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Floor Debate  
May 08, 2007

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[LB88 LB90 LB274 LB305 LB321 LB322 LB323 LB324A LB324 LB339 LB342 LB342A  
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LR83 LR84 LR87 LR88 LR92 LR121 LR122 LR123 LR124 LR125 LR126]

SENATOR ERDMAN PRESIDING

SENATOR ERDMAN: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the seventy-seventh day of the One Hundredth Legislature, First Session. Our chaplain for today is Senator Kruse. Please rise.

SENATOR KRUSE: (Prayer offered.)

SENATOR ERDMAN: Thank you, Senator Kruse. I call to order the seventy-seventh day of the One Hundredth Legislature, First Session. Senators, please record your presence. Mr. Clerk, please record.

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

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

CLERK: I have no corrections, Mr. President.

SENATOR ERDMAN: Are there any messages, reports, or announcements?

CLERK: But one item. Health and Human Services offers notice of confirmation hearing, Mr. President. That's all that I have. (Legislative Journal page 1457.)

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

CLERK: A confirmation report, Mr. President, by the Government, Military and Veterans Affairs Committee, reporting on the appointment of Mr. Paul Hosford to the Accountability and Disclosure Commission. (Legislative Journal page 1458.)

SENATOR ERDMAN: Senator Aguilar, as Chairperson of the Government Committee, you are recognized to open on the confirmation report.

SENATOR AGUILAR: Thank you, Mr. President and members. We did have the hearing to approve Mr. Paul Hosford as a new appointment to the Accountability and Disclosure Commission. He came before us and answered questions quite readily. Also I would point out that he announced to us that he had done quite a bit of reading and research on what exactly the responsibilities of the Accountability and Disclosure

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Commission is and was very excited and thrilled to get the appointment and was looking forward to the new position. We approved him unanimously by all members present and encourage the body to do the same. Thank you, Mr. President.

SENATOR ERDMAN: Thank you, Senator Aguilar. Members, you've heard the opening on the Government, Military and Veterans Affairs Committee's confirmation report. Is there any discussion on the report? Seeing none, Senator Aguilar, you are recognized to close on the Government Committee's confirmation report. Senator Aguilar waives closing. The question is, shall the confirmation report be adopted? Members, this is a record vote. All those in favor vote aye; all those opposed vote nay. Have all members voted who wish to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1458.) 27 ayes, 0 nays, Mr. President, on adoption of the confirmation report.

SENATOR ERDMAN: The report is adopted. Mr. Clerk, next item.

CLERK: Mr. President, LB321 on Select File. Enrollment and Review amendments have been offered and considered, as have several amendments. The first amendment this morning: Senator Mines, AM1215. (Legislative Journal pages 1458-1459.) [LB321]

SENATOR ERDMAN: Senator Mines, you are recognized to open on AM1215. [LB321]

SENATOR MINES: Thank you, Mr. President, colleagues. AM1215 is, if you have read it yet, it proposes a transfer of \$4 million from the General File that's currently going to regional centers, and transfer it to behavioral health aid. And as you can see, it also intends to close the regional center in Hastings. This amendment has been filed for record discussion so that we can better understand it and better appreciate what's been done to Region 6, the mental health care primarily in the eastern part of the Nebraska. There is an...and I will be deferring to Senator Synowiecki just because he has a much more full grasp of our plight. However, the difficulty is that I believe roughly \$5 million has not been allocated to the healthcare of mentally challenged folks in that region. And this is roughly the same amount--we're talking \$4 million transfer--so this gives us an opportunity to better understand what the intent of LB1083 was when it was passed--the community-based healthcare. We're not there, ladies and gentlemen. We've still got regional centers that are accepting both youth and adults that should really be in a regional care facility...or shouldn't be in a regional care facility; they should be within the local community, and primarily Omaha. There are roughly 29 of those that are outside of the metro community that should be brought back in, and Region 6 doesn't have the capacity, they don't have the funds to develop--to further develop. They're full. They're at capacity. And the intent of LB1083 was to allow those people to remain in their community, remain in a healthcare system that provides them local care. You've been handed the handout, the "Region 6 Behavioral Healthcare Estimate for New/Expanded

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Services." I will not go through that in detail but would rather, when Senator Synowiecki is ready to speak, allow him to go through the issues and primarily where he and others are heading over the interim and for next year. So with that, Mr. President and colleagues, I think this discussion needs to be on the record. I think we need to understand that LB1083 is not...we're not there yet. We don't want to forget about it because it's imperative that we drive healthcare to the local level, not regional level, whenever possible. And I will allow others to speak on the issue. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Mines. Members, you've heard the opening on AM1215. Those senators wishing to speak are Senator Synowiecki and Senator Pedersen. Senator Synowiecki, you are recognized to speak on the Mines amendment. [LB321]

SENATOR SYNOWIECKI: Thank you, Senator Erdman, members of the Legislature. Thank you, Senator Mines, for bringing the amendment. For discussion purposes I do appreciate that. Senator Mines is absolutely correct. A few years back we passed LB1083, the Nebraska Behavioral Health Services Act or reform act. It's been codified in law through Section 71-801 through Section 71-818. And really the driving force of that piece of legislation was, rather than treating those that are suffering from mental illness in three state-run institutions that cost in excess of \$62 million a year to run, that we bring these folks closer to their home communities, in familiar surroundings with family and community support in their home communities. And while this transition has been taking place, we have had quite a few bumps in the roads and some of the funding has not come together as was previously envisioned. I think the issue...there are a couple issues here. Number one, Senator Mines's amendment looks to close the Hastings Regional Center. I had a bill that sought to close the children's services at the Hastings Regional Center. What LB1083 did was essentially close the Hastings Regional Center for adult substance abuse and mental health services; now we send our kids there. And I had some concerns about that and I've been working with Senator Carroll Burling quite consistently, and I think we've got an amendment to my bill that he has informed me that he supports, that I think represents good public policy and one that studies the issues and gives us a mechanism to arrive at a place in our children's behavioral healthcare that makes sense. And Senator Burling has worked with me on that and I'll have that amendment on my bill. But on the adult side, what is at question in Region 6 is essentially a couple of 16-bed subacute units, one in Senator Cornett's district that we are now treating those folks in the community: highly successful programs with good outcomes. And the funding for those particular programs are in jeopardy, and I think that what Senator Mines wants to have the discussion on is kind of the fidelity of LB1083, that we not only treat folks in their familiar surroundings, closer to their communities, but that this treatment maintain a community-based...that it be community based and that we try as much as possible to treat folks in the least restrictive environment. I think that was the underlying pinning of LB1083. Now there is a movement now in Region 6 to

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look at perhaps what some people would view as kind of a resurgence of an institutional-kind-of-looking facility. And what the goals of the Region 6 board, I think, are is to continue these services in a community-based setting rather than in an institutional-looking setting. The exact details of what the parameters are relative to the needs of Region 6 I'm not entirely aware of, but I do know that for us to successfully transition... [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR SYNOWIECKI: ...those patients that remain in an institutional setting, that we're probably going to need to look at some enhanced funding, at least in the short term. I would very much look forward to perhaps working in the interim with Senator Mines and Senator Heidemann to see if we can do this. But one thing I think we perhaps, in hindsight, looking back on LB1083, we failed to recognize that we're probably, for at least the short term, would need to run dual systems of mental health service delivery; dual systems meaning an institutional-based, and while the institutional-based programs at the regional centers were ongoing, to bring up community-based programs and have a dual system for the short term. And I think that's one thing that we did not realize at the time of passage of LB1083. [LB321]

SENATOR ERDMAN: Time. [LB321]

SENATOR SYNOWIECKI: Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Synowiecki. Senator Pedersen, you are next to speak on the Mines amendment, followed by Senator Burling. [LB321]

SENATOR PEDERSEN: Thank you, Mr. President and members of the Legislature. We passed LB1083, but we have not carried out the job to do LB1083 and it's because of dollars. We decided community-based programs were the best programs, but yet we cut the money to help community-based programs. We have some community-based programs in Region 6 that are doing a good job and they've proven they can do the job, but we cannot grow without dollars. I'm sorry that this is an amendment of discussion only because we need the dollars. If we're going to do the right job, we're going to have put the money with it. And we're going to have to decide, when we pass bills in here, whether we want to support them as we pass them and if we're going to follow the law ourselves, or are we just making noise. This needs to be done in the future, and I'm hoping we can do something next year to correct this wrong. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Pedersen. Senator Burling, you're next to speak on the Mines amendment, followed by Senator McDonald. [LB321]

SENATOR BURLING: Thank you, Mr. President and members of the body. I take this

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opportunity to say a few words kind of in relation to what Senator Synowiecki was saying. The substance abuse treatment program at HRC started in 1999, well before LB1083. The psychiatric care of youth currently going on at HRC was the result of LB1083, and the movement of the adult patients out of Hastings to Lincoln created an opportunity for some of the youth to be moved into Hastings, and that's kind of got us where we are. We talk about money and getting the money to where the need is. If we want money freed up for proper care around the state, let's look at the problem. The youth programs at HRC are good programs. They are filling a need. They are not really the problem. The problem, I think, is the state has a poor track record on management of excess property. I could go back and give you a long history about Ingleside was a farm, and back 50 years ago they started phasing out the farm at HRC. For the last 50 years there's been property sitting out there, rotting. The state has got no income from it. We haven't managed that. There is too much overhead out there. That overhead cost could be channeled to care if we would manage our excess property. So I've been working with Senator Synowiecki on his proposal, and it will be coming up yet today it looks like, and a task force to talk about juvenile and adolescent care in the state. But I've already started visiting with the players in Nebraska that have to do with management of property: HHS, DAS, DOC, some of those folks. We need to get together and decide when we no longer have a use for property, let's get rid of it so the money can go to programs. If you own property, you know that you constantly have issues with depreciation, maintenance, insurance, utilities--all those sort of things that are fixed costs. And as the numbers at HRC have decreased, those fixed costs have been divided amongst fewer patients, so it makes the costs really look expensive, and it is. So I'm planning meetings this summer. I've already talked to some people about getting together and talking about it. I know Hastings has a problem with excess property. Maybe other places in the state do, too. So if we could get rid of some of these fixed costs around the state that deal with state-owned excess property, there would be money freed up there for programs. And so I just wanted to throw that in right now, and I'll probably have more to say when LB542 comes up or I would be happy to answer any questions. Thank you, Mr. President. [LB321 LB542]

SENATOR ERDMAN: Thank you, Senator Burling. Senator McDonald, you are next to speak, followed by Senator Mines. [LB321]

SENATOR McDONALD: Mr. President and members of the body, community-based services is all well and good if you have doctors in those communities. And as I reported yesterday, 100 percent of our counties are deficient in mental health and psychiatry, yet we voted down the opportunity to keep our AHECs going so we could recruit our own so that we can allow doctors in those communities to take care of those patients. Without those providers, those people fall through the cracks, end up in our court systems, end up in our jails, and we pay even more. I'm very disappointed that that bill didn't pass because that could have helped our communities in recruiting and helping work with those community-based services, those people that we're putting back in the

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communities without the proper psychiatry and mental health people to be there for them. It doesn't work. We can put all the people back in the communities we want to, but if we don't have the doctors there to take care of those people...and it takes a special kind of doctors. It takes doctors that deal with mental health patients, and that's a specific type of doctor that not everyone can handle. Not every nurse is able to handle those type of patients. We need to work very hard in making our communities safe, and by making them safe we need those people to help those, make sure they're on their medications, make sure that they are not a menace to society if they go off their medications. Our AHEC programs are...what they do best is working with our own and creating the base so those children can grow up to be those doctors that we need in our communities, and we voted it down. And I'm sorry that we did because we could have helped community-based services. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator McDonald. Senator Mines, you are next to speak, followed by Senator Synowiecki. [LB321]

SENATOR MINES: Thank you, Mr. President. Speaking of Senator Synowiecki, would he yield to a question, please? [LB321]

SENATOR ERDMAN: Senator, would you yield to a question from Senator Mines? [LB321]

SENATOR SYNOWIECKI: Yes, I would, Senator Erdman. [LB321]

SENATOR MINES: Senator, you understand this much more in depth than I think anyone here, and I appreciate your ongoing negotiations and discussions with Senator Burling and others. Could you explain how Douglas County, in particular the chair of the county board, Mary Ann Borgeson, has real concerns from a county level in how this affects not only just Douglas County but...and their funding and the way that they respond to those patients? [LB321]

SENATOR SYNOWIECKI: Well, I would be hesitant to speak for Commissioner Borgeson, but the concern I think she has relayed pretty consistently relates to kind of the maintenance of these community-based programs. Region 6, you know, it's got a lot of providers; it took a long time; there were a lot of bumps in the road. Region 6, which as you know Mary Ann Borgeson chairs both that Douglas County board and the Region 6 governing board,... [LB321]

SENATOR MINES: Right. [LB321]

