes, right. That's \$1 on the sale on the new tire. [LB568]

SENATOR LANGEMEIER: One minute. [LB568]

SENATOR STUTHMAN: So, in other words, any new tire that is sold in the state, there's a tax on that new tire of \$1. That has nothing to do with the \$2.50 that I give to the tire shop to dispose of my old tire. So, realistically, any time that you would trade a tire, it would be a \$3.50 tax on it, in other words. Is that correct, Senator Louden? [LB568]

SENATOR LOUDEN: Well, if you want to call it a tax or what, they call it a disposal fee. And the same way when you go in there, they'll charge you, what, \$1.15 for shop fees or something like that, and you don't know what that is. That's, whether it's a can of WD-40 or whatever it was. So that's all part of the shop price. But that \$2.50 is your disposal fee, and that's between you and the service station. The \$1 is between you and the state of Nebraska, and that's been collected for many years. I imagine there are people in here that aren't old enough to know when it started. In fact, it was probably about 1990 when that started, so that would be, what, 17 years that that's been going on. [LB568]

SENATOR LANGEMEIER: Time. [LB568]

SENATOR STUTHMAN: Thank you. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Wightman, you are recognized. [LB568]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. Would Senator Louden yield for a question? [LB568]

SENATOR LANGEMEIER: Senator Louden, would you yield for a question? [LB568]

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SENATOR LOUDEN: Yes, I would. [LB568]

SENATOR WIGHTMAN: Senator Louden, as I understand it, the \$2.50 never finds its way into the state coffers in any way, is that right, the \$2 or \$2.50 that's paid for the disposal fee? [LB568]

SENATOR LOUDEN: That's right. I think that \$2.50 fee, whenever you see a truck come to your service station and load up a load of tires, that's where the \$2.50 comes in. They pay that guy or that person or whoever they are, a certain amount of money to haul that tire off. [LB568]

SENATOR WIGHTMAN: So they then hire that...or haul that tire off someplace, and then does that go into private industry? Do they use those tires, or do you know? [LB568]

SENATOR LOUDEN: I don't know what they do with those tires. Those tires can go out someplace and probably be resold as used ones. My guess is they usually go to some type of a processing system somewhere, usually where they're gone to. [LB568]

SENATOR WIGHTMAN: Now, I know there was some reference made to the fact that some of these tires are ground up and used in paving materials. Is that correct, I assume, for blacktop? [LB568]

SENATOR LOUDEN: Yes. I think, isn't it there along Kearney or someplace there's a big sign on Interstate 80, it said how many miles it has been used with crumb rubber. And there on the south side of the highway there for a year or so was a pile of crumb rubber there that they used in the manufacture or repaving of that highway. [LB568]

SENATOR WIGHTMAN: And that's much of what the \$1 fee on new tires goes for too, isn't that correct, to make grants so that the recycling and perhaps probably recycling on solid waste, use that, is that correct? [LB568]

SENATOR LOUDEN: Yeah, that...okay, the Department of Roads, I think on one of these handouts, showed there and on the fiscal note it said, you notice where it said the state of Nebraska received \$300,000 for part of that. Also in one of the handouts around here some of the crumb rubber is used for...they use it in layers of some landfills. I'm not familiar which landfills do that but I know they do grind that rubber up and put it in layers in their landfill. So there is a use for it on that, but I don't know if that comes out of the...which...that all comes out of the other program. It doesn't come out of the tire amnesty program. [LB568]

SENATOR WIGHTMAN: But as to whether there's a market for these tires if the tax on new tires went away, you really don't know that for sure. [LB568]

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SENATOR LOUDEN: Well, I don't...as long as I've been around here, I haven't heard of any market for used tires yet. If there was I'm sure we wouldn't be discussing this today. We wouldn't have to have a tire amnesty program because they have to...that's the reason they leverage money, to load them up and haul them to a processor someplace. So at the present time the amount of tires there are, I don't think there's that big of a market for used tires. [LB568]

SENATOR WIGHTMAN: Thank you, Senator Louden, and thank you, Mr. President. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Chambers, you are recognized, and this is your third time. [LB568]

SENATOR CHAMBERS: Thank you. Yes, but like Dracula and this bill, I'll be back. Oh, and Arnold Schwarzenegger too. I don't know if he came back or not. But anyway, Mr. President and members of the Legislature, I would like to get some assistance from Senator Preister on this matter if he will yield to a question or two? [LB568]

SENATOR LANGEMEIER: Senator Preister, would you yield to a question? [LB568]

SENATOR PREISTER: Yes, I will. [LB568]

SENATOR CHAMBERS: Senator Preister, you had mentioned that this notion of giving...and I don't want to put words in your mouth...the tire recycling or disposal, a priority status. It was for the purpose of removing those huge mountains of tires that existed in various parts of the state. If anything in my question is incorrect, I would like you to comment on that issue as you see fit. [LB568]

SENATOR PREISTER: I will. The original tire fee of \$1 was enacted in 1990. Then later in 1994, we established a grant and loan program, and that grant and loan program earmarked out a portion of that \$1 tire tax fee, and said we have huge piles all around the state and we need to clean them up; we need to get rid of them. So we started giving the grants for those large tire piles. And we eventually got rid of, I think, every one except one is currently in litigation. So it essentially did its job of getting rid of those piles. [LB568]

SENATOR CHAMBERS: All right. But now this earmarking of money for the tire disposal will continue a notion that was put in place for the specific purpose of removing those mountains of tires, is that correct? [LB568]

SENATOR PREISTER: That's partially correct: to get rid of the mounds, but also to find some use for those tires. If we can recycle them, if we can find a beneficial use, we

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invested in infrastructure, we invested in businesses to use them, because the problem isn't going away just once we get rid of the piles. We don't want to accumulate new piles. We don't want to get back into the problems that we had at that point. [LB568]

SENATOR CHAMBERS: To whom will these grants be extended? [LB568]

SENATOR PREISTER: Anyone who applies. Manufacturers of Astroturf and other things can apply. People that want to use the tires for asphalt in the roads, the state of Nebraska can apply. More and more it's going to municipalities for amnesty programs or bring in your old tire and we'll take them for nothing programs. [LB568]

SENATOR CHAMBERS: So the ones who would be the primary beneficiaries at this point would be these municipalities. [LB568]

SENATOR PREISTER: The cities and the counties don't want them ending up in the ditches and in alleys and places where we don't want them, and so they are encouraging this safe disposal of them which I think is good. [LB568]

SENATOR CHAMBERS: Are tires ending up in ditches, alleys, and other locations as of yore, even if with this program? [LB568]

SENATOR PREISTER: There still are some but I think we're seeing less. [LB568]

SENATOR CHAMBERS: Senator Preister, how much damage do you think would be done, overall, if this bill were killed, which meant that that earmarking would go away? Could they still get in line at the trough and try to battle for some money which is in that recycling fund? [LB568]

SENATOR PREISTER: Yes, Senator, they could still apply and they would still...they would have to have a good enough application to rise to the level of being funded if it were with everything in the Waste Reduction Fund. [LB568]

SENATOR LANGEMEIER: One minute. [LB568]

SENATOR CHAMBERS: By carving this, what I would consider a large amount of money, out of this fund based on the size of the fund, others who might want to receive funding have their chances diminished by the amount of this earmarking for tires. Would you agree with that? [LB568]