SENATOR SYNOWIECKI: ...out of all the regions in the state of Nebraska, had to corral, if you will, a good number of providers and get services up in the community. Other regional behavioral health authorities, maybe Region 5 being the next here in

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Lancaster County, it was a very difficult undertaking to get these critical services in the community up and running. And what I think Region 6 is confronting now, Senator Mines, is the possible loss of those community-based services which the region and the community of providers worked so hard to attain, and there is a fear that those might be lost as we continue with this transition. [LB321]

SENATOR MINES: Very well explained; thank you. Mr. President, if Senator Synowiecki would like the rest of my time, I would yield. [LB321]

SENATOR ERDMAN: Senator Synowiecki, you have 2 minutes and 50 seconds. [LB321]

SENATOR SYNOWIECKI: Thank you, Senator Mines and Senator Erdman. I think Senator Burling kind of hit the nail on the head here. One of the reasons why the children's behavioral health services at the Hastings Regional Center kind of caught people's attention is precisely because of what Senator Burling was speaking to: the disproportionate cost to utilize buildings that are substantially aged, underutilized, and that...you know, you're talking about a multibuilding campus of several buildings that was probably built for a capacity in the hundreds, perhaps thousands of patients, and now we've got 50 kids out there for substance abuse and mental health care. And those exorbitant costs...we spend in excess of \$4 million of state funds for the Hastings Regional Center to deliver substance abuse and mental health treatment for kids, and that is an exorbitant cost. And Senator Burling is precisely correct that those disproportionate costs, I think, relate directly to the excess property problem at the Hastings Regional Center. And what these community-based providers are consistently telling me is that they can do these services, provide these services to these youth for dramatically less cost to the state. You know, Senator Burling is absolutely correct. Many of the buildings that occupy the Hastings campus are aged significantly. They are vacant; they are uninhabitable. They are structurally inefficient, and they require significant expenditures of state dollars to maintain. [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR SYNOWIECKI: And the question that we have to answer as a legislative body is, do we continue these services in this environment? Do we continue these services at an aged, old psychiatric hospital for adults? Is that the environment that we want to treat our youngsters that are experiencing substance abuse and mental health problems? We will have that discussion later perhaps on LB542. Thank you. [LB321 LB542]

SENATOR ERDMAN: Thank you, Senator Synowiecki. Your light is next; you may continue. Senator Synowiecki waives his opportunity. Senator Pirsch, you are next to speak, followed by Senator Carlson. [LB321]

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SENATOR PIRSCH: Thank you, Mr. President and members of the body. I would just like to thank Senator Mines and Senator Synowiecki for their comments here today. I think that if we are truly interested in more efficient government as we say we are, that we need to give a much greater priority to taking a look at the situation here. We are, as Senator...well, would Senator Synowiecki yield to a quick question? [LB321]

SENATOR ERDMAN: Senator Synowiecki, would you yield to a question from Senator Pirsch? [LB321]

SENATOR SYNOWIECKI: Yes, I would. [LB321]

SENATOR PIRSCH: What was the dollar amount that is currently being used, then? I know you had mentioned that for mental health for these children in the former centers, the three of them. [LB321]

SENATOR SYNOWIECKI: Senator Pirsch, the Hastings Regional Center for the children's programs, there are three different programs out there and Senator Burling is an expert on what those programs are, but there are three programs and they cost, in total, in excess of \$10 million a year. Now some of that...60 percent of that is Medicaid, so it's \$4 million of state funds to treat kids for substance abuse and mental health problems at the Hastings Regional Center. And it is considerably more...and I think Senator Burling is right that the fixed costs associated with running the Hastings Regional Center campus, which embodies numerous buildings and so forth, contributes to that exorbitant cost. [LB321]

SENATOR PIRSCH: Thank you. And is that...are those fixed costs part of the \$10 million that you had mentioned with a little bit over \$4 million coming from the state? Is that...are those fixed costs part of that \$4 million for the state? [LB321]

SENATOR SYNOWIECKI: Senator Pirsch, I don't know precisely, but that's the cost to deliver those services. There are other services...there is a 16-bed developmental disability program there, as well. So I think the quick answer to your question is, no, those funds do not sustain the Hastings Regional Center solely. There is, as I understand it, one other program; it's a 16-bed developmental disability unit that also receives state funding and a combination with Medicaid funding, as well. [LB321]

SENATOR PIRSCH: Okay, thank you very much, Senator. One other question: How many children are being serviced there at that particular regional center? [LB321]

SENATOR SYNOWIECKI: The adolescent chemical dependency program has a capacity of 20...excuse me, it looks like 40--two units of 20. The psychiatric acute service has a capacity of six, but it's my understanding they no longer serve kids there

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in the acute setting. And then there is the adolescent psychiatric residential facility at the Hastings Regional Center, and their capacity is 16. As of this center status I have in front of me on April 24, there were seven kids in the adolescent psychiatric unit, and that has a capacity of 16. There were 19 kids in the adolescent chemical dependency of one of the 20-bed units. And then there was a full capacity as of April 24 in the other adolescent chemical dependency program. [LB321]

SENATOR PIRSCH: So comparatively few children are actually being served with those dollars being spent, then? [LB321]

SENATOR SYNOWIECKI: Well, if add all those it's 56 beds if you do not include the psychiatric acute, and Senator Burling can correct me if I'm wrong. I do not believe that they have the acute beds there at the Hastings Regional Center. Those kids have gone to a community-based setting... [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR SYNOWIECKI: ...probably more like a hospital setting, for their care. [LB321]

SENATOR PIRSCH: Thank you for those answers. Well, I think the point is well taken that we need to take a greater look at providing community-based services on an expedited manner. Obviously they provide the services at a lower cost and in that manner we're able to have the necessary resources to reach more children who have these needs, and so I thank you for your answers. I'll yield back the balance of my time, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Pirsch and Senator Synowiecki. Members, as the debate continues, if you could please take your conversations off the floor, that will assist the debate. Senator Carlson, you're recognized to speak, followed by Senator Howard. [LB321]

SENATOR CARLSON: Mr. President and members of the Legislature, I can see that in this portion of our session we all have our minds in many different directions, but boy, my attention got caught this morning. I appreciate Senator Mines bringing this up, Senator Burling in the comments he's made, and Senator Synowiecki. When we talk about the Hastings Center, and this is in Senator Burling's district, none of us like to talk about things that may involve the possibility of a facility being closed and lost to that community. It's a tremendous economic effect. But if I'm hearing what I think I heard, the state is spending \$4 million on approximately 50 residents in the Hastings facility. That's, by the number I look at here on the table, that's between \$80,000 and \$87,000 a year per resident. What's happening? I'm glad that there is not a decision that has to be made this morning; Senator Mines brings this up for discussion. But we need to pay

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attention, and certainly as time goes along, I would be interested in trying to be helpful in whatever way we could, and I appreciate Senator Burling's concern. Something needs to be addressed. Something needs to be done. It's good that we're having this discussion. I'm glad those senators brought it up. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Carlson. Senator Howard, you're next to speak on the Mines amendment. Senator Howard, you're recognized to speak, followed by Senator Dubas. [LB321]

SENATOR HOWARD: Thank you, Mr. President and members of the body. As I understand this bill and this amendment, it is to provide behavioral services to youth in the least restrictive environment possible and to place them with providers located near their families and their natural support systems. I certainly agree that the more we can do to keep children connected with familiar community settings, and of course, their families, the better it is for them and the easier it is for their families to support them. This is very important if we look at these youth in terms of family systems and what has brought them to this point in their lives. As with adult behavioral services, however, I believe it's important that we have a clear plan before we transition individuals out of regional care facilities. We should know what resources are available in communities and what services are required to meet the consumers' needs before--and this is important--before we place this additional responsibility on community providers. I also believe it is important to know how we will address the needs of children who require a higher level of care than what can be offered in the average community setting. And I'm going to tell you, from my experience working for three decades in Health and Human Services, that the usual plan is to place a child in the least restrictive facility. This isn't based per se on that child's demonstrated needs but the least restrictive setting, which could be a foster home, and make them work up to where they are in a facility that's going to meet their serious critical needs. I am concerned that there is not sufficient treatment in place at this time to address those needs. I believe the planning component is essential. Effective planning--effective planning--is the key to successful transition of children from regionally based services to community-based services. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Howard. Senator Dubas, you're recognized, followed by Senator Pedersen. [LB321]

SENATOR DUBAS: Thank you, Mr. President. Thank you, Senator Howard, for those comments. I really appreciate what you said and the approach that you are suggesting that we use, and I couldn't agree with you more; and Senator McDonald, the same with the things that you comments on. You know, what we're dealing with out in rural Nebraska, 63 of the 93 counties are facing a shortage of mental health professionals, mental health providers. The resources are not there for us. Right now in Grand Island the detox center is closing. They're working on, you know, how to address that issue.

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We've got a lot of facilities in the state that...such as the work ethic camp; we're looking at how we can better use that facility. It's not being used to its maximum potential. We seem to be doing too much after-the-fact reactions. We're closing facilities, we're cutting down services, and then we're trying to decide, okay, now what do we do with these kids? Out in rural Nebraska we have kids who do need these services, and when we're having a look at sending them to Lincoln or Omaha, farther away from their families, farther away from their support systems, that's not an effective way to treat these children and the issues that they're dealing with. I have community providers who are just scrambling trying to find resources--financial resources, human resources--to provide the services that we need out in central and rural Nebraska, and you know, they don't have the financial resources available to them. They're trying to figure out how...they're eliminating staff because they don't have the financial resources available to pay them. I am just very concerned about this type of an approach and what we're doing to the children and the families out in our part of the woods, and I appreciate Senator Howard's reference to the importance of planning ahead, not planning behind and trying to play catch-up all the time and making decisions and then wondering how we're going to survive those decisions. So I appreciate the opportunity to raise these issues. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Dubas. Senator Pedersen, you're recognized to speak on the Mines amendment. [LB321]

SENATOR PEDERSEN: Thank you, Mr. President and members of the Legislature. Just simply, we cannot plan and we cannot move without dollars. This is about dollars. The planning, I agree with Senator Howard; without planning you can't move. But you can't plan without having a place to move, and we can't do that without the dollars. So let's get back to the basics. Dollars is what we need in order to do the job. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Pedersen. Senator Mines, there are no further lights on and you're recognized to close on AM1215. [LB321]

SENATOR MINES: Thank you, Mr. President and colleagues. Thanks for the conversation. When LB1083 was advanced by this body and the effort was led by Senator Jim Jensen and many others, there was the vision and there was a promise of local community-based care, whether it's for adolescents or it's for adults. There was an intention at that time to shift the cost of regional centers to the local communities throughout the state. That process is working and the process of shifting those in need to local communities is working. What Region 6 has found is they are at capacity because it is working. And the debate, the discussion that will happen yet this session and through the interim, led by Senator Synowiecki, will give us even more clear vision. We need to respond. If we made the promise on LB1083, let's deliver that promise. I appreciate your attention, your patience. Mr. President, I will withdraw AM1215. [LB321]

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SENATOR ERDMAN: No objections? So ordered. Mr. Clerk, the next amendment on the desk. [LB321]

CLERK: Senator Stuthman, AM1216. I understand you want to withdraw AM1216, Senator. [LB321]

SENATOR ERDMAN: Senator Stuthman. [LB321]

SENATOR STUTHMAN: Yes, I would like to withdraw this one. [LB321]

SENATOR ERDMAN: No objections? So ordered. [LB321]

CLERK: Senator Stuthman, AM1265. (Legislative Journal page 1459.) [LB321]

SENATOR ERDMAN: Senator Stuthman, you're recognized to open on AM1265. [LB321]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. Originally, I had introduced the amendment that I had just withdrawn, and the reason that I had introduced this amendment was, in the budget book on page 163, they was going to eliminate \$133,000 out of a program, health department grant, that was a program that was working very well in the community on surveillance of diseases and tracking of them. But in the discussion with several people, I had found out that this program that they was going to take \$133,000 out of, Program 502, of public health grants, was not the program that was intended to take the \$133,000 out of. What the intent was, it was to take the \$133,000 out of a different program, Program 514. Program 514 is also public health. It's health aid. And in this program, there was allocated an X amount of dollars. The past years they have not utilized all of those total dollars, and so that this year it was felt that there was no need to put extra dollars in there if they were not being utilized. And some of the programs that were in that 514 program were public health screenings and different things like that. So it was the intent originally from the Governor to take that money out of that Program 514. So what my bill does right now is it reinstates it back into the...it puts \$133,000 back into Program 502, and takes it out of Program 514 and the health aid. And that is on page 55, 56, and 57 of the committee amendment. That is all I'm doing. It is not...it's a revenue-neutral amendment. But it takes it, puts it back into the program that is utilized very highly, and it takes it out of a program that they were not utilizing those dollars throughout the year, anyway. So it just changes the program that it takes it out of. And I would hope that this amendment could be passed. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Stuthman. Members, you've heard the opening on AM1265. Those wishing to speak are Senator Heidemann, Senator Kruse,

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and Senator Mines. Senator Heidemann, you're recognized. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members. I had wrote up a little note what I wanted to say, and Senator Stuthman said it so well that I don't need to even go there. It was something that we took in a program that we had no intention about taking it out. This is a revenue-neutral amendment. The Appropriations Committee is not in opposition to this, and I ask that you support AM1265. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Heidemann. Senator Kruse. [LB321]

SENATOR KRUSE: Mr. President and colleagues, thank you. I stand also in support of the Stuthman amendment. It does a necessary transfer, does not affect the budget, and is in line with our intent, in terms of managing state funds. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Kruse. Senator Mines. [LB321]

SENATOR MINES: Thank you, Mr. President, colleagues. I've handed out a recent cuts to municipal programs. There is no amendment. There will be no introduction of a change. This was the last opportunity on LB321 to, again for the record, discuss what's happened to municipalities since the bad times, since 2001-2002. As you notice, there are three pots that municipalities receive funding--state aid; Municipal Infrastructure Redevelopment Fund, or MIRF; and Municipal Equalization Fund, or MEF. You can see that each year, fiscal year 2002-2003, and then compare it to '03-'04, and '04-'05, municipalities, when the cuts were needed because we didn't have the money, were asked to take cuts, help us through this process, and we'll get you back to level at some time when we do have the money. I'm not proposing that we do that today. I'm not proposing that we do that this session. But I do think that next session...and oh, by the way, municipalities have been back at the table, asking to be made whole. They just...it hasn't happened, for any number of reasons. This is just to outline for your information that there are programs and aid specifically to cities and villages that have been cut over the years, forcing local municipalities to increase and to handle those expenses with property tax and sales tax. I just want to bring this to your attention. It's the last opportunity I would have. I know it has virtually nothing to do with Senator Stuthman's amendment. I appreciate his time. And thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Mines. Senator Stuthman, there are no lights on. You're recognized to close on AM1265. [LB321]

SENATOR STUTHMAN: Thank you, Mr. President, and I would just urge for your support on this, as this is just a technical change. And it...the change makes it as the real intent of what we had intended to do. And I appreciate the fact that the Appropriations Committee has done such a good job this year, and I will never point the

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finger at anyone that did make the mistake as to which program it came out of. So I'm just happy that we did find this part of it, and I ask for your support. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Stuthman. Members, you've heard the closing on AM1265. All those in favor vote aye; all those opposed vote nay. Have all members voted who wish to? Record please, Mr. Clerk. [LB321]

CLERK: 33 ayes, 0 nays, Mr. President, on the adoption of Senator Stuthman's amendment. [LB321]

SENATOR ERDMAN: The amendment is adopted. Mr. Clerk, next item on the desk. [LB321]

CLERK: Senator Chambers, AM1268. (Legislative Journal page 1459.) [LB321]

SENATOR ERDMAN: Senator Chambers, you're recognized to open on AM1268. Senator Chambers, your amendment is up, AM1268, and you are recognized to open on that amendment. [LB321]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when Senator Stuthman gets into the game, things move with such rapidity that I'll even be caught back on my heels--have to recoup, regroup, and take the stairs three at a time. (Laughter) And when you get my age, that is not the easiest thing to do. Nevertheless, I am here. This amendment is the identical one that Senator Schimek brought yesterday. As she pointed out by way of background, a couple of years ago, to my utter chagrin and that of others, the then Chairperson of the Appropriations Committee managed to finagle \$15 million into a so-called training program. As of today, that money has not been spent. It has not even been committed. It certainly hasn't been contracted for. At most, allowing DED, where the money resides...or, who is the one who's going to get involved in these activities, if you give them every penny that they claimed to have spent, committed, or whatever, it doesn't reach the level of \$5 million. Probably the amount is closer to \$2 million to three-point-something million. But let them have \$4 million. That means at least two-thirds of the original amount, or \$10 million, is still resting there. Senator Schimek pointed out...and I believe you got a sheet of paper, several sheets, showing what is involved in this training. A lot of it is in-house. It costs nothing. None of that money is being utilized. There is nothing that I can determine which is reliable to establish how many people were trained with this money and received employment as a result. It's a boondoggle. It's a slush fund. And in the two years, the money has not been spent or even committed. Showing great generosity, I guess it's the Appropriations Committee is going to add, on top of the original \$15 million--\$10 million of which is still resting there--an additional \$5 million this year, an additional \$5 million next year, which is a total of \$10 million additional. Because the original amount could not be spent or committed, they're going to be given an additional

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two years just to commit the money, then an additional year to spend it. When have you...and that's the original, plus this additional \$10 million. When have you ever seen such generosity from any legislature anywhere in the world? We quibble about pennies. I'm still smarting from how much work it took last night to get \$290,000 for these elderly programs. And now we've got an original \$15 million, on top of which will be added \$10 million, then you give additional time to commit and spend it. And what is it going to be spent for? They haven't found enough to spend it for yet. I'm going to tell you all who are new some of the criticisms that have been made against various state agencies, and you've heard the criticisms, I'm sure, addressed to federal programs, those that are funded. As the year, the fiscal year, runs down, these various agencies, in order to at least not suffer a cut in their appropriations, will find all kind of ways to obligate or spend that money as quickly as they can, so that they can show when they come back to budget setting that they need at least the same amount that they had last time, and probably more. These people are not even doing that. They can't. You've given them so much money they cannot spend it. They cannot spend it. So you're going to give them two more years to obligate it, or commit it, then an additional year to spend it. What this amendment would do is take away those additional amounts, put...or stacked on top of the original \$15 million. Look, if you want to look or consider that \$15 million as strawberry shortcake--because that's what it is--all I'm saying is, let's take the whipped cream off the top. Let them keep the cake, which is spoiling. The \$15 million, let them keep playing with that and making the Legislature look foolish, a legislature which is supposed to be peopled primarily by fiscal conservatives. We would never allow HHS to do something like this, or the Department of Corrections, or any agency of state government. We're talking about actual money that has been made available, and they cannot spend it, and you're stacking more on top of them. This money would remain in the rainy day fund, the \$5 million. And we would then be able to do something more significant and justifiable with it, or just leave it there. But don't make it available to a program and a department which has not developed a track record. I've tried in this opening to cover everything that I could or that I deemed necessary, and I hope you will agree to adopt this amendment. Yesterday, people were disappointed because it did not come to a vote. I believe this is so crucial and critical to establishing what the real nature of the Legislature is, how we feel we should behave as stewards over the people's money. So this amendment I do intend to take to a vote, and I hope it will be adopted. Understand this: If you like what DED is doing, you're not hurting that at all. They will still be given their two additional years to find something to fritter away the money on and an additional year after that to actually spend it. Such generosity, in a state that's crying about not finding enough money to do essential things. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Chambers. (Doctor of the day introduced.) You have heard the opening on AM1268, offered by Senator Chambers to

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LB321. Wishing to speak we have Harms, Heidemann, Louden, Gay, Wightman, and others. Senator Harms, you're recognized. [LB321]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Chambers, the key to economic development in this state is world-class training. And I can tell you now, from the experience and what I've had in a previous life, that without that ability to do the training, you cannot attract business or industry here. And to upgrade companies that are already here, you cannot upgrade companies to get into the new world global economy without formal training, whether it's done with the company or whether it's done with the community college. Now my argument in regard to the previous dollars was that I didn't believe the community colleges got a fair opportunity to do that. Some of the community college got training, but not all of their proposals were approved. We've worked through that particular agreement, and now the community colleges can be involved at the front end of this in regard to training, and be able to communicate with the CEOs and the people that are coming into this state, because the community colleges are the key to doing quality training, and are the only ones in this state that can upgrade and can get us competitive in the global economy. And I've taken a moment to walk over and talk to the fiscal analysts that take care of this funding. And Senator Chambers, as I understand it--and you can do the same thing I did to double check this--that I believe that just about all those dollars are committed or have been spent or are already committed to the training. So we need to make sure that that's correct, and to clarify that. And I would appreciate it, if you have a few minutes, you could walk over and ask them, so you can see the same thing I looked at. So I would just ask you, as you think about this process, understand that training is critical for us in the future, and it's the only thing that's going to attract companies here to this state. And I rise to oppose AM1268. And I would appreciate it, Senator Chambers, if you would check that out as I did. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Heidemann, you're recognized. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members. I just want to reaffirm some things that I had said yesterday, that I do believe this is a good program, and jobs training does come into play when you talk about economic development, when you talk about trying to lure new businesses into the state. I believe this is very important. I think we need to continue this. I also want to add that there was questions in the Appropriations Committee. This is something that we are watching. Certain situations arise that we kind of keep track of a little bit closer than others. This is one of them. There was talk about how we could involve the community colleges a little bit more. We hope to do that, and we hope to maybe accomplish that already a little some. We'll be watching that. Also want to add that we went even a little bit further than putting money into this, because it tends to help maybe larger corporations out a little bit more. We put money into microenterprise at \$1 million the next two years, over the next two

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years, and also into BECA grants at \$250,000 the next two years, to help smaller businesses. We tried to look in Appropriations Committee across the board, that...what we could help not only the larger corporations, but the smaller businesses that hire maybe just one or two, which we think is very important also. I believe this is a good program. I think we need to continue that. And I ask your support in opposition to AM1268. With that, if I have any remaining time, I would be happy to give it to Senator Nantkes. [LB321]

SENATOR LANGEMEIER: Senator Nantkes, you have 3 minutes and 20 seconds. [LB321]

SENATOR NANTKES: Mr. President, colleagues. Thank you, Senator Heidemann, for the time. I really appreciate it. I know there's a lot of lights on, as this is an important issue that many members would like to address. But I just wanted to point out really my passion for this program and to give you a little bit more context why I was supportive of it from an Appropriations Committee standpoint. Number one, we heard some comments yesterday on a similar amendment offered by Senator Schimek that this is nothing but a payout to big business. And I really disagree with that characterization of what these funds are. This is the final piece in an overall puzzle to modernize and improve our economic development efforts in the state of Nebraska. We know that LB312 is working. It has helped us recruit in many industries that otherwise...and many companies that otherwise would not have been in Nebraska and created good quality jobs, which at the end of the day should be the goal of all of our economic development efforts. And in addition, these job training funds are particularly critical as our economies change. For example, up in my district in north Lincoln, the Goodyear plant is really the heart and soul of that district in many, many ways. And we're all very well aware that its future is uncertain at best. And in that vein, we need to start having those discussions now about what opportunities are going to be available for the working families of north Lincoln, and we need to start having those discussions about recruiting in competitive industries to that area. And one way that we can do it and help those workers is to provide job training opportunities like the ones envisioned underneath this program. So I'm very supportive of these job training funds. I think they have immense benefits for working families, and they help us to be more competitive overall in our economic development strategies. And with that, Mr. Chair, I yield back the balance of my time. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Nantkes and Senator Heidemann. Senator Louden, you're recognized. [LB321]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I kind of remember when this was put in here, I think two or three years ago, there was \$15 million set aside for this industrial teaching, whatever it is it's called. And at the time, we...the question was, you know, what are...who are we trying to school, or what are we

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trying to teach? And we was wondering whether it was going to be rocket scientists or whatever it was. Would Senator Chambers yield for questions, please? [LB321]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB321]

SENATOR CHAMBERS: Yes, I will. [LB321]

SENATOR LOUDEN: Senator Chambers, I recall also when this was put in. They called it industrial recruitment. It was supposed to be that this way we could recruit high-dollar, high-intelligent, or whatever you want to call it, people, I guess rocket scientists and that sort of thing. Do you have any idea or do you know if any of those people were ever recruited? Or was anything ever done with this money? Was this a program that was kind of a pie-in-the-sky deal and never did materialize, or what? [LB321]

SENATOR CHAMBERS: Senator Louden, it was a pie in the sky in the sweet by and by. And I'm not being facetious. If you look at these training programs, for example, in-house training on computers, well, the company is going to give that training to its employees anyway. That is a cost of doing business. Without this program, they would do it anyway. So when we're told that this money is committed, almost the total \$15 million, there is not an agreement between DED and these companies. DED is sitting there with a bucket full of money and saying, if when you come here you need some training, and we'll pay for it, and this is the money. So it's like saying, this offer is there. But there has been no taker of all this money. So what Senator Harms is being told, what the rest of us are being told, amounts to a fast shuffle. Let DED show us agreements between these companies which said they will come here based on the offer of training and what they're going to give. There is no establishment of what this training consists of, or anything else. We could wipe out this program without hurting anything, as far as a recruitment program that the state has. And I don't think they can show Senator Harms or you and me a single company that said, we're coming here because you said you will pay for the training of our employees whom we're going to train in-house anyway. [LB321]

SENATOR LOUDEN: Now my next question is, the way I understand your amendment, you would take out \$5 million this year and \$5 million next year? [LB321]