SENATOR PREISTER: That is correct because we specify \$1 million goes just for tire projects. [LB568]

SENATOR CHAMBERS: There might be projects which others might think have as high

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a priority as the tire disposal. Is that possible? [LB568]

SENATOR PREISTER: Yes. [LB568]

SENATOR CHAMBERS: Thank you. That's all I would ask of Senator Preister. How much time do I have, Mr. President? [LB568]

SENATOR LANGEMEIER: Thirty seconds. [LB568]

SENATOR CHAMBERS: Well, thank you very much. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Mr. Clerk. [LB568]

CLERK: Mr. President, Senator Chambers would move to amend Senator Preister's amendment. (FA32, Legislative Journal page 667.) [LB568]

SENATOR LANGEMEIER: Senator Chambers, you are recognized on your floor amendment to FA31, to open. [LB568]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I was watching a movie, it was called Shaka Zulu, and a scene was arrived at where the discussion of how to trap a monkey arose. And the explanation was that you put a seed, a nut, or something which the monkey likes into a container which has a narrow neck. The monkey, with his hand open, can reach into the neck, but once it seizes in its hand the seed or whatever the lure is, it cannot withdraw the fist which is formed from the closing of the hand. Rather than let go of what it has, the monkey remains trapped, and that's how the monkey is snared without doing any significant harm to it. Senator Loudon has reached into the neck and has made a fist and he's not going to open his hand, so we're going to see just how this plays out. This that I'm doing, if I kill this bill, is not going to do away with the \$1 fee on the tires. It's not going to kill this...let me call it an environmental cleanup fund for ease of reference...it's not going to kill that fund. It simply says that in the pecking order this tire disposal program is not going to have first place. It can still come to the trough but it takes its place like other programs. It has to prove that what it is seeking this money for has a higher priority, a greater value, does more good for society than these other projects. All rivers, it is said, and most people, are crooked because they follow the path of least resistance. In this instance having carved out a niche which gives them an advantage over everybody else and a guaranteed amount of money from this fund, should that amount be made available. They don't want to give it up because they are like rivers. They are seeking the path of least resistance. Senator Loudon wants to continue that path of least resistance for them for five years. Nobody has discussed any of these other projects, any of these other programs, or the ones who may be left out in the cold because this tire program is going to be given that first place, that first claim. For clarification, Mr. President, I would

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like to ask Senator Louden a question because I do not want to misstate what he may have said earlier, if he will yield. [LB568]

SENATOR LANGEMEIER: Senator Louden, would you yield to a question? [LB568]

SENATOR LOUDEN: Yes, I would. [LB568]

SENATOR CHAMBERS: Senator Louden, if I understood you correctly, you said there was a shortfall of \$97,000 in terms of what people were requesting in the form of grants. Was that \$97,000 a shortfall in the grants that would be made available for this program that we're talking about here? [LB568]

SENATOR LOUDEN: Yes, I think so. [LB568]

SENATOR CHAMBERS: All right. How much money was yet available for all other projects, if you know? [LB568]

SENATOR LOUDEN: Oh, let's see. It will take me a little bit to look up the numbers here for... [LB568]

SENATOR CHAMBERS: You don't have to look it up right now but you would be able to find that at some point because we're going to be on this a long time. Let me ask you this question: Senator Stuthman asked you how much money would be generated by this \$1 fee on tires, and for whatever year you were answering, what was the amount you said would be generated? [LB568]

SENATOR LOUDEN: \$1.8 million for 2007 is what they estimate. [LB568]

SENATOR CHAMBERS: \$1,800,000. So this one program, because it has lobbyists and advocates, will consume more than 50 percent of the total amount raised by that tax. Is that true? [LB568]

SENATOR LOUDEN: Well, yes, because that's what it is, is a tire recycling program. That's what it was put in there for was to recycle and get rid of old tires. [LB568]

SENATOR CHAMBERS: Senator Preister indicated that it was in the mid-90s or thereabouts that this particular earmarking took place, so if you will stay on your feet I would like to ask Senator Preister a question so that I don't misstate anything. [LB568]

SENATOR LANGEMEIER: Senator Preister, would you yield to a question? [LB568]

SENATOR PREISTER: Yes, I will. [LB568]

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SENATOR CHAMBERS: Senator Preister, had you given the year when this earmarking for the tire program took place that put them at the head of the line? [LB568]

SENATOR PREISTER: That was in 1994. [LB568]

SENATOR CHAMBERS: Thank you. How long before that had the fund been created through the taking of \$1 from the citizen for each tire purchased? When did that start? [LB568]

SENATOR PREISTER: In 1990, LB163 was passed by the Legislature that enacted and caused that \$1 per tire fee to be placed on them. [LB568]

SENATOR CHAMBERS: And even though it was being raised by a tax on the tires, the money was not exclusively for the purpose of getting rid of tires nor was that money earmarked for that purpose or any amount of it, is that true? [LB568]

SENATOR PREISTER: That's correct. Not initially. [LB568]

SENATOR CHAMBERS: Thank you. Members of the Legislature...and that's all I'll ask you, Senator Louden, because Senator Preister clarified, this money, although derived from a tax on tires, was not set aside exclusively for the disposal of tires. Even with this earmarking, the totality of the fund will not go to the disposal of tires; just more than 50 percent of it. But I do not think the program ought to stay in existence, and at some future point I may try to eradicate the fund by doing away with the \$1 tax. But when you are going to remove a tax, as alluring as it is, perhaps it should be done by way of a bill. But I'd venture to say when we get on the budget and some of these other programs and proposals that relate to taxes, some recommendations by way of amendment will be offered which were not themselves the subject of an independently introduced bill, so very important matters can be addressed without there having been a bill introduced for that purpose. Senator Louden wants five years' extension or nothing. I don't like the bill. I'm going to try to get nothing but I'm going to have a way to discuss all of the significant aspects of this bill by way of amendments. Now if he would accept my amendment to Senator Preister's and then add it to the bill, I'd be off his case. Thank you, Mr. President. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Chambers. You have heard the opening for FA32. Senator Louden, you are recognized, followed by Karpisek, Stuthman, Dubas, and Chambers. Senator Louden. [LB568]

SENATOR LOUDEN: Thank you, Mr. President. Of course, I would...if I'm against the two-year deal, I'm certainly against the one-year deal. That isn't hard to figure that part out. And as Senator Chambers said, I did not say it was all or nothing. I said if he has a problem with the five-year deal, I suppose I will be willing to negotiate. But two years, I