SENATOR CHAMBERS: Yes. Not from the original \$15 million; it would be an additional \$5 million that they're going to stack on top of the \$15 million, which they haven't spent yet. [LB321]

SENATOR LOUDEN: Then there's...you're talking about \$20 million here, or you're talking about \$15 million? [LB321]

SENATOR CHAMBERS: I'm talking about \$10 million--\$5 million this year will not go to

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this program, \$5 million next year will not go to this program. [LB321]

SENATOR LOUDEN: But I mean... [LB321]

SENATOR CHAMBERS: But that original \$15 million they would keep. [LB321]

SENATOR LOUDEN: They would still have the original \$15 million? [LB321]

SENATOR CHAMBERS: Yes, to fritter away if they can. But because they're having such a hard time getting rid of it, they also are given two additional years to commit that original \$15 million, and an additional year after that to actually spend it. [LB321]

SENATOR LOUDEN: Okay. Then your...if I understand it, then your amendment mostly just takes out a new \$5 million appropriations each year for the next two years. Is that what it...? [LB321]

SENATOR CHAMBERS: Yes, that's what this amendment does. Then on the next two bills there will have to be some adjusting to take into account that this extra \$10 million is not going to be there. But they would still have the additional three years to get rid of the original \$15 million. In other words, all of this...all this amendment and subsequent amendments will deal with would be the... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CHAMBERS: ...extra \$10 million that's being tacked on. [LB321]

SENATOR LOUDEN: Okay, that's what I wanted to know, because actually, their \$15 million that we appropriated a few years back, they still have that and it's still there. You're just taking the appropriation from the next two years out of it. [LB321]

SENATOR CHAMBERS: That's all. [LB321]

SENATOR LOUDEN: Okay, thank you, Senator Chambers. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Louden. Senator Gay, followed by Wightman, then Engel. Senator Gay, you're recognized. [LB321]

SENATOR GAY: Thank you, Mr. President. I'd like to rise in opposition to the amendment. When you...these examples that we're using are good paying jobs, and they are being used. The money, the way I understand it, Senator Harms mentioned, is being used. Just the preliminary commitments are offered all around the state, from Auburn, to Beatrice, Columbus, Cozad, Falls City. Of course, there's Omaha, South

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Sioux City. So we have preliminary commitments. The idea here is, when you're recruiting or you're talking to a company that wants to come to Nebraska, that you have these funds available. You can't say, well, we might get you some funds. We need to have the funds there, because you don't know who's going to fund or who's going to be applying for...who's looking to relocate in Nebraska, or to grow in Nebraska, existing Nebraska companies. So I think it's very important we have this money in there. I...Senator Harms had mentioned this money is being used, is the information they have. But when you look at these jobs, it's as tiered...it's a tiered schedule. So somebody who is not earning as much, it goes from \$18,000 up to \$32,000, they get more job training opportunities the higher the wage is. So they get more opportunity for training. I do agree with Senator Harms. I think community college should be utilized more. But some of it is in-house training. That's a fact, too. Some of this is very specialized. Manufacturing is becoming a very specialized industry, as we all know. And those...it may unique and a community college can offer it. I do think community college have a lot to offer here, and the community colleges will be more involved, it sounds like. But I think that's something we should keep in mind, that these jobs are different all the time. From PayPal, who's using some of this, you've got a lot of...you have...what I'm commenting here, you've got a lot of young people going into that office, you've got middle-aged people. Sometimes they need this training, they need the computer training that's going to be done, and it's very specialized of what they're doing. So...but when you look at a manufacturer...just the other day I had an opportunity to have lunch with a gentleman, and I said, well,...he came from Canada and owns several businesses, but they have a new business in York, Nebraska. And I said, well, what brought you to Nebraska? He says, the work force. We talk about Nebraskans being our number one asset, and I believe that. The people of Nebraska are our number one asset. But he had to train them. Just because they want to work hard, they still need training. And sometimes this is an incentive, obviously, but it's very well used, it's utilized. And we need to keep the funds available, so when they are out on the recruiting trail and have an opportunity to come to your community, they say, well, maybe we can get you some funds, we don't know. Let's go see if we can get it appropriated. It needs to be there and be available. So I oppose this amendment, and I would encourage us to keep those funds in the budget. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Wightman, you're recognized. [LB321]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I, too, rise in opposition to AM1268. Again, I don't know for sure where Senator Chambers is getting his figures. I think he said that only \$3 million had been spent or contracted. Certainly, the Department of Economic Development information that has been handed to me is substantially different than that. They say that \$10 million, \$10,282,000, has been contracted for, that there are also negotiations that could result in another \$3,340,000 as being...that could be committed within a reasonably short time. I think

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we'd be setting a dangerous precedent if we withdrew these funds. I know that Senator Chambers thinks and has stated that there is not a firm commitment, and has said, let's see the contracts. I'm going to take the Department of Economic Development at face value as to the information they gave me. But I served on our economic development board, chaired it a couple of years out in Dawson County, of regional economic development. I know commitments are made all of the time to recruit possible recruits that would come in, establish a business, or, in many instances, expand an existing business. I don't think if we've made commitments--and I feel we have made commitments, whether there's a contract in writing or not--to the extent of the \$10 million, to all of a sudden say we weren't going to pay those, or that we would deplete all that and not have additional money available as new potential industries and recruits would come up, I think we would be taking away a lot of what we indicated that we were providing under the Advantage Nebraska. Certainly, job training is a major part of the incentives that are offered to potential industries considering locating in the state of Nebraska. Are there some of them that would have come there without that commitment? I'm sure there are. I think that's going to happen on any recruitment incentive. We'll never know that. But I think we have to carry forward with what we've proposed under Advantage Nebraska, and this is certainly one of the tools under that. So I urge your opposition to AM1268 and for passage of LB321. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Engel, you're recognized. [LB321]

SENATOR ENGEL: Mr. President, members of the body, I, too, stand in opposition to this particular amendment. Senator Wightman, I think, went over the figures there as far as the money that's committed already on contract, and that's the potential that's coming up. And that will basically utilize those funds that they're talking about. And then, we put before \$15 million; this time, I think we put in \$5 million each year, because there will be some left over from the other, and that will keep them on par. So...and that money will be utilized. Now, for example, the...where I live, this industry coming in, they're investing \$400 million, and it's going to be good paying...300 new jobs that the average is going to be \$40,000 a year with full benefits. And without this customized job training, they probably would have gone over to South Dakota, where there's a better tax climate. So we have to compete. We have to compete with these other states, because of, so many cases, because of our tax climate. We have to afford something else. We have a good work force. There's no question about that. But we need a good trained work force. And like the gentleman up there who was coming in to Dakota City there, he said, we've got the resources, we have the technology; what we're short of are trained, educated work force. And that's where this all comes into being, helping with that training. And of course, they will be utilizing the community colleges more than they have in the past. That was one criticism, because it just didn't work out quite the way we figured. But now, all new grants that are sent out to these companies, and they come in,

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the community colleges will be informed of that so that they can personally--they have to keep it confidential, of course--but they can personally contact these companies and say that this is what type of training you need, this is what we can offer, this is how we can help you with your training needs. And of course, some of the training needs has to be in-house because they have their own experts, like you come in...some chemical company come in and they've got their own technology people. Well, when they come in, they'll want to use the people they've had for all these years. So it all works out. And if we're going to grow Nebraska and we want good-paying jobs, and with good benefits, then I think it's absolutely necessary for our state that we continue on with these job training funds. And on the past, I know when they had, I think, LB775 many years ago, the...one of the problems with that was that it was used to support ongoing training programs. They kept training people how to cut meat, how to train this. And that...and those types of companies' jobs do not qualify for this program. It's not for ongoing training; it's for the initial training to get the people up to par to...so that they qualify for the expertise that's needed in these different industries. So with that, I certainly support the job training program, and I oppose the amendment. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Engel. Wishing to speak we have Senator Chambers, Erdman, Stuthman, and Pirsch. Senator Chambers, you're recognized. [LB321]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, all those who are supporting the boondoggle of an additional \$10 million and who are opposing my amendment have nothing concrete to say. They shilly-shally, they speak in general terms, and cannot tell us what job was created as a result of the expenditure of this money. They have not named one single company which said it came here because of this program. And if you read through this, you will see where the companies' own people trained the individuals who wound up being hired. Their own people did the training. So you're going to tell a company, you're going to come to Nebraska and set up. You all talk about Nebraska's work force, but obviously you don't read the business section of the Omaha World-Herald or any other newspaper that will tell you things. You know why they like the work force in Nebraska? Because the wages are pitifully low, unemployment benefits are low, workers' comp is low. The companies look at the fact that it's not going to cost them as much in labor as it is in other places. They come here because the Legislature has helped depress wages and keep them artificially low. They don't come here because people are brilliant. You need to look at life in a state as a seamless web. The education system in Nebraska is not lionized around the country. Nobody looks at Nebraska and says they have one of the best education systems in the country, and that's why businesses come here. No. When they look at the work force, it's not because they're competent and trained, but they don't make much money. They have this so-called right-to-work law. Those are the things that companies look at. But because Nebraska is developing into a communication hub, a lot of service-type jobs are being produced and created here. They are low-wage jobs,

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in general. And a lot of women, a lot of minority groups are in those low-paying jobs and are not going to be able to gain any traction to improve their economic situation in this state. I would like Senator Engel, if he could, which he can't, to name one single company. What Senator Harms wants to do is make some money available to the community colleges. They'll start a curriculum and have people come there and get training, but they're not assured of a job. I'd like to ask Senator Harms a question. [LB321]

SENATOR LANGEMEIER: Senator Harms, would you yield to a question? [LB321]

SENATOR CHAMBERS: Senator Harms, is...oh, excuse me. [LB321]

SENATOR HARMS: Yes, I'd be happy to. Thank you. [LB321]

SENATOR CHAMBERS: Is part of the contract with these community colleges a guarantee that the person they train has a job waiting for them in a company that has asked them to go to the community college to get the training? [LB321]

SENATOR HARMS: Well, first of all, let me clarify for you so you have a better understanding how this works, okay? [LB321]

SENATOR CHAMBERS: But don't take all my time. [LB321]

SENATOR HARMS: Well, I'll give you some of my time. [LB321]

SENATOR CHAMBERS: Okay. [LB321]

SENATOR HARMS: I do have my button on, so we will have plenty of time for this discussion. First of all, let's don't misunderstand what this training about. This training for a company...let's take Aurora Loan, for example, out in Western Nebraska Community College. It's custom designed specifically for them. It's for those people that they're going to hire from western Nebraska, who are going to work at Aurora Loan, to have their skills and to have the kinds of things they need to have, whether it's computer technology, whether it's answering a telephone. It's specifically custom designed for them. The second portion of this, Senator Kremer (sic), does not...(laugh) Senator Chambers. [LB321]

SENATOR CHAMBERS: That's all right. I know who you mean. [LB321]

SENATOR HARMS: Thank you. That's okay. I do not want to misstate that, Senator Chambers. I apologize. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

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SENATOR HARMS: Senator...thank you. Senator Chambers, is the simple fact, is that they don't have to come to the college for the training. Many times the colleges actually go into their environment and do the training there, and use their equipment and their machines and... [LB321]

SENATOR CHAMBERS: Okay. But before we run out, currently, that company will train these people itself, because the company is there, and if they need employees to know something, that company right now would train those employees themselves, wouldn't they? [LB321]

SENATOR HARMS: Not necessarily, because I can tell you what will happen in many community colleges, because we don't have sometimes the expertise that they want, we don't hire full-time people to do that, we find the expertise...we'll hire their employee to do the training that's run through the college. [LB321]

SENATOR CHAMBERS: So then this loan company would not hire anybody? If the community college has no program, the loan company simply wouldn't hire anybody? Or they'd bring in an employee and train that employee themselves? Is that what would happen now? [LB321]

SENATOR HARMS: What happens is very simple, is that we do the training for them in their location. [LB321]

SENATOR CHAMBERS: But if the community college is not doing it, that company trains... [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR CHAMBERS: ...the employee itself, doesn't it? Oh, thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Erdman, you're recognized. [LB321]

SENATOR ERDMAN: Mr. President, I would continue on with other discussion, but I would, for the sake of continuing this discussion, yield the time to Senator Chambers, with the caveat that the opinions expressed by the senator are not necessarily those of this senator. If he would accept those conditions, I would yield him my time. [LB321]

SENATOR LANGEMEIER: Senator Chambers, 4, 40. [LB321]

SENATOR CHAMBERS: Thank you. And Mr. President, not only do I accept those

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conditions, but I'm pleased, because I don't want people to give him more credit than he's entitled to. (Laughter) Senator Harms, if this company that you're talking about does not have access to a training program given by the community college, paid for by the state, and that company is going to hire somebody, the company will train the person itself. Is that true or false? [LB321]