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don't think, is enough because I think we'll be going back through the process every two years. They have the...the grant funding has been requested, I think this year, what, not quite a million dollars already for just the tire amnesty program. Now part of that has to be clarified. It was in 1999 that they created the grant program for political subdivisions and that's when these communities then started leveraging this grant money in order to get rid of the tires that were lying around in the towns and the cities and ditches and probably in the countryside or wherever. They not only cleaned them up, up and down in the towns to get rid of the mosquito infestation that goes with it, it's a health problem and there are other measures too, so. And this money was set aside or this was is what this money was for was to get rid of the tires. Back in 1990 we had tires all over the place, huge tire piles. And some of you remember some of those piles that caught on fire and burned for days on end. So this is something that we...we've gotten rid of them. It's been a success. It's gotten rid of a lot of tires. There are going to be continually be tires showing up all the time so it's no problem why it can't continue this program. Now if they get to where there aren't that many tires, I'm sure they won't be leveraging that much money to get rid of them. But at the present time the amount of money that's set aside for a grant to get rid of tires is used up. So as these...there is already quite a competition to get some money from this program for each individual community. Not every individual community probably gets the amount of money that they have requested, but they are given the amounts up until...and it's divided up probably percentagewise or however it is. But some of the other projects, there will be 25 percent of it is granted and maybe a 50 percent grant or something like that. So not everything is 100 percent granted in some of the other programs. But this is what this is all about is to get rid of the tires with this program. I think it's a good program. It's something that communities do. When you look at the list of communities that work with this and the organizations that go through it, why, it's probably one of your better places that you have some of your money spent. It would be a shame to plum do away with it, although probably the city of Omaha doesn't benefit that much, or anyway Omaha doesn't leverage that much. Granted, the rest of the state of Nebraska was and I would hate to see somebody try to kill this thing just because they are not satisfied with what it does in Omaha or for Omaha. This is something that does the rest of the state a considerable amount of good. Call it a tax or whatever you call it that's been in there for 17 years. It seems to be working and it's something that the communities know how to work. They are able to go ahead and make it work for them. This is something that they can do on their own. They usually have a place they can dispose of these tires and I would like to see this thing brought forward. Thank you, Mr. President. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Loudon. Senator Karpisek, you are recognized. [LB568]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. I agree with Senator Loudon. I've seen what this program can do out in the rural parts of the counties. We have a scrap tire recycling every year in Saline County. The county roads

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person called me before the start of this session to ask if I would keep this going, and I saw that Senator Louden already had it, and so thank you, Senator Louden, for carrying it. It is a good program. It does help. There's more tires every year, and I agree with the litter problem and I also agree with the mosquito problem. So I just want to say I support Senator Louden, and if we can only do it for two years, then let's do it for two years. But their budgets also are formed early and they have to know when the money is coming and when it is not. Thank you, Mr. President. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Senator Stuthman, you are recognized. [LB568]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I would like to engage in a little bit of discussion with Senator Preister, if I may? [LB568]

SENATOR LANGEMEIER: Senator Preister, would you yield to a question? [LB568]

SENATOR PREISTER: Yes, I would. [LB568]

SENATOR STUTHMAN: Thank you. Senator Preister, what your attempt is, is to change this so it doesn't go for another four or five years, just narrow it down to two years. I have a real concern, the dollars that are generated. This program, this grant money doesn't get rid of any tires, does it? [LB568]

SENATOR PREISTER: If the grant... [LB568]

SENATOR STUTHMAN: Maybe I'll explain it a little bit better. [LB568]

SENATOR PREISTER: Okay, please. [LB568]

SENATOR STUTHMAN: It realistically doesn't take a tire, recycle it, change its form, or do anything like that, does it? [LB568]

SENATOR PREISTER: Some of it does. We've taken the large tire piles...one of them was in my district with almost a half a million tires, and we hauled all of those out of there. They were ground up and they were put to other uses. So most of it uses them in some other fashion. The ones that go into the asphalt pavement are put in another fashion. We don't totally eliminate the tire, but some of the metal that's in the tire is melted down and reused, some of the composite material. So we're removing the tire and properly disposing of it, with DEQ oversight. [LB568]

SENATOR STUTHMAN: Okay. The thing that just entered my mind is some of these communities have the community recycling tire program just as Senator Karpisek just stated, that they get some funding so that they can gather up all the tires. People bring

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them in from far and near to get rid of their tires. The thing that concerned me is, are they getting some grant money to have this recycling effort in those communities? [LB568]

SENATOR PREISTER: Yes, they are. Many of those communities are applying to this scrap tire recycling fund, and that's where they are getting the money to do it. [LB568]

SENATOR STUTHMAN: But realistically, Senator Preister, that doesn't eliminate that tire. It's just moving the tire, it's taking the tire out of the communities. They establish their group that does the work and then they...do they contract with some recyclers that take the tires then? [LB568]

SENATOR PREISTER: That money has to show to DEQ's satisfaction that the tire is the end use, and that's why some of the grants have not been funded because the person applying has not shown a beneficial end use for the tire. [LB568]

SENATOR STUTHMAN: Okay, thank you, Senator Preister. One of the things that does concern me and it was in the conversation that I had with Senator Loudon that if there is a disposal fee of \$2.50 and that's on the old tire, and there's a \$1 charge on the new tire that you bought, that program should generate \$4.5 million a year. Where does this disposal fee money go to? That is a concern of mine. And maybe I would direct that question again to Senator Preister if he would be willing to answer it? [LB568]

SENATOR LANGEMEIER: Senator Preister, would you yield to a question? [LB568]

SENATOR PREISTER: Yes, I would. [LB568]

SENATOR STUTHMAN: Senator Preister, where does this disposal fee that is charged on the old tire, where does that money go? [LB568]

SENATOR PREISTER: Well, at some point I can elaborate because that's part of my concern, but right now that goes to...we have identified and licensed tire haulers, and you can't just haul a tire legally unless you are licensed to haul it so we know you are going to dispose of it in a proper manner. So the service stations and the people that sell the tires have to get rid of the tire once they change it and have the old one. So that fee goes to pay for the tire hauler to eliminate it... [LB568]

SENATOR LANGEMEIER: One minute. [LB568]

SENATOR PREISTER: ...and also to take it to an appropriate spot. It's a floating fee between essentially \$2.50 and \$5, depending on the size of the tire and type of tire. Some are harder to dispose of and deal with than others. [LB568]

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SENATOR STUTHMAN: Yes, I'm sure of that. The thing that concerned me is I really didn't know where that disposal fee was going to and whose getting it, and that's a lot of dollars. But there are a lot of tires to dispose of. Four and a half million dollars is a lot of money. If we remove this grant program, is that \$1 still going to be charged on the new tires, Senator Preister, if you'd be willing to answer that? [LB568]

SENATOR PREISTER: Yes, we're not changing the dollar-a-tire fee. That will still be there whether this extension, this sunset removal, is removed or not. [LB568]

SENATOR STUTHMAN: Okay. Thank you. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Senator Dubas, you are recognized. [LB568]

SENATOR DUBAS: Thank you, Mr. President, members of the body. Would Senator Preister yield to a question, please? [LB568]

SENATOR LANGEMEIER: Senator Preister, would you yield to a question? [LB568]

SENATOR PREISTER: I would be delighted to. [LB568]

SENATOR DUBAS: Thank you, Senator Preister. Could you clarify the point of your amendment for me? Is it that you are not as concerned as much with the program as you are with the extension of time and the accountability of the program? [LB568]

SENATOR PREISTER: Exactly, Senator. I support the program. I was one of the people that introduced and supported it back in '94, the program. It does good things. We do have a tire problem. It has helped to get rid of the huge piles. It has helped with the amnesties. But there is one part of the amnesty that's a problem. People aren't paying this \$2.50 to \$5 fee because they don't want to pay that. That could be an extra \$10 to \$20 that they would have to pay on a set of tires, and instead of paying that they take the tires home, they wait for the amnesty, and then they dispose of them for free. And all of the rest of us are subsidizing that. So I'm just asking for accountability. Instead of extending it for five years, let's extend it for two years. Give the Legislature some oversight. You are exactly right; I'm not trying to get rid of the program. And we get amnesty in Omaha. Omaha has tires in alleys and all over. It's statewide and we're addressing it statewide, and this is comprehensive. I'm just saying let's maintain some oversight. Let's see where it's working, let's see how we can improve it. When we're talking this large a dollar amount, I think we need and we owe it to the taxpayers of the state to monitor and to get the best value for that dollar. So I'm saying, let's just wait two years and then cause DEQ to come in and give us more information. I'm not trying to eliminate it. I just want good fiscal accountability. And thank you for that question, Senator. [LB568]