SENATOR HARMS: Yeah, some will. [LB321]

SENATOR CHAMBERS: Okay. That's all I will ask you on that particular point. [LB321]

SENATOR HARMS: Thank you. [LB321]

SENATOR CHAMBERS: Now go to the second part... [LB321]

SENATOR HARMS: Okay. [LB321]

SENATOR CHAMBERS: ...that you wanted to go to, because you said there was another element or component. [LB321]

SENATOR HARMS: Well, what I wanted to say to you is that when a company comes to Nebraska, they will then tell us what skills they have to have, and it isn't something that we can pull off the shelf and say, this is what we're going to do for you. We have to custom design that specifically for them. Sometimes it may take a month or two to develop the program. It's... [LB321]

SENATOR CHAMBERS: So you're just saying, let this money be there so that the community college can hold itself in readiness to develop whatever program a company needs to have employees trained? Is that what you're telling me? [LB321]

SENATOR HARMS: I'm telling you it should be for both. It should be both for the community college, and it should be both for the company. Sometimes the companies feel more comfortable in doing their own training, because in many cases...like, for example, if you're going to train for Cabela's, you have to sign a confidentiality document that says you will not share any of their skills that they want to have. So there's a lot to this. A lot of people don't want what takes place in a training program. [LB321]

SENATOR CHAMBERS: Okay. Okay, because I don't want... [LB321]

SENATOR HARMS: Okay. [LB321]

SENATOR CHAMBERS: ...I want us to make the most of this discussion. Senator Harms, name me one company that you know of that said they came to Nebraska

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because this training money is available. [LB321]

SENATOR HARMS: Well, I know in western Nebraska, one of the things that...I know that when Aurora Loan started to come to our community, that was part of it. It wasn't because we could give them the training, but it was part of it. And the other thing I want to make sure you understand is, people come... [LB321]

SENATOR CHAMBERS: You sure got off that quickly. If the training had not been there, did Aurora tell you, if you don't provide us training, we're not coming? [LB321]

SENATOR HARMS: I can't say that, Senator Chambers. [LB321]

SENATOR CHAMBERS: I know they didn't, because we were being told that Cabela's wouldn't build in Sarpy County if we didn't give them all kind of benefits, and I got that bill killed, and I told them, Cabela's is not crazy. They've done all the work to see that that is a profitable place, and they will come here anyway, and they went there anyway. These senators are being suckered by these companies, because senators don't understand the nature of these businesses. They don't say, we're going to drop our company out of the sky in Aurora because you have a training program. They will have looked at it. They would have looked at some demographics to be sure they could make some money, because if you have the best trained people in the world but you don't have customers, then you've spent a lot of money for nothing. They are going to look at factors other than this. Some of the companies said they will train their own people, but while they're being trained, they're not as productive, so what something like this will do is let them make up for that and pay what they would have had to absorb as a cost of doing business, and it has nothing directly to do with the training. Were you aware of that? [LB321]

SENATOR HARMS: No, I wasn't. [LB321]

SENATOR CHAMBERS: Does it sound like I'm making something up, or does it sound plausible, at least, to you? [LB321]

SENATOR HARMS: Oh, I think it would be possible, yes. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CHAMBERS: And plausible, meaning it's reasonable, and companies do this. If a large company comes to Nebraska, they don't need this in order to come here, do you think? They would have had many more substantial reasons than this for coming to Nebraska, wouldn't they? [LB321]

SENATOR HARMS: Senator Chambers, I think it's a combination of things, and this is

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one of the factors that businesses and companies look at: Will you be able to provide us funds for training? The other factor that I want to make sure... [LB321]

SENATOR CHAMBERS: And if you said no, they'd come anyway. That's just gravy. They would take anything you'd give them. If you told them you'd give them free cars for their employees, they would accept that. But they're not going to put that in as a condition of coming. [LB321]

SENATOR HARMS: My point here is, that I want to get across to you, is that there...these are just...this is just one component of it. The other side of it, people come here in business and industry, you know why? Because Nebraska has good work ethics and good work values. [LB321]

SENATOR CHAMBERS: No, they have low-paid workers. [LB321]

SENATOR HARMS: Well, that's something... [LB321]

SENATOR CHAMBERS: They have a right-to-work state. The unions are weak. They have low unemployment compensation benefits, low workers' comp benefits. [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR CHAMBERS: And if you check the record, you'll see. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Erdman. Senator Stuthman, you're recognized. [LB321]

SENATOR STUTHMAN: Thank you, Mr. President, members of the body. I think this program is very important to my community, and in some of the literature that was passed out. And I'll give you an example of one of the manufacturers in my community, BD, Becton, Dickinson, pharmaceuticals. This is a very large company that is in Columbus. They've expanded several times, and they would like to expand again. One of the main problems with expanding any more is, we do not have enough people in the community that have the job skills that are needed for this type of a job in that manufacturing plant with pharmaceuticals. And I will say that these are not low-paying jobs. These are jobs of \$40,000 to \$60,000 a year, with benefits. They're good jobs. It was stated at their last expansion that a plane could drop out 500 people in our community, and they would take up most of them right away, immediately. Well, our unemployment rate is so low in our community. But I think one of the most important things about this is that our community college there in Columbus, you know, does train a lot of these workers, and they have contracts with these manufacturers to train workers for their specialty jobs. I think that's very important. It expands the duties of the

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community college. They have special programs to train these people. That's very important. That employs people at the college. It gets people trained in jobs that have good skills. It also trains young people that will be working in these plants. These are not just cheap labor jobs. These are not, you know, serving burgers or anything like that. These are skilled jobs. And I think a very important thing is that a lot of community...a lot of companies, you know, are interested in Nebraska because of the work ethics of our people. They're willing to work. They're responsible. And I think we've got to keep that in mind, that our young people of today need to have the training for these jobs in those manufacturing places. And I'm truly supportive of this, of the bill. I will vote against the amendment to withhold funds from that. Originally, I wasn't all worked up about that many million of dollars for the job training. But there's one thing about it--we've got to have more people coming to Nebraska. We need more manufacturing plants, and we need more people working in there. The more people we have employed in the state of Nebraska means that we've got more people paying taxes, and that's very, very important. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Stuthman. Wishing to speak we have Senators Pirsch, Pedersen, Dubas, Chambers, and Howard. Senator Pirsch, you're recognized. [LB321]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I do rise in opposition to the amendment, in support. While I appreciate Senator Chambers' questions and comments and concerns, I do think that his perhaps statement is not incorrect, that no one specifically cites maybe this particular incentive alone as the compelling reason why they were brought to Nebraska, but I think it is an important facet of an overall package and I think the proof has been in the pudding. It is important for the state of Nebraska, in looking towards the future health of the state, economic health, that we...I think our highest priorities is job creation, bringing businesses, bringing people to Nebraska, and when you look at the total package, I think that this is an important facet of that. And I don't think it's helpful to look at any one particular facet in abstract. And the proof, as I said, is in the pudding. We have attracted in some quality type of jobs to the state in the form of companies like PayPal and Verizon who do implement this program, and these are high-paying jobs for the state, and I think that's important to mention as well. But I do appreciate the concern that as we go down the path of economic development and using incentives, that Senator Chambers mentions that we have to make sure at the same time that we have effective audit procedures in place and that we require justification for the expenditures of the state's finite revenues. With respect to this particular program, I do support it. I think that, for example, a company like Aurora Loan Services, for example, came to Scottsbluff, created 150 jobs. Now for a community like Scottsbluff, that is an incredible number of jobs, and these are very high-paying jobs, relatively speaking. They start off, starting salaries, at \$33,000 a year and benefits, and for that number of jobs at that high of salaries, the ripple effects there in Scottsbluff are very profound. They're trained at the training center there in

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Scottsbluff using customized software provided from Lehman Brothers, which is the parent company of Aurora Loan Services. And so I am hopeful that this is...will prove to be, in a short period of time, an important facet in bringing greater employment throughout the state of Nebraska. And I should...I think that the factors that are in place right now, that this is a reimbursement program, that the jobs have to be created, that they have to offer that proof first before they receive reimbursement is an important facet; that the fact that there are three individuals with the Department of Economic Development, I've been told, who are on the...who go out and audit and require... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR PIRSCH: ...as part of that reimbursement that they show the receipts and that they show the time clock sheets before reimbursement is made. And so I am satisfied that this holds the potential of job creation here in Nebraska, and so I'd urge your support in that manner. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Pirsch. Senator Dubas, you're recognized. [LB321]

SENATOR DUBAS: Thank you, Mr. President. I definitely know and understand and appreciate the importance of job training, especially in rural Nebraska, and I've been in touch with some of the businesses back in my district during the course of this debate and am learning about how they, the businesses in my district, have been able to take advantage of some of this job training. So I am appreciative of that. Again, I am appreciative of anything that allows an improvement of the economic state of my constituents, as well as those across rural Nebraska. But we're talking really big dollars here, and as with other budgets that we have discussed over the course of this session, we're always looking for accountability, and I guess that's where I'm struggling with now is the accountability of this program. And I haven't been able to get all of my questions answered as far as how much accountability there is, and there seems to be some ambiguity as far as what does it mean when dollars are committed? Does this mean dollars that are actually going to be put out into the community, or it's just like, well, would you leave them there just in case we need them sometime down the road? I'm understanding that dollars committed, but it just seems to me like some of those commitments may not seem to be really firm right now. As I said, I visited some of the community colleges in my district. I've seen the training programs that they have in place there, and I am very impressed with what the community colleges are willing to do in order to meet the job demands in the area, and anything we can do to help educate our work force, so that we can again improve their economic state, I'm all for that. And it seems like our community colleges are very willing to accommodate the businesses in the area. So my questions...I seem to keep coming back to kind of the same question, is what do we as a state owe the development of business in our state, and then what

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accountability does business owe the state as far as their receiving our hard-earned tax dollars? You know, where is their accountability? So with that, I'd yield the rest of my time to Senator Aguilar. [LB321]

SENATOR LANGEMEIER: Senator Aguilar, you're recognized, 2 minutes, 40 seconds. [LB321]

SENATOR AGUILAR: Thank you, Mr. President. Thank you, Senator Dubas. I do appreciate that. Senator Dubas was talking about some of her constituency, which her and I kind of share the same constituency in many cases, and I just wanted to point out a situation where a company in Grand Island, matter of fact several companies, has taken advantage of this program. But the one, in particular, that comes to mind is the New Holland plant in Grand Island. It's probably our largest employer in our city, in our community, in the whole area, as far as that goes, and they took advantage of this and there were some welding classes that took place at Central Community College in Grand Island. They had six different consortiums on this and we benefited from it greatly. They even expanded the programs to where some of the welding classes were taught in Spanish, so to really give some people an opportunity to increase their abilities and get into the job market. It's been very beneficial and the company were partners, as well, in this. I can give you one example where New Holland purchased a robotic welder and gave it to Central Community College so that they could train that many more people on this. So everybody is working together in this area. This program has been very beneficial. It's helping us greatly and, you know, and I encourage everyone else to oppose this amendment. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Aguilar and Senator Dubas. (Visitors introduced.) Wishing to speak we have Senator Chambers, Howard, Schimek, and Aguilar. Senator Chambers, you're recognized. [LB321]

SENATOR CHAMBERS: Mr. President, members of the Legislature, the one or two examples that will be given make my point. Those things would have been done anyway. Any company that can pick the pocket of the state is going to do so. Nebraska is an easy state. They have a legislature whom they perceive as being composed of rubes. All you have to do is tell them, well, some other city--and I can't tell you because that's business secrets, trade secrets--they offered me more than what you're offering, so what more you going to come up with? And so Nebraskans fall all over themselves to say, we'll give you more. Whatever you say somebody is going to give you, we'll give you more. Nebraska's population is not increasing. Nebraska is building more roads. Nebraska is giving away more of the taxpayers' money. Then the same senators turn around and cry about how high property taxes are. There is not a connection among these various ideas and notions. The Legislature is where all these things ought to come together, and we ought to have a coherent, synthesized program that is going to take into consideration all of the sources of revenue, meaning what the state will have to