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SENATOR DUBAS: Thank you for your answer and I would agree with you. I think it's a good program. I've seen its effects in my district and in other areas across the state so I know it's working and it's providing value. And we, as state legislators, need to make sure that the money that's being collected is being used in effective manners, and so I have no problem with this request for accountability. We owe that to our taxpayers and to our citizens, and so I appreciate you clarifying that this is a good program. We need to support it but we also need to request accountability, and so thank you very much. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Chambers, you are recognized. [LB568]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, these municipalities are spoiled. They are lazy. This is not a big brain-busting item. If they're talking about their budgeting, how much trouble is it going to take to address this item if they're going to seek a grant, if they get one or don't get it? Senator Carlson has spent time telling us how competent people are in the rural areas. I didn't question it but now I'm going to have to start questioning it. If we say that every two years, well, we're going to extend this two years, that's going to be so onerous they can't cope with it. He's going to take two years, perhaps, or hold out for three or four or five, and I'm going to try to get rid of this program that's being extended for five years. It's early in the session. We have plenty of time. We may as well spend it on this bill. But if I'm willing to spend this much time on this bill to do something about this tax, and I'm not even removing the tax, imagine the time I'm prepared to take when we get to a tax bill if there's a taxing proposal with which I disagree. And on those bills it's going to be hard for anybody to come up with something that will get 33 votes, so we might be on one of those for the rest of the session. But I'm just getting you warmed up here. This is turning into a boondoggle. This earmarking for this purpose has not always been a part of this bill, this law. They should be grateful, the grant receivers, up to now, for what they have received thus far. But instead of being grateful, they are becoming greedy and they think the Legislature is a pushover. All they have to do is come in here with something and say it's for the rural areas and everybody is going to feel guilty and say, well, the rural people can't do anything for themselves. If you make them have to concentrate on something like this two years from now it will blow their brains. All of the neuron connections in their brain will short circuit. The systems will shut down. I don't believe that. That's why I say it's not a substantive argument. It has no merit whatsoever. My amendment will reduce the two years to one year, and if that fails then I will try to reduce it to nine months, and if that fails then maybe Senator Loudon will negotiate with me from nine months to 18 months which would double what I was talking about and that's how I will negotiate. And if he doesn't want 18 months, then ten months and we'll do like you do when you are shooting a mortar. Senator Carlson, mortars are these tubes that sit on this big old heavy round metal plate and you set the tube on it and you

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drop a shell into it and it fires, and you can't aim them with precision so you bracket the target. You deliberately shoot beyond where you think the target is, then you shoot at a distance closer than you think the target is, then you walk your way forward or walk your way back until you finally drop something close enough to the target to hit it. Well, that's the way Senator Louden wants me to proceed this morning. Senator Preister went beyond what I'm prepared to do. Well, now I'm doing less than maybe what even Senator Preister is prepared to do. [LB568]

SENATOR LANGEMEIER: One minute. [LB568]

SENATOR CHAMBERS: But prepared to do it, I am, and do it I shall. At some point the Legislature is going to decide to agree with me that it is not too great a burden if this boondoggle is extended just two years instead of five. When it runs out the next time, if term limits are upheld, I won't even be here. Then they can extend it ten years, 20 years. They can do anything that the lobbyists can get them to do. But while I'm here I'm going to show that if the Legislature or if a legislator has some backbone, some of these meritless proposals are not going to just be on a greased skid and find their way to a successful passage into law. This extension... [LB568]

SENATOR LANGEMEIER: Time. [LB568]

SENATOR CHAMBERS: ...need not be five years. Thank you, Mr. President. [LB568]

SENATOR LANGEMEIER: Thank you, Senator Chambers. (Doctor of the day and visitors introduced. Senator Kruse's birthday acknowledged.) It is 11:15, Mr. Clerk. [LB568]

CLERK: Mr. President, pursuant to the Speaker's agenda, Senator Hudkins would move to place LB49 on General File pursuant to Rule 3, Section 19(b). [LB49]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Hudkins, you are recognized for your open on your motion on LB49. [LB49]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. This bill has received quite a bit of attention, both positive and negative, so I'm going to give you just a little bit of background. Thimerosal, which is what we're trying to have removed from vaccines, is a mercury-based preservative that's used in flu shots, rabies shots, tetanus shots, and a few more. It is 49.6 percent ethylmercury. Mercury is a potent neurotoxin that can build up in tissues, organs, and brain tissues, causing a variety of neurological, endocrine, and immune system problems. In addition to recommending that adults get their flu shots this year, the CDC is recommending that children and pregnant women also receive the shots. In each of these shots there are 25 micrograms...now, that's not very much but it's enough. The 25 micrograms of mercury in each shot is the EPA

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dosage of mercury for a 550-pound person. So here you are giving that same dosage to a child who is 10 or 20 pounds. This is over the toxic limits for adults. But for a toddler or a fetus this amount of mercury is hundreds of times the toxic exposure limits. Aventis, who is a pharmaceutical company, they are the largest manufacturer of flu shots for the U.S., says that it can make either thimerosal-containing or thimerosal-free vaccines. They just need to know from physicians and other health agencies which one they want. Is it going to cost more to make thimerosal-free vaccines? Yes, it will--about \$3.80. But when you compare that cost with the heartbreak, the continued costs of a child having autism, the continued costs of special education, the continued costs of not being able to fend for themselves, I think that \$3.80 is a very good price to pay. You all have on your desks a letter from Congressman Tom Osborne, and among other things he says the U.S. Public Health Service has been working to completely eliminate thimerosal from vaccines. In July 1999, the Public Health Service and the American Academy of Pediatrics issued a joint statement, which was later endorsed by the American Academy of Family Physicians, proclaiming the Public Health Service, the American Academy of Pediatrics, and vaccine manufacturers agree that thimerosal-containing vaccines should be removed as soon as possible. Similar conclusions were reached this year in a meeting attended by European regulatory agencies, the European vaccine manufacturers, and the U.S. FDA, which examined the use of thimerosal-containing vaccines produced or sold in European countries. Well, guess what? Denmark doesn't use it and they haven't since 1972. Considerable progress has been made since 1999 to remove thimerosal from every previously thimerosal-containing mandatory childhood vaccine. So they are making progress but it's still there. When these vaccines are made, in the manufacturing process they use the thimerosal, which is a preservative, to make sure that the vaccines are still going to be...they're going to contain their efficacy...they're going to have their efficacy when they are sent to the doctors' offices or wherever. During the manufacturing process then, that thimerosal is taken out. So there could still be a trace of this drug. In 1999, the Institute of Medicine was asked to review the use of ethylmercury, thimerosal. That initial review resulted in recognition that further study needed to be done and that the use of thimerosal as a preservative should be discontinued until such time as the evidence established that thimerosal was safe to use. Thimerosal is mercury. When was the last time you bought a mercury thermometer? When was the last time you tried to buy merthiolate or Mercurochrome? I had a small accident this morning. I slipped and fell on the ice and I scraped up my knee. I asked the Doctor of the Day if he could look at my knee and clean it out for me. He looked through the medicine cabinet, and what did he find? A bottle of tincture of merthiolate. Doesn't even have a date on it when it can no longer be used. So not only is this probably an illegal product, it's way outdated. But we don't need it. There are other things. We can use Rexall's First-Aid cream. At least it doesn't have the mercury in it. In June 2000, there was a very secret study. A group of top governmental scientists and health officials gathered for a meeting at the isolated Simpsonwood Conference Center in Georgia. This was convened by the Centers for Disease Control and it was done under complete secrecy. The group was completely embargoed. That

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meant that there would be no photocopies of anything, no taking papers home with you. The officials and representatives of the industry had assembled to discuss a disturbing new study that raised alarming questions about the safety of a common childhood vaccine administered to infants and young children. According to a CDC epidemiologist named Tom Verstraeten, who had analyzed the agency's massive database containing the medical records of 100,000 children, a mercury-based preservative in the vaccine of thimerosal appeared to be responsible for a dramatic increase in autism and a host of other neurological disorders among children. This gentleman was actually stunned by what he saw. And even for scientists and doctors accustomed to confronting issues of life and death, the findings were frightening. You can play with this all you want. Dr. Bill Weil, a consultant for the American Academy of Pediatrics, told the group the results are significantly...or statistically significant. Dr. Richard Johnston, an immuno...immuno...whatever he is, and pediatrician from the University of Colorado whose grandson had been born on the morning of the meeting's first day, was even more alarmed. My gut feeling is that I don't want my grandson to get a thimerosal-containing vaccine until we know better what's going on. But, you know, instead of taking immediate steps to alert the public and get rid of the vaccine supply of thimerosal, the officials and executives at this conference spent the next two days trying to figure out how to cover it up. Since 1999, several states have passed legislation restricting the use of thimerosal. Congress has pending before it, legislation, and you also should have on your desks a letter from Congressman Osborne. Since 1999, there has been a series of reviews of literature and studies attempting to resolve the debate as to whether or not the use of thimerosal and other ethylmercury compounds are contributing factors to heavy metal poisonings, especially in young children and babies. I hope that you have had the opportunity to read some of the information that you have been presented. You are going to be told later that there are no scientific studies. Well, here's one. Here's another one; several shorter ones, as a matter of fact. [LB49]

SENATOR LANGEMEIER: One minute. [LB49]

SENATOR HUDKINS: Are they scientific? Yes. Do they tell us everything that we need to know? No. What I'm saying is that we need to look at this problem. We need to get the thimerosal out of our vaccines. Now, if you think that the bill is too restrictive, we can amend that. We just need to get it onto the floor to talk about it. We are not allowing lead paint, lead in our gasoline. We cannot destroy these things in a landfill. You have to have hazmat credentials to get rid of excess vaccines that contain mercury, and yet we're going to vaccinate our babies with this stuff? I don't think so. Thank you, Mr. President. [LB49]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. You have heard the opening on the motion to bring LB49 to place it on General File. We have numbers wishing to speak and the floor is now open. We have Dierks, Flood, Schimek, and others. Senator Dierks, you are recognized. [LB49]

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SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. I rise in support of Senator Hudkins' efforts to bring this bill onto the floor. If autism is produced or caused by the use of mercury in vaccines, we should do this. If multiple sclerosis is caused, another neurological disease, is caused by this product; if other neurological diseases are caused by mercury in vaccines or by mercury in thermometers or by mercury from anyplace else, from fish, we should stop it. If we're going to vote on this issue and we decide to vote the wrong way, it would be better to vote the wrong way on the side of safety, I think. We have so many unanswered things in our medical field right now. I mentioned to Senator Johnson the other day in the Health Committee that sometimes I think we still live in the Dark Ages as far as medicine is concerned. We're doing things that we really shouldn't be doing and we don't really know too much about, and autism may be one of them and the cause of it may be another. So if we're going to vote, let's vote on the side of safety and let's vote with Senator Hudkins on this issue and bring this back to the floor and let the pharmaceutical companies understand that we are not going to allow this to happen to our children or even to our adults. The pharmaceutical industry will charge more for the vaccine but I don't think it makes much difference whether we make them take the thimerosal out or not. If they want to charge more for it, they'll charge more for it. The corporate makeup of pharmaceutical companies in this nation are there for profits, and anything that gets in their way they'll object to. This is getting in their way and they're objecting to it. So please help me support Senator Hudkins in getting this bill out of committee. Thank you. [LB49]

SENATOR LANGEMEIER: Thank you, Senator Dierks. Senator Flood, you are recognized. [LB49]

SPEAKER FLOOD: Thank you, Mr. President and members. I rise in opposition to Senator Hudkins' motion on LB49 today, and I want to start by acknowledging the fact that Senator Hudkins has followed the rules pursuant to Rule 3, Section 19(b). She is not doing anything here that's not compliant with the way we do business in the Legislature. That said as Speaker, I have my own concerns about motions such as this. I also want to acknowledge that I really haven't formed an opinion on LB49. I have received calls from constituents in my district about the merits of the bill one way or the other, and I don't want to make any representation during my time this morning that would lead you to believe I'm for or against this bill in either direction. But adopting this motion and approving this motion today does set precedence in the Legislature. For three reasons I would ask you to oppose the motion. First and foremost, voting a bill out of committee, notwithstanding committee action, short-circuits our committee system. If bills are allowed out of committee onto the floor of the Legislature that haven't been acted on by the committee affirmatively, what's going to stop us from having one or two of these a week for the rest of the session? I will add that after careful review of the rules, I don't believe the Speaker is required to schedule these, but in fairness to Senator Hudkins, she filed her request, she followed the rules, and she is making a,

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might you say, a lawful request to bring this out of the Health and Human Services Committee. One of the things I worry about as Speaker is the efficient use of legislative time. We have over 700 bills that we must consider either in committee and some on the floor this session. I would offer to you that bringing bills out of committee without the affirmative vote, enough of the votes in the committee to bring it to the floor, short-circuits that system and jeopardizes the time we spend together in this Chamber on issues of importance to the state. If you find yourself in a position where a bill is not coming out of committee, and I have every reason to believe Senator Hudkins has done everything she can to bring this bill out, I would urge you to go back once again and work with the committee to see if there is a way, by any means, that the bill can come out rather than using this option to file a motion to bring it out notwithstanding committee action. I see this as a dangerous road that we go down should we decide to start pulling bills out of committee notwithstanding committee action. The Legislature as an institution is short on time, by design. This I fear will further frustrate our efficiency should bills begin to be removed from committee by vote and motion outside of the committee. That being said, I want to thank Senator Hudkins. She has been nothing but up front and honest throughout the entire process in putting this together. I would like to think I have operated the same way. I would ask you to oppose the motion, keep the bill in committee, and work with members of the Health and Human Services Committee to get the bill out in the event that you feel this is something that needs to be discussed by the entire Legislature. Thank you, Mr. President. [LB49]

SENATOR LANGEMEIER: Thank you, Speaker Flood. Wishing to speak, Schimek, Chambers, Preister, Johnson, and others. Senator Schimek, you are recognized. [LB49]