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spend, then all of the places where the money is being spent. When we're talking about a relatively small amount of money being spent on a program that might be called a social program, then there's all of the talk about how you must prioritize and that program can't get it. You come with a boondoggle like this and all of a sudden everybody, not every individual, many senators jump up and talk about how great this program is, and they know nothing about it whatsoever. They were fed things by employees of DED. What do you need three employees in DED for to administer a program which at most had \$15 million before the additional \$10 million added to the slush fund? Three employees? What do they do? They're going around auditing? If they have concrete information on the jobs, a direct connection they can show between the training and the person hired. They're not going to show that a company was already here and had employees working. So when they give you a total number of employees, they include those who were already at the company. Why did they have to throw this together right now? Because this issue is being discussed by way of an amendment. If they had been doing the auditing, if they had been doing the work that poor Senator Pirsch, naive as he is, is swallowing, they would have had it. We would have all had it, not something thrown together like this item, which they did have to tell some truth on and mention all the on-the-job training, the company does its own employee preparation. So Senator Harms, in order to help these community colleges, will say, let's give the community colleges some money and the companies will still do their own training, but we'll somehow hook it into the community colleges. Then they can get some money. So all this money is being held in readiness and if somebody comes in and says, I want some of that money, then you give it to them. That's under Governor Heineman's administration. He's so busy messing with some people on the school issue, over which he has no jurisdiction, that he can't watch the way his employees or his appointees in the DED are wasting money and misleading the Legislature. He's the one, if he's talking about cutting away fat,... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CHAMBERS: ...and becoming more efficient, who shouldn't have three employees at DED monitoring this program. What do they do the rest of the time? That doesn't bother Senator Pirsch. That doesn't bother Senator Aguilar. It doesn't bother any of the conservatives, not one of them, because this program fits into that category of the feel-good, help-business programs, and it's not being shown to do any of what we've been told. The money from that original \$15 million is still there, and it's going to be there in 2010 or 2011 when it relapses, because they're not going to expend it unless Senator Harms can help the community colleges get in on the boondoggle. And they'll say, how much money you got left? They'll be told. Then they'll say, well, we can put together a program that will absorb all of that. Then we'll go back to the chuckleheaded Legislature and say, we need some more money, and the Legislature will give it, while being opposed to widows and orphans and the poor. Thank you, Mr. President. [LB321]

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SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Howard, you're recognized. [LB321]

SENATOR HOWARD: Thank you. Thank you, Mr. President and members of the body. Be careful--be very, very careful. With respect to my senator, Senator Raikes, the Education Committee Chairman, we're going to be bringing you a very expensive education bill. Be prepared. And I say it's going to have a price tag attached to it. And those of you who were at the meeting this morning will understand what I'm saying. And with all due respect to Senator Raikes, nobody does it better. And I would offer the remainder of my time to Senator Chambers. Thank you. [LB321]

SENATOR LANGEMEIER: Senator Chambers, 4, 20. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Howard. Senator Gay spoke in favor of this bill; he can't give us any specifics. Senator Heidemann spoke for it; he can't give us any specifics. They are so business oriented, all you have to do is say business and they go for anything. As I say, if you don't stand for...well, forget that. I'd like to ask Senator Pirsch...oh, he's gone. I'm going to ask Senator Gay a question, if he knows the answer, and he may not. [LB321]

SENATOR LANGEMEIER: Senator Gay, would you yield to a question? [LB321]

SENATOR GAY: Yes. [LB321]

SENATOR CHAMBERS: Senator Gay, did you make reference to PayPal and Verizon? [LB321]

SENATOR GAY: PayPal I did. [LB321]

SENATOR CHAMBERS: When did PayPal... [LB321]

SENATOR GAY: Well, I... [LB321]

SENATOR CHAMBERS: Oh, excuse me. [LB321]

SENATOR GAY: I had mentioned, Senator, that some of the training, the way I understand what they're doing is different foreign languages in some of these things is very complex, so they have specialized training that other people don't. That's what I was getting at. [LB321]

SENATOR CHAMBERS: No, but this program is not what brought them here, is it? When did PayPal... [LB321]

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SENATOR GAY: I don't... [LB321]

SENATOR CHAMBERS: ...come to Nebraska? [LB321]

SENATOR GAY: They started in Crete, I think, and then they wanted to expand and they were looking around at other sites, so I don't know if this specific one did, but I think... [LB321]

SENATOR CHAMBERS: Was it more...were they here more than two years ago? [LB321]

SENATOR GAY: Yes. [LB321]

SENATOR CHAMBERS: This program came into effect two years ago, so it couldn't have affected their judgment. What about Verizon? [LB321]

SENATOR GAY: Well, Senator, hold on. Senator, one...could I add one thing, is they're actually building another facility right next to the existing facility. [LB321]

SENATOR CHAMBERS: But it's not because of this program. [LB321]

SENATOR GAY: I think it... [LB321]

SENATOR CHAMBERS: Is that what they told you? [LB321]

SENATOR GAY: Oh, I think it very well could be. [LB321]

SENATOR CHAMBERS: Thank you, Senator Gay. Senator Gay is more naive than I thought. He thinks that this company is going to construct a new building just so that they can have somebody pay to train people to work in it. He doesn't understand as much about business as I thought, but he's an investment broker or banker or something like that, so he wouldn't understand what we're talking about. Here's comes the financial wizard who reads the Wall Street Journal and what DED tells him, so I'd like to ask him a question or two. Senator Pirsch, the information you read to us or discussed... [LB321]

SENATOR LANGEMEIER: Senator Pirsch, would you yield to a question? [LB321]

SENATOR PIRSCH: Well, thank you. Yes, I will. [LB321]

SENATOR CHAMBERS: The information you gave to us came from the DED. Is that correct? [LB321]

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SENATOR PIRSCH: Which information particularly? [LB321]

SENATOR CHAMBERS: Where they said they have three employees monitoring this program. [LB321]

SENATOR PIRSCH: That was a question I posed to, yes, an employee of DED, Department of Economic... [LB321]

SENATOR CHAMBERS: And they said they have three employees doing that. [LB321]

SENATOR PIRSCH: My concern was that there was an effective audit process in place to make sure that it wasn't just the corporation's or the company's say-so, but that they were actually going out and confirming that the training was taking place and, yes, that was my answer. [LB321]

SENATOR CHAMBERS: And DED has three people doing that. Is that what they said? [LB321]

SENATOR PIRSCH: That is correct. I don't know that that is their full-time...I don't think they're full-time auditors, but that is a part of their duties, correct. [LB321]

SENATOR CHAMBERS: Are they experts in the training that is being given, that they're monitoring and auditing? [LB321]

SENATOR PIRSCH: When you say experts in the training,... [LB321]

SENATOR CHAMBERS: Yes, if people are being trained to do a certain job, are these people from DED experts enough or knowledgeable enough to look at what is being called training to determine... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CHAMBERS: ...if it qualifies or ought to be paid for my the state, or do they just go there and they're told, we got six people over here and they're being trained and that's what we get this money for? [LB321]

SENATOR PIRSCH: You know, I don't know the extent of the training that the auditor...that those who do the auditing have into the particulars of the training methodology of each business. I couldn't really comment on that. [LB321]

SENATOR CHAMBERS: Does DED set any quality standards for the training that they pay for through this state money that is so generously being thrown around? [LB321]

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SENATOR PIRSCH: Again, I'd have to...I can definitely check on that if you'd like, but I don't know that answer offhand. I would assume the... [LB321]

SENATOR CHAMBERS: Did you...did you reread the testimony of Alberto Gonzales before the Senate committee before I started asking you these questions (laughter) so you can tell me what you don't remember and what you don't know? [LB321]

SENATOR PIRSCH: Well, I did not, but... [LB321]

SENATOR CHAMBERS: You just did this on your own. [LB321]

SENATOR PIRSCH: I just did this on my own, yeah, you bet. [LB321]

SENATOR CHAMBERS: (Laugh) Okay. [LB321]

SENATOR PIRSCH: I'm trying to just fashion the best answers as I know them here. [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Pirsch. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Howard. Senator Schimek, you are recognized. [LB321]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. Again, I think this is an important discussion that we're having. I originally brought this amendment last night because I was really surprised, you might say stunned, to think that the \$15 million that we had given for this purpose two years ago was not enough. I couldn't imagine that we weren't going to have that last for awhile yet. I also thought that we didn't know enough about that, how that \$15 million was spent to know whether or not we needed to put another \$5 million into the program. I also brought it, as I told you last night, because I didn't believe that the community colleges had been involved in this process, which was part of the promise--a promise, if you want to call it that--or selling point, if you'd like to put it that way, that was given on the floor that night when we hastily, hastily adopted the \$15 million amendment over the protests of some of us, at least. Now I also brought it because we seem to give it with no strings attached. It was just a gift of \$15 million, and I'm not sure but what this is just another gift of \$15 million. I have had a chance to sit down with DED and my own chamber, and I do know that some of what Senator Pirsch is telling you was...is what they are telling other people as well, that there have been audits of some of this training, but I don't know what kind of audits they are. I don't know what kind of guidelines are used to decide whether a company gets these training funds or not. I have seen some more detailed charts than some of you have seen

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regarding where some of these commitments are, and I think there are commitments beyond the sheet that we passed out on the floor last night, but I don't think they rise to the \$15 million level yet, as best I can tell. As best as I can count on my staff's calculator skills, I think that we came up with about \$10 million that have actually been committed. But some of this is a little bit nebulous, and it's a little bit hard to put your fingers around. But if that's correct, there's still \$5 million out there. So I guess I think this is a really important thing to do to try to figure out what's, number one, what's been spent; number two, whether it's been spent effectively, whether there's accountability or not, as Senator Dubas mentioned. I would like to hear about more programs like the one that Senator Aguilar mentioned. He gave an account of the Holland training fund use and it sounds as if that's a good program, but I don't think we know enough about yet and we're always scratching for money. We've got a bunch of A bills out there that we're not going to be able to fund. And so I think we...I think this is an exercise in where do you put your priorities. If it's with this, fine. We do this and we can't do some other things. Senator Howard says we're going to be...we're going to be somewhat... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR SCHIMEK: ...surprised when we see the Education Committee fiscal note. And I don't know if we're going to be surprised or if we're going to be able to fund it. But that's something we have to think about. I very much appreciate the discussion. I had made a commitment last night that I would not take this to a vote. So I am struggling now. I struggled with whether I should even get up at the microphone, but I believe this is important. I believe it's part of our job to have this kind of discussion, and I'm more than willing to participate in it. And if it steps on a few toes, it steps on a few toes, but that's our job. And I thank you all for listening. I thank you for participating, and I thank Senator Chambers for continuing the discussion. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Schimek. (Visitors introduced.) Returning to discussion, we have wishing to speak, we have Senators Preister, Pirsch, Howard, and Carlson. Senator Preister, you are recognized. [LB321]

SENATOR PREISTER: Thank you, Honorable President, friends all. As I listen to the discussion, the issue that begins to come up more and more for me is, are we getting good value for our dollar? I hear in some instances perhaps we are. What question comes up is I think the one Senator Dubas and perhaps Senator Schimek and certainly Senator Chambers are saying is, is there truly accountability, and are these audits giving us solid information so we know we're making a good investment? At this point, perhaps we are. Perhaps we could make a better investment. We are going to have to make those determinations. And I'm going back and forth here. As I spoke with Senator Fulton, it occurred to me that perhaps we could take some time to get more information back by only appropriating \$5 million rather than the \$10 million. If we did the first year and they've still got some money left over--I don't know the exact amount but \$2 million,

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\$3 million, plus the \$5 million--that would give them enough to keep going for at least the two years. They could still do whatever promotion. That would be available to them. They would be able to count on some of that money, and we could get some more in-depth assessment of how these monies are being spent. I don't know if Senator Heidemann or others are interested in looking at that possibility, but when we're talking about tax dollars I think we have a responsibility to the taxpayers to show them concretely the value is there and that we're spending those tax dollars wisely. It's an offer. It's a suggestion. I'm not going to put up an amendment to do that, but I think it would accomplish the purposes that the Chamber is intent on and it would also give us the opportunity, which I think we should be intent on, and that's having some accountability and having some tangible method of measuring that accountability, developing some of that, and then implementing it. Having said that, if Senator Chambers would care for the remainder of my time, Mr. President, I would yield the remainder of my time to Senator Chambers. [LB321]

SENATOR LANGEMEIER: Senator Chambers, 2 minutes, 30 seconds. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Preister. Members of the Legislature, the suggestion that you go with the one year is fine with me. I think that's a good way to have what people like to call a compromise. I would like to ask Senator Heidemann a question, if he's here. [LB321]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question? [LB321]

SENATOR HEIDEMANN: Yes. [LB321]

SENATOR CHAMBERS: Senator Heidemann, even though there may be discussion as to how much of the original \$15 million is left, a portion of that money is left. Why did the committee give an additional \$5 million for two years rather than \$5 million for the first year? [LB321]

SENATOR HEIDEMANN: It's a biennium budget. We usually do things two years at a time. [LB321]

SENATOR CHAMBERS: But we didn't have...we don't have to do that, do we? [LB321]

SENATOR HEIDEMANN: Or... [LB321]

SENATOR CHAMBERS: We can do things one year at a time, can't we? [LB321]

SENATOR HEIDEMANN: We're the Legislature. We can do that, if we so desire. [LB321]

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SENATOR CHAMBERS: But you said two years for everything just because that's the way it's been done, without giving any thought as to whether or not it might not be wise to give this one year and then see what happens after that, correct? [LB321]