SENATOR SCHIMEK: Thank you, Mr. President and members. I'm so delighted that I get to follow Speaker Flood, because I'm going to stand in support of this motion. And I do not do this lightly, Senator Flood. In fact, I don't know if I can even remember a bill ever being pulled from committee before in this body. We generally take that very, very, very seriously, and we almost always say no. And your arguments do resonate with me, but despite that--and I will tell you my reasons why I'm doing this as I go along--despite that, I am in support of the motion. First of all, I don't think Senator Hudkins took this lightly either, and I think she knows that if she fails, the bill is dead, it is automatically IPPed. So she doesn't do this lightly. She thinks it's very important. And I think she thinks that the discussion is extremely important, too. I actually signed onto this bill the last time Senator Hudkins introduced it. I'd had some constituents come to me with the issue, and I actually took the time to read a very lengthy book on thimerosal. She pronounces it differently than I do, so I may not be pronouncing it correctly. But the upshot of the book is, I don't believe that it was biased on one side or the other, because it said, there have been studies on each side, there are medical professionals on each side, and so it is very difficult to extrapolate a conclusion from all the studies that have gone on out there. There were also a lot of chapters in the book that dealt with advocates for children and all that they have gone through to get governmental attention

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on this issue. And frankly, I think they were stonewalled in a lot of cases. But nevertheless, I think that the important point that I learned from that book is that there is doubt about thimerosal, and there is doubt about whether we really should be putting it in our vaccinations. And in fact, since the whole brouhaha started on this issue, a lot of this mercury-based material has been taken out of vaccines. I thought, until just the other day, that the only vaccine that had the ingredient in it anymore were flu shots. That's what I had been told. But I got an e-mail that listed a whole group of vaccinations that still contain the ingredient. And unfortunately, I don't have it in my folder. If we go on here at all, I will make certain that you all get copies of it if you didn't. So that further convinced me that maybe we really do, maybe this is more urgent than I thought it was. I think the flu shots are bad enough, but if there's still a whole list of vaccinations out there, we need to examine it. This whole thing started back in the 1930s, when the FDA did approve this drug without any studies. And unfortunately, they never went back and rectified their... [LB49]

SENATOR LANGEMEIER: One minute. [LB49]

SENATOR SCHIMEK: ...their mistake. But I'm afraid I'm not going to finish here. I guess I should try to wrap up by saying, what Senator Dierks said made sense to me. Should we not err on the side of safety? We know that the numbers of autistic children are rising by leaps and bounds. And if I get a chance to talk again, I'm going to talk about that aspect of it. I did have a retired teacher call me the other day, and she said, you would not believe the number of autistic children that are in our classrooms now. There's got to be a reason for it. Maybe it isn't this. Maybe it isn't the vaccinations. But I think the doubt is there, and that we should err on the side of safety. Thank you, Mr. President. [LB49]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Chambers, followed by Preister, Johnson, Howard, and others. Senator Chambers, you are recognized. [LB49]

SENATOR CHAMBERS: Mr. President, bills that I offer, I believe in. The Transportation Committee killed a bill that meant a great deal to me, because there is an ordinance in Omaha which leads to selective enforcement of the law when it comes to cars with transit stickers. They pick certain cities where people...certain areas where people of certain complexions are likely to live, and they enforce it against them. They will enforce it against students. They will tow the car, then make the person pay the cost of the towing and any storage, if there is any. I think the committee made a blunder, but I'm not going to try to pull it out of the committee. If I decide I'm going to take revenge, I have a different way that I'm going to do it other than by undermining the committee system. I have other bills which may not get on the floor, but I'm not going to make a motion to pull it from the committee. Sometimes form should not be elevated above substance. But when that which would be called form goes to the very nature and

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essence of how this Legislature operates, then it is not form in the sense of something which itself lacks substance. It is substantive when you decide to pull a bill from a committee. This is going to be an opening in the discussion as to how much influence lobbyists will have. They've already lined up some of the new people and said, this bill isn't going to come out; you can make a motion to pull it from committee, and that's going to be the strategy. And I will oppose those efforts. I'm not convinced that these vaccinations cause autism. I'm not an expert. I can't say what impact, if any, it has. But if every child who gets the vaccination doesn't get autism, then it must be the vaccination in combination with something else, or a predisposition, or something. If we give a certain level of strychnine, amount of it, it will kill most of the people who take it. Now, if somebody doesn't die from what is considered a lethal dose, that person is the aberration, but for the general run, that strychnine is lethal and deadly in that lethal amount. If the presence of this substance in these vaccines cause autism, there should be more cases of autism than not. That has not been shown to be the case. If somebody votes to pull the bill out, I will not conclude they're doing it to undermine the system. But I will not vote to bring it out. Since I've been in this Legislature, my thinking has evolved. When I first came here, I didn't care a pop of the finger for this place or the people in it. There were some narrow-minded, ignorant, bigoted people, and they made it clear, so I was going to deal with them the way they dealt with me. As time went on, some of them were weeded out. I began to see what the Legislature could do as a branch of government that would alleviate some of the very serious, chronic, almost intractable problems that people have in this society. So, utilized properly and effectively, the legislative process could be a tool for making the part of the world that we live in, which is a very small corner,... [LB49]

SENATOR LANGEMEIER: One minute. [LB49]

SENATOR CHAMBERS: ...somewhat better for people who otherwise would have no help and no hope. I don't want the system weakened. I think in institutional terms when it comes to the Legislature. And I think one of the important aspects of this body is the committee system. The committees are to cull legislation, and not send everything to the floor because it's introduced. I'm telling you, that hardheaded Transportation Committee, unreasonable as they are, killed one of my bills. But that's what happens when we offer legislation. We're not guaranteed anything. I'm not even getting into the merits of the debate about these vaccines. But I am saying very strenuously today, and it will be my position throughout the legislative session, that I will not support pulling bills from committee. Thank you, Mr. President. [LB49]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Wishing to speak, Preister, Johnson, Howard, Hudkins, and others. Senator Preister, you are recognized. [LB49]

SENATOR PREISTER: Thank you, Honorable President, friends all. I rise in support of Senator Hudkins' effort, and I do that not lightly, and I do that taking into account

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Speaker Flood's comments. And certainly he's right in encouraging us not to do this. And as Senator Schimek also said, this is not normal procedure, but she has worked over the past years with this and other legislation to get the opportunity for debate on the floor so people get a chance to deal with the issue. It has just not worked. So this is, within the rules, her ability is there to do it. I heard Senator Dierks talk about some of the studies, and if, and if, and if, and I agree with him completely. But I don't even want to go there with autism. I'm not even thinking if autism is caused by thimerosal. But we all know that mercury is in thimerosal, and that's not debated, that's a fact, and we know that. We also know that mercury is a neurotoxin, and there is no safe level, there is no safe level of mercury. Why? Why in God's name would we mainline inject that into our most precious people, our children, newly born children? We have mercury advisories in the state of Nebraska. There are somewhere between 15 and 20 advisories on water bodies. We tell people not to eat the fish from those water bodies, particularly women who are pregnant and nursing. We have warnings against mercury. We're banning mercury from virtually everything. We have amnesty days to remove mercury. When we know it's a neurotoxin, when we know there are no safe levels of it, then why would we ever inject it, in any amount, into our children? Whether it causes autism, whether it causes any other illness can be debated. The studies can be done. That can go on. But Senator Dierks is absolutely right. Why should we allow it to happen, when we can have alternatives, which we do have, which those alternatives can be used. This is not about whether we vaccinate or not vaccinate. We can still vaccinate. There are alternatives available. And if there are alternatives available, and if we're not actually banning the immunization of our children--and I believe in prevention, so I think immunizations have their benefit--but why would we immunize children with a known neurotoxin that has no safe limits? It just doesn't make sense to me, particularly when there are alternatives available. So when I say I don't support this lightly, I don't. But I do support it, because Senator Hudkins, I believe, is right on point. We need to prevent that mercury from being put into our children. And this is a way that we can do that. We can still provide the vaccinations. I don't...I think autism is a distraction from the issue. We can go on, and I think someday it will be proven that autism has a direct link with it, thimerosal. But that, to me, isn't the issue. The issue is, should we put a known neurotoxin into our children? And I would agree with Senator Dierks, I think we need to err on the side of caution. I think we need to be sure that we're not contributing in any way to that injection having mercury in it. And this is a way to do it. [LB49]