SENATOR HEIDEMANN: That is correct. But normally on a biennium budget, you fund things through two years. I would suppose if you are trying to monitor something you could do it in the first year with the idea of maybe coming back as a deficit type of deal. This wouldn't be deficit because it's not funded in that way, but you could probably come back and address it in the next year. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CHAMBERS: Do you think it's wise to spend...to make this much money available when the money that they had before was not spent during a two-year period? [LB321]

SENATOR HEIDEMANN: I... [LB321]

SENATOR CHAMBERS: Do you think it's wise to give them two more years at \$5 million each? [LB321]

SENATOR HEIDEMANN: I will tell you, Senator Chambers, that I have got maybe, I don't know, I don't want to call them concerns, but this program is something that I have been watched. I have talked, since Senator Schimek has brought this up, since you have brought this up, we have...I've talked to the Fiscal Office that this might be something down the road that we're going to look at and probably put some more things in statutes with some more oversight. And I hate to say that right now because I probably got people nervous right now, but I believe that, you know, there needs to be more oversight, where this money is going and what it's being used for and how can we do it better. But as far as putting it out there two years... [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR CHAMBERS: Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Pirsch, you're recognized. [LB321]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. I just wanted to address some of the issues that were brought forward by Senator Chambers and I thank you, Senator. I think he is very concerned with accountability and having an effective audit system in place, and I certainly appreciate them. As far as background, with respect to the three individuals who I had referenced earlier as conducting audit

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activities there for the program, there is a requirement by the Department of Economic Development that all three of these individuals hold a bachelor's degree. They've all been trained through the National Development Council financial training program which does train as to audit, too, I'm told. And there is a requirement with respect to the type of training that is performed in accordance with this, that the training be tied, closely tied, to the type of jobs that are available through this...that are being incentivized here. I think it's worth mentioning here as well that the same individuals who are auditing these programs, these job training programs as referenced, are also charged with auditing the community development block grants that we're all very familiar with that have been in place for many, many years. And so to the extent that we have confidence and feel assured that those...that that program is being audited effectively, well, that particular program, a longstanding program, is...has been audited by the same individuals. And so to, you know, to the extent that you have some questions as far as the auditing procedures in this particular program, that would be the same individuals who would be...who have been the auditors for that community development block grants which, you know, I don't...I'm not aware of any particular complaints in that program at this time. So I mention this just to help answer some of the questions that Senator Chambers has brought forward. I think they are good questions. We do have a finite amount of money to use for economic development and it's very important that we spend that, those precious resources in effective ways, and so I appreciate Senator Chambers' line of question. And he was kind enough to ask me those questions using his time, and so if Senator Chambers would like to have a few minutes, I would be happy to yield the balance of my time. [LB321]

SENATOR LANGEMEIER: A minute, 50, Senator Chambers. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President, and thank you very much, Senator Pirsch. Members of the Legislature, if we're going to be responsible I think we should not give any additional money. But obviously there's been a lot of lobbying going on, so we can meet somewhere in the middle. I'm having an amendment drafted so that you'll be able to give an additional \$5 million to the slush fund. We keep having those who support the program tell us that this money from the original \$15 million, a certain amount of it, is committed but they can't tell us what that word means. We would not be that loose and accept that kind of loosey-goosey talk with reference to anything else other than the Roads Department. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CHAMBERS: If they get an additional \$5 million and they have remaining money from the original \$15 million, that would give them about \$10 million to spend in one year. They haven't spent \$10 million of the original \$15 million in two years. If they come back and show that they wisely handled that...what remained from the \$15 million plus this \$5 million, I won't even be here to challenge anything. You can give them all

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you want to. But there ought to be some desire to have oversight and a measure of accountability. They don't need to push it out two full years. So when that amendment comes, I'm going to offer it, and we will discuss that aspect of it and see what you think about it. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you... [LB321]

SENATOR CHAMBERS: And thank you, Senator Pirsch. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Chambers and Senator Pirsch. (Visitors introduced.) Returning to discussion, Senator Howard, you're recognized. [LB321]

SENATOR HOWARD: Thank you, Mr. President and members. When I began my work down here as a state senator, the first year I was here I was successful in having my first bill passed, LB264. That bill provided for an early intervention prevention program for babies and children, to keep them from being harmed. The program is officially named New Futures for Nebraska's Children. Senator Nancy Thompson, who was here at the time, was very helpful to me in securing a modest amount of funding for this program and so it could get underway--it could get launched. This year it was necessary for me to return or to go the Appropriations Committee and to request funding so this program could remain effective. The Appropriations Committee was very definite that they could not make a determination regarding funding for New Futures for Nebraska's Children, the early intervention program, without knowing if the program had been successful. This is a reasonable request. At the time, I thought they should realize keeping children from foster care is a success in itself, but they requested, and rightfully so, that I provide them the information on the statistics, the areas that the program had been utilized in, the numbers regarding children who were kept in their own homes and didn't enter our system, and we were able to give them that information. This program, as I said, prevents children from neglect and abuse and from entering the Health and Human Services System. The committee was adamant, again I'll say this: Provide us with a report; justify the funding. We shouldn't expect any less from any other program than we do from the program that helps children to stay free from harm. I expect accountability from my program, as does the Appropriations Committee. I think we have the same right to ask that of any business or any other concern, be it Roads, be it training, that comes to us. Thank you, and I offer the remainder of my time to Senator Chambers. [LB321]

SENATOR LANGEMEIER: Senator Chambers, 2 minutes, 30 seconds. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Howard. Members of the Legislature, I'm aware, as other senators are, that a piece of paper we have talks about a contracted amount. Does that mean that there are contracts signed for these amounts? Is that what that means? When they say money is committed, are

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they using the term "committed" and "contracted" the same way, that there's nothing firm? If we were being leveled with they could have given us these sheets of paper, then they could have said, when we say contracted we mean that there's a binding agreement between DED and this company, and this training is going to be supplied and DED is going to pay for it. Does committed mean that money is available if somebody wants to come to Nebraska and try to get it, or if they're already here then they can tap into it and take it? Even those who are speaking against my amendment and for DED cannot answer those questions. So why don't you get that information for us? Oh, Senator Carlson might have it. I'd like to ask him a question. [LB321]

SENATOR LANGEMEIER: Senator Carlson, would you yield to a question? And one minute. [LB321]

SENATOR CARLSON: Yes, I would. [LB321]

SENATOR CHAMBERS: Senator Carlson, do you know what the word "contracted" means on this group of papers that we have? You have it in your hand. [LB321]

SENATOR CARLSON: I really don't. It's going to be somewhat of a guess, but I think it means...it means an intent, a commitment. [LB321]

SENATOR CHAMBERS: But we don't know for sure that it means that there's signed contracts. They say dollars contracted, \$9,998,000. So let's say roughly \$10 million. But the dollars expended at this time would be \$4.5 million. So they've got signed contracts for about ten million and they've actually spent four million, but there are other indications that it's closer to two-point-something million they've actually spent. So we're having figures shown to us, but you were not looking at me to suggest that you could explain what these things mean exactly. Is that correct? [LB321]

SENATOR CARLSON: I have some comments I want to make. My light is on some time, and I'm going to address this a little bit. [LB321]

SENATOR CHAMBERS: Oh, very good. Thank you, Senator Carlson. Members of the Legislature, I will stop at this point because nothing but a few seconds remain. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Carlson, you're recognized. [LB321]

SENATOR CARLSON: Thank you, Mr. President, members of the Legislature. I would like to ask Senator Chambers some questions, if he would yield. [LB321]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB321]

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SENATOR CHAMBERS: Yes, I will. [LB321]

SENATOR CARLSON: Okay, Senator Chambers, first of all, I'm going to address...I believe what we have here is a plan, and I believe that unless you have a plan you can't succeed. And so I would say that this is part of DED's plan. And if we go to the column on jobs, I don't believe those are jobs that have been created and are now in existence and people fill those jobs. I think that probably some of it has. But it's a plan, it's an intent and, as I said, you have to have a plan to succeed or you're not going to succeed. Now I'd like to ask you...I think you're going to agree with me that it is important to have job training and if so, you have to expend some dollars in the process of job training. Would you agree? [LB321]

SENATOR CHAMBERS: Somebody is going to absorb the cost of job training, but with a company training its own employees, there is no money actually spent. There's a reduction in production while that employee is being trained. [LB321]

SENATOR CARLSON: Well, I wouldn't agree with you. I'd say that there's dollars spent, and they're either going to be spent by the company or maybe by the state or by both to train somebody for a position. Would you agree? [LB321]

SENATOR CHAMBERS: Well, if they have a hired trainer, you can say that money is being paid to that trainer as a salary, but whoever is trained is included in whatever the salary of that person is. There's not going to be a discrete amount assigned to each person trained by that individual. [LB321]

SENATOR CARLSON: Okay. I want to go on to another thought here. I believe that jobs should be accessible regardless of where you are financially, whether you're poor or whether you're in the middle or whether you're wealthy. Would you agree with that? [LB321]

SENATOR CHAMBERS: When you say accessible, you mean available for somebody to try to get the job? [LB321]

SENATOR CARLSON: Yes. [LB321]

SENATOR CHAMBERS: Okay, yes, I agree with that. [LB321]

SENATOR CARLSON: Okay. And in that regard then I think that spending money for job training is a reasonable and necessary expenditure. But let's suppose that you and I have no training in relationship to two jobs that are available, and we both would like to apply for those jobs, and so it's going to take some training. And you'll probably learn faster than I will, but I'm going to be not too far behind you. But it's going to cost money

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for us to learn how to handle those jobs. What...do you have any idea what's a reasonable cost that would need to be spent for you and me to be eligible and ready to take these jobs? [LB321]

SENATOR CHAMBERS: That's too open-ended a question, and I'll tell you why I say that. We don't know whether the company has, as a part of its operation, a training program already set up and when people are hired they just train those people. A lot of these telemarketing companies do that and there's not that much you need to know, so there are companies that do it already. And it can go from something as simple as how to work a telephone as to how to run a particular machine. The company is going to do it. [LB321]

SENATOR CARLSON: Okay. But there is a cost and it doesn't matter whether it's the company paying it or tax dollars paying it. There's a cost to providing that training. [LB321]

SENATOR CHAMBERS: Okay. But it's a cost of doing business for the company. [LB321]

SENATOR CARLSON: Okay. Now whether I'm correct in this or not, I look down that column of jobs and go all the way to the end, and I look at nearly \$10 million, and that's a lot of money. That's a lot of money to you, and that's a lot of money to me. But trying to put it into perspective, this is a plan, and if this plan comes to fruition, it looks to me like a job is created for \$693. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CARLSON: And I think that's a reasonable expenditure to train you or to train me to get into a job that can make us independent and make us...put us in a position to earn for ourselves and our families. And \$693 is a better perspective for me to look at and say what does this cost and what's the possible result. And it looks to me like maybe we're creating jobs for a \$693 investment, which would be about a three-credit UNL course. And thank you for helping me, Senator Chambers. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Avery, you are recognized. [LB321]

SENATOR AVERY: Thank you, Mr. President. I want to address the question of why funding for job training matters and then relate it to Nebraska. National studies have been conducted on this, and it's been found that employers increasingly demand workers with training beyond high school. According to the Bureau of Labor Statistics, occupations requiring postsecondary training will account for 42 percent of total job

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growth between the year 2000 and 2010, so this is important. Also, according to the National League of Cities, 87 percent of municipalities using job training to assist low-income, working families find that it works. It's an effective strategy. Furthermore, the National Association of Manufacturers found that over 80 percent of manufacturers reported a shortage of highly qualified applicants. Now these are nationwide statistics, I realize. Research also shows, and this is very consistent, that training can increase low-skilled workers earning exponentially, not additively, but it multiplies their earning ability, and this puts the families on the road to self-sufficiency and helps to reduce welfare dependency. And I emphasize again that this is a very consistent finding throughout the literature. Now these are national trends, I admit that. These numbers are national, but I believe Nebraska shares in these trends. I remember a meeting I had with--I believe I think it was back in January--with the Nebraska director of Economic Development when he told me that his biggest obstacle to job growth was an inadequate work force, and he emphasized the fact that we simply don't have enough trained workers to meet the need, and the need is growing. You may remember, or you may not remember, that I introduced a bill this session that still remains in committee that would seek to deal with this problem. It was a proposal to take some of the surplus and put it into a scholarship trust fund. My argument was that we have a unique opportunity with the surplus the size it is today. We should not waste the opportunity to invest in our future, to have something in place that will be here 20 years from now to help our economy grow. The outlines of that program was to create this trust fund, use the interest from the trust fund to train Nebraska students in areas of high need in the work force, and to place them in jobs in distressed areas in the state. To accomplish this, I had a payback provision. That payback provision would require students to pay back to the state of Nebraska. For every year that we trained them, they would have to pay back a year working in the state of Nebraska. I believe that if you send a young person to say, Broken Bow, where they have to pay back four years of education by working in an area like that, maybe as an x-ray technician where Broken Bow may not have enough x-ray technicians, and they stay. They get married, they get a mortgage, they set roots, and we do something about the brain drain in this state, and we do something about meeting the work force needs. The Education Committee on which I serve did not share my enthusiasm for this proposal, so it sits as a lonely orphan in that committee. I would like to see the committee adopt it. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR AVERY: But I am realistic. It's probably...I would like to see that proposal adopted, I don't think it's going to happen, so I'm going to settle for what I can get, and I think that what is proposed in LB321 for job training is not my preference, but it is something and I intend to support it. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Chambers, there are no other lights on. You are recognized to close on AM1268. [LB321]

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SENATOR CHAMBERS: Mr. President, I withdraw that amendment. [LB321]

SENATOR LANGEMEIER: If there's no objection, AM1268 is withdrawn. Mr. Clerk. [LB321]

CLERK: Mr. President, Senator Chambers would move to amend with FA104. (Legislative Journal page 1460.) [LB321]

SENATOR LANGEMEIER: Thank you. Senator Chambers, you are recognized to open on FA104. [LB321]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, what this amendment does is to put \$5 million into the slush fund for one year. It eliminates the amount that was going to be made available for the second year. Senator Fulton has been trying to show me, and others have probably argued, that money is committed, which really means nothing. That money is still available, unspent, unobligated. Senator Fulton said they told him that they have actually signed contracts for...I'd like to ask Senator Fulton a question. [LB321]

SENATOR LANGEMEIER: Senator Fulton, would you yield to a question? [LB321]

SENATOR CHAMBERS: Senator Fulton, would you turn to page 4 of this sheaf of papers that you and I both have? [LB321]

SENATOR FULTON: I'm there. [LB321]

SENATOR CHAMBERS: In the second column it says "contract amount." Do you see that? [LB321]

SENATOR FULTON: Yes. [LB321]

SENATOR CHAMBERS: And this total would be from all of the columns on these preceding pages, and what is the total amount that you see? [LB321]

SENATOR FULTON: \$10,082,350. [LB321]

SENATOR CHAMBERS: Now below that do you see in bold type some figures? [LB321]

SENATOR FULTON: Yes. [LB321]

SENATOR CHAMBERS: Do you see the words "dollars contracted"? [LB321]

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SENATOR FULTON: Yes, I do. [LB321]

SENATOR CHAMBERS: Is that amount different from the one you just read to me of contract amounts? [LB321]

SENATOR FULTON: It does appear to be slightly different, yes. [LB321]

SENATOR CHAMBERS: Why does it say that the contract amount is \$10,082,350 but the dollars contracted are \$9,998,919? Is it that somebody...their addition is different or they rounded it off, or just why are these two figures different? [LB321]

SENATOR FULTON: Yeah, I can't say for certain, but I can say that just in reading this it seems to me that there's a contract amount that was discussed and then an actual that was signed, and I would, with no offense to anyone in here, I would have to think that probably has something to do with the negotiation and the lawyers involved with the contractual signing. I don't know that... [LB321]

SENATOR CHAMBERS: So then what... [LB321]

SENATOR FULTON: ...for certain, but that would be a reasonable assumption, I think. [LB321]

SENATOR CHAMBERS: Well, which one is which? Which one is that which was contracted for and which the amount that was actually expended? [LB321]

SENATOR FULTON: I could find out for certain, but if I'm reading this correctly I would say the dollars contracted, which was \$9,998,919.76. [LB321]

SENATOR CHAMBERS: So that would be less than the amount that you read at the bottom of the column labeled "contract amount." [LB321]

SENATOR FULTON: Slightly, yes. [LB321]

SENATOR CHAMBERS: Okay. Now when it says dollars expended as of April 30 this year, that's about \$4.5 million, correct? [LB321]

SENATOR FULTON: A little less than \$4.5 million. [LB321]

SENATOR CHAMBERS: And is that figure what it is because there are parts of the contracts that have not been fulfilled so the money is owed but it has not been paid because the services have not yet been performed? Is that why we have a smaller amount expended than the amount contracted for? [LB321]

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SENATOR FULTON: Yeah, I can't say with...I haven't seen all of these contracts, nor do I want to, but I...again, I think it's reasonable to conclude that these contracts have something to do with when the training occurs, and the training would have to occur at a certain time and at that time a fiduciary exchange would occur. And so I would... [LB321]

SENATOR CHAMBERS: Okay. [LB321]

SENATOR FULTON: ...I would think that has something to do with the time at which this occurs. [LB321]

SENATOR CHAMBERS: Now for ease of my discussing this, let's say, instead of \$9,998,000, we would say \$10 million contracted, because that's a nice round number. That would mean \$5 million remains unobligated, unspent of that original \$15 million. Is that correct? [LB321]

SENATOR FULTON: I would say that the \$5 million is unspent, but I don't know that I could go so far as to say it's unobligated; that...the following column with preliminary commitments are offers that are on the table or there's some obligatory responsibility if the state puts forth an offer, and that's represented in these preliminary commitments. [LB321]

SENATOR CHAMBERS: You don't know that for a fact, though, do you? [LB321]

SENATOR FULTON: Well, I...I mean, I guess I would have to be there experientially to see all of these deals, but you know, insofar as I'm trusting in what's on this paper, these preliminary commitments are public. There's money out on the table. So I, yeah, I know that is a fact. [LB321]

SENATOR CHAMBERS: That money...let's take project number one. Are you saying that the state is obligated to spend \$100,000 for that project, meaning that the state is bound and cannot do anything with that \$100,000? [LB321]

SENATOR FULTON: Contractually, no. [LB321]

SENATOR CHAMBERS: So then they're not obligated. [LB321]

SENATOR FULTON: I wouldn't say that. There's some responsibility. There's some obligatory responsibility. [LB321]

SENATOR CHAMBERS: How do you know? You're just speculating, aren't you? [LB321]

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SENATOR FULTON: No. If... [LB321]

SENATOR CHAMBERS: Okay. Then tell me the facts on which you base that comment. [LB321]

SENATOR FULTON: Okay. This is if... [LB321]

SENATOR CHAMBERS: Not if. [LB321]

SENATOR FULTON: Well, I have to... [LB321]

SENATOR CHAMBERS: It can't be if. [LB321]

SENATOR FULTON: Do you assume the preliminary commitments...this is accurate, these preliminary commitments are accurate? [LB321]

SENATOR CHAMBERS: I don't know whether they are or not, but in looking at the terminology, the state is not obliged to do anything based on this list that we were given. That money is unobligated and they can do what they want to. They can tell these people with project one, we've got a better deal so we're through with you; we're going over here. And they can do that. [LB321]

SENATOR FULTON: Yeah. [LB321]

SENATOR CHAMBERS: If there's no signed contract then that money is unobligated. But that's all I'll ask you, and then on your time you can speculate. Members of the Legislature, I will say that \$10 million has actually become the subject of written contracts, and I don't know that for a fact. I'm accepting what Senator Fulton said they told him. That would leave \$5 million unobligated, \$5 million. My amendment would add an additional \$5 million for one year to this slush fund. In two years, they have not spent but \$10 million, in two years. With my amendment they would have one year in which to spend \$10 million. They don't have companies falling all over themselves to come here, and I'd venture to say not one of these companies is in Nebraska because of this program. There are some relatively large companies listed on this sheet of paper...on these sheets of paper. One of them, I was told, is a foreign company from Sweden, and I'm sure they didn't say we're going all the way across the ocean to Nebraska because we can get \$84,000 in training money, on page 4...on page 2, eight from the bottom in that wide space. I'd venture to say that whatever training is given by that Swedish company is provided by the company itself, and the training took place in the facility's training room. And I'm sure if they came all the way from Sweden they have people on staff, employed by them, who train those who are needed to do this work. You all, though, have seen that little commercial with the gecko and he's telling how--for

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GEICO--how easy it is to have your insurance changed and you'll make this money. And he says, Governor, you mean that you're so rich that if I told you that all you have to do is stand up and you could get this money, you're so rich that you would keep your seat? No, you'd stand up and take it. So if a company comes here and they have whatever their net worth is and you say, we're going to give you \$100,000, I believe it would be accepted. But it's one thing to say that they'll accept an offering from a fool and another thing to say that the only reason they came there was because they had such an offer. You all are so naive, you think these companies don't do any research... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CHAMBERS: ...before making a determination that they're going to pick up a company from one place, one of their divisions from one place, and set it down someplace else, or start a company. I see why they sucker Nebraskans. You all believe anything. They tell you that this is why they came to Nebraska and you buy it. Senator Carlson took us through some convoluted discussion to calculate the amount of money that goes into each one of these jobs. Well, there are people who go to the "Bible" and talk about who begat whom, and who begat whom, and calculate that the amount...the number of years people have been on this earth is less than 5,000 years. Well, if you accept their beginning premise, they got you. But they start with a presumption and a number of assumptions which don't make sense, which don't pan out. And Senator Carlson took us on a similar ride. But, Senator Carlson,... [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR CHAMBERS: ...I don't accept your conclusions. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Chambers. You have heard the opening on FA104, offered to LB321. Senator...wishing to speak we have Senator Wightman, Chambers, and Fulton. Senator Wightman, you're recognized. [LB321]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I stand in opposition to amendment FA104. I do have some knowledge with regard to how these things work, having, as I said earlier, served on Dawson area development, which was our economic development regional group for Dawson County. I know that we had industries who were interested in coming to Dawson County. I know that many times they had three different proposals they were looking at, probably two of them out of state, some of them, maybe one, in-state, another place in-state, another place out of state. And they look at the entire package that is offered them and they're weighing these packages. Now Senator Chambers may well be correct that they have one overriding consideration. It may be that the location, the transportation or something like

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that is their overriding consideration, but they certainly do weigh all of these offers and I think, oh, probably all of the states are offering some kind of job training. And so that gets factored into the package. And I know the discussion between Senator Chambers and Senator Fulton, I think Senator Chambers is probably correct, that if we look at this second group, preliminary commitments, that what that is, is largely offers that are outstanding, that they've made proposals to companies, possible recruits who are looking at two or three different states. Again, I think those are made in a manner that they would have to be honored in the event they come back and say, yes, we're coming to Nebraska, we've made that decision. And so each one of those represents a potential obligation on the part of the Department of Economic Development. So it may be that only 5 out of the entire group of 23 come; it may be that 15 come. They're probably at different stages of negotiation with each one of these various companies. But I also look at the list and I see some that we've committed as much as \$1,500,000, these are under the fulfilled contracts, and PayPal was \$3 million. I think it is necessary that we have the funds committed that in the event one of those came without having a special session of the Legislature that we could place an offer on the table, and if those funds aren't available and if we limit them to \$5 million over the next biennium or even over the next year, that at least there is a risk that we would not have the funds committed to make a particular offer. So I think it is important that that amount, whether it's \$10 million or \$15 million, that that money be available, even though it may not all be spent in the next year or maybe even in the next biennium, that the money be available so that the hands of the Department of Economic Development are not tied to where they wouldn't be able to make a proposal to a company that would really be a boon to the state of Nebraska. So again, I oppose FA104 and would urge you to vote in opposition to that. Thank you, Mr. President. [LB321]

SENATOR ERDMAN PRESIDING

SENATOR ERDMAN: Thank you, Senator Wightman. Senator Fulton, you're next to speak on the Chambers amendment. [LB321]

SENATOR FULTON: Thank you, Mr. President, members of the body. The...in the proposal, I will be against the floor amendment, FA104, and that proposal was to reduce where we're at right now, the amount of money into this job training fund, from \$10 million down to \$5 million. We actually...and the rationale, actually the rationale behind doing that is something that I agree with. It's just the numbers that I disagree with. The original request was for \$15 million, and we asked the question as to whether this money has all been expended already, how much remains, how much is on the table by way of a deal, how much is obligated, etcetera. And this...these papers that are floating around are...were the response. And so we already did reduce the amount down to the present amount that appears in LB321. So the intention to bring the level of funds in the job training funds down to a more appropriate level, reflective of what we anticipate could get spent, that's already been done, so that's why I would be against FA104. The

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numbers, again, it's about \$10 million. Senator Chambers is right on the mark. It is about \$10 million. Preliminarily, there is committed about \$3.3 million. My concern would be that if we were to pull that number further down into the job training funds, down to \$5 million, that in future years, going forward and looking forward, those companies that might be enticed--and I know that is something that is being debated, but I believe that that is a way of enticing companies to expand within Nebraska--that could be mitigated. And that's not the intention of this fund. So that's why I'd be against FA104, because we have already reduced to a level we believe that's appropriate by way of history. So with that, that's where my position is. I took a lot of Senator Chambers' time in our exchange, and so I will respectfully yield the rest of my time to Senator Chambers. [LB321]

SENATOR ERDMAN: Senator Chambers, you have 2 minutes and 45 seconds. [LB321]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Fulton. I would like to ask Senator Wightman a question or two, since he is the resident guru in the culture corner. [LB321]

SENATOR ERDMAN