SENATOR LANGEMEIER: One minute. [LB49]

SENATOR PREISTER: Senator Hudkins is within the rules, and she's also within her own personal convictions and concerns that she believes this is the right thing to do, and she's doing it in the right way. Because of that, I support her, I support her efforts, and I support all those parents who are crying out for our legislative authority to ban thimerosal and mercury, at the same time we continue to allow for our children to be immunized. Thank you very much, Mr. President. [LB49]

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SENATOR LANGEMEIER: Thank you, Senator Preister. Senator Johnson, followed by Howard, Hudkins, Ashford, and others. Senator Johnson, you are recognized. [LB49]

SENATOR JOHNSON: Mr. President and members of the Legislature, I don't believe this is the way that we should go about this either. With all of the new senators that we have here, I think that we need to learn that we go through the committee process. I have had my own bills killed, I've had my own priority bills killed in committee, but we still go by the system. If we get into thinking that whatever is our interest, we bring it to the floor, is that the way we go about this? I don't believe that Senator Hudkins has even designated this as her priority bill, and yet, here we go. Well, let's talk about some of the facts. First of all, there is no proof whatsoever, whatsoever, that thimerosal causes autism. It was suspected at one point; there have been people that have hung on to that and say, this is the cause. Most of the studies that have been suggested by Senator Hudkins are old studies. There are actually quite a few studies that cannot find a link. Indeed, there is a recent one out of Canada that says this may be a genetic abnormality, this may be a genetic cause. The fact of the matter is, we don't know. So why in the world do we think, as a Legislature, that we know more than our national organizations, every one of which disagrees with Senator Hudkins, every one of which disagrees with Senator Hudkins? Our international reputation, when the Chinese had trouble with the SARS epidemic, who did they call? They called our national experts. They trusted our national experts, even if these people that want to call thimerosal the guilty party, we can't trust our own people, but the Chinese do. Isn't that interesting? Well, let's see who testified on behalf of this bill in our committee. First of all, we had Mr. Boyd Haley. Actually, he's a chemistry professor at the University of Kentucky. To my knowledge, he has never done any studies to connect this with humans. He's taken pieces of hair and found mercury in them, and that makes the cause. That's our one person. Lujene Clark, from the American Academy of Environmental Medicine in Wichita, Kansas. We had to look this organization up. Basically, their sponsors are organic food companies, hardly people that study this disease. Who from Nebraska? [LB49]

SENATOR LANGEMEIER: One minute. [LB49]

SENATOR JOHNSON: Creighton and the University. We had people like the head of pediatric infections and immunology task force testify against this. We had Lewis Fisher, who has come specifically to UNMC as an expert in autism. Many others. No, we don't know what the cause of autism is, but that doesn't mean we go shooting off a gun in the night and hope to hit something. Now, Senator Hudkins, to her credit, has created considerable interest in autism. We are attempting to find ways to help our fellow Nebraskans, and you will later hear about a bill that we are going to try and do something in connection with UNMC... [LB49]

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SENATOR LANGEMEIER: Time. [LB49]

SENATOR JOHNSON: ...and other agencies. Thank you very much. [LB49]

SENATOR LANGEMEIER: Thank you, Senator Johnson. Senator Howard, you are recognized. [LB49]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I also am on the Health Committee. I've spoken with representatives of both the Lincoln/Lancaster County Health Department and the Douglas County Health Department who are opposed to this bill. Their opposition is based on the facts they've been presented by the Centers for Disease Control and Prevention, the CDC, the same center that Senator Johnson has referred to, and other federal health organizations. They have asked me to remind you, as you are considering your vote today, that this bill would include prohibiting the flu vaccine. Annually, there are 36,000 deaths attributed to the flu virus. We have already experienced one death in Nebraska to the flu, and the Centers for Disease Control is recommending the vaccine for all children. There has not been a scientific link made between the mercury in vaccines and autism. While the two factors may coexist, there has been no cause and effect linkage established. In fact, new research tells us that autism is most likely genetically linked and not influenced by external factors. And I've more recently been following this issue, and have brought Senator Hudkins articles that I have found regarding the genetic link. It seems to me, in just looking at that possibility, if there is more than one child in a family who is showing signs of autism, we really need to consider this closely and not say that we have the one answer to this devastating disease. Thank you. [LB49]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Hudkins, you are recognized. [LB49]

SENATOR HUDKINS: Thank you, Mr. President and members. I would like to comment on Senator Flood's thoughts. With all due respect, sir, I was within the rules in doing this. You say that it short-circuits the process that we use here. If you don't like the rules, let's change them. You say that there are issues of importance. This issue is of importance. This does not use our time efficiently? Think back over the last three weeks that we have been in debate. Think back about how many times there has been testimony that had little or nothing to do with what we were talking about. Think back to the several filibusters that were done simply to waste time. That is what I would call inefficient use of time. I'm not going to stack the deck here. I'm not asking for a filibuster. I would like to have this voted on this morning, either up or down. The bill that Senator Johnson talked about, I agree with. That's going to give more funding to the children that already have autism. But you know, a pound of prevention...or, an ounce of prevention, rather, is worth a pound of cure. Pay now or pay later. There was a Dr. Steven Goodman, who was an epidemiologist at Johns Hopkins, said that, well, this

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explosive increase in autism is almost certainly not true. Well, what Dr. Goodman failed to mention was that this...in the 1990s...and I made a mistake, I said Denmark took its thimerosal out in 1972; it was 1992, and I'm sorry. But the 1990s was the decade of the dramatic increase in the number of mercury-containing vaccines to children. The institute of medicine that Dr. Goodman served on used a host of easily manipulated population studies. There are these same kinds of studies used by the tobacco industry as proof that smoking isn't harmful. Dr. Goodman isn't able to do the one thing that would settle the debate over vaccine and autism. He can't show us the rigorous testing done on thimerosal before it was ever allowed in our children's vaccines. He can't do that because there were none. The drug company, Eli Lilly, invented thimerosal back in 1930. They said it was safe. And after the creation of the FDA, its use was simply continued. Two months ago, in...on a CBS affiliate in Fort Worth, Texas, said, according to the Texas Educational Agency, over the last five years, autism has nearly doubled. Some researchers are insisting that numbers are even higher. In New Jersey, they have reported a 30-fold increase. They spent \$3 billion, that's with a "b," on special education last year, 30-fold increase in autism since 1991. New Hampshire, their number of autistic students has tripled since 2001. Michigan, they have increased 200 percent. Twenty-five years ago, the incidence of autism was 1 in 10,000; now, it's 1 in 50. Remember polio? At the height of the polio epidemic in the 1950s, the disease affected 1 in 3,000 Americans. Polio was a healthcare emergency. A massive effort was made to address it. Not so with autism. Despite all of the official denials, there's one little problem: the autistic kids keep on coming and coming and coming. They will bankrupt school systems, public services, and social services. And I was just handed a note saying that there is 1 in 156 children now have autism. So what do we tell our parents? Vaccinate your kids for measles, mumps, rubella, diphtheria, whooping cough, and all the rest, but there might be a problem with the vaccine; there's going to be mercury in it, but we don't know if it's going to be detrimental to your children? Or do we tell them, don't get your children vaccinated, because there's a problem there? And in fact,... [LB49]

SENATOR LANGEMEIER: Thirty seconds. [LB49]

SENATOR HUDKINS: ...then you would have...pardon me? [LB49]

SENATOR LANGEMEIER: Thirty seconds. Sorry. [LB49]

SENATOR HUDKINS: If you don't get your children vaccinated, then there's a very likelihood that they will come down with one of these other diseases. I'm asking you to look at this, vote your conscience, and hopefully that will be to bring this out to the floor. Thank you, Mr. President. [LB49]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. Senator Ashford, you are recognized. [LB49]

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SENATOR ASHFORD: Question. [LB49]

SENATOR LANGEMEIER: Thank you. The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB49]

CLERK: 27 ayes, 1 nay, Mr. President, to cease debate. [LB49]

SENATOR LANGEMEIER: Debate does cease. Senator Hudkins, you are recognized to close on your motion. [LB49]

SENATOR HUDKINS: Mr. President, and I would ask for a call of the house, please. [LB49]

SENATOR LANGEMEIER: There has been a request for a call of the house. The question is, shall the house go under call? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB49]

CLERK: 33 ayes, 0 nays, Mr. President, to place the house under call. [LB49]

SENATOR LANGEMEIER: The house is under call. Senators, please record your presence. Those senators outside the Chamber, please return to the Chamber, and all those unauthorized personnel please leave the floor. The house is under call. Senator Hudkins, could you repeat that? [LB49]

SENATOR HUDKINS: May I continue? [LB49]

SENATOR LANGEMEIER: Yes, your time is running. [LB49]

SENATOR HUDKINS: Thank you. I would like to ask Senator Johnson a question. [LB49]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB49]

SENATOR JOHNSON: Certainly. [LB49]

SENATOR HUDKINS: Senator Johnson, when I had my knee taken care of this morning after a fall on the ice, the doctor had a bottle of merthiolate in the first aid kit. Can you even buy merthiolate anymore? [LB49]

SENATOR JOHNSON: I don't believe so. I know we never did drink it. [LB49]

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SENATOR HUDKINS: Drink it? [LB49]

SENATOR JOHNSON: Well, we never ingested it. [LB49]

SENATOR HUDKINS: You put merthiolate on cuts in your skin. That...I'm flabbergasted. That chemical, the mercury that's in here, is still going to be absorbed into your system. That's a poison that you are putting in your system. I'm going to go back just for a couple of things. You cannot dispose of excess vaccines. You cannot buy mercury thermometers. You can't dispose of mercury, merthiolate, anything like that, in a landfill. You have to use hazmat procedures to get rid of it. I'm not here for the blame game, absolutely not. But when the tests were never done to prove that thimerosal was safe, that gives me a problem. I want to prevent other babies and families from having this heart-wrenching problem. Babies are vaccinated as early as their very first day. A five-pound baby, a ten-pound baby, they get a hepatitis B shot the first day they are born? I don't think I got a hepatitis B shot until I was over 50. But the problem is, I am heavier than a baby. I can get rid of this stuff out of my body, or at least it doesn't affect me negatively like it's going to do those little guys. Eighty-five percent of dentists and hygienists are mercury-toxic, because we used to put mercury in our teeth. We don't do that anymore. We took lead out of gasoline, we took lead out of paint, and it's time that we take the mercury out of the vaccines. We've been hearing this since 1999. I referred you to a secret study that they did in 2000. They saw the statistics, they thought, oh, good grief, and then what did they do? Spent the next two weeks trying to figure out how to cover it up. We want to take thimerosal out of our vaccines. We want to protect our little boys and our little girls. And who do we recommend gets the flu shots? Pregnant women, babies, and little boys and little girls. We want to get this stuff off the shelf. There is an alternative. All we need to do is say we do not any longer want or will use vaccines containing thimerosal. There is an alternative. Yes, it's \$3.80 higher. But you know, I have seven grandchildren. Thank goodness they're in California and in Denmark, because they don't use thimerosal there. But if they were in Nebraska, I'm thinking I would have told them, don't get vaccinated; take your chances on the chicken pox, take your chances on mumps. I had the measles, took my chances then. I don't want them to be doomed to a life with autism or any other neurological problems. Mr. President, I thank you all for your time. I'm urging you to please vote this out of committee. Thank you. [LB49]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. The house is under call and all senators are present or accounted for. How do you wish to proceed, Senator Hudkins? [LB49]

SENATOR HUDKINS: Roll call vote, please. [LB49]

SENATOR LANGEMEIER: Thank you. The request is a roll call vote. The motion before us is to place LB49 on General File. Mr. Clerk, call the question. [LB49]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

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CLERK: (Roll call vote taken, Legislative Journal pages 667-668.) 7 ayes, 32 nays, Mr. President, on the motion. [LB49]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. The motion does not pass. I raise the call. Mr. Clerk, items? [LB49]

CLERK: Mr. President, I do. Thank you. Your Committee on Judiciary, chaired by Senator Ashford, reports LB92 to General File; LB152, General File; LB221, General File; LB467, General File; LB475, General File; those reports all signed by Senator Ashford. Senator Friend, an amendment to LB347 to be printed; Senator Cornett, to LB211A. Priority designations: Senator Aguilar, as Chair of Government, has selected LB497 as one of the two committee priorities; and Senator Nantkes has selected LB57 as her personal priority. New resolution: LR39 by Senator Johnson, asking the Legislature to urge members of Congress to ensure that Congress fully fund mental health and substance abuse treatment. Subsequent to that resolution's introduction, the communication from the Speaker, referring LR39 to Reference for referral to standing committee for public hearing purposes. A series of name adds: Senator Cornett to add her name to LB12; Senator Cornett and Gay to LB370; Senator Fulton to LB699. And that's all that I have, Mr. President. (Legislative Journal pages 668-671.) [LB92 LB152 LB221 LB467 LB475 LB347 LB211A LB497 LB57 LR39 LB12 LB370 LB699]

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: Thank you, Mr. Clerk. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR29, LR30, and LR31. Mr. Clerk, any additional motions? [LR29 LR30 LR31]

CLERK: Mr. President, Senator Adams would move to adjourn until Tuesday morning, February 27, at 9:00 a.m.

SPEAKER FLOOD: The motion to adjourn is until Tuesday morning, February 27, 2007, at 9:00 a.m. All those in favor say yea. All those opposed say nay. The yeas have it. We stand adjourned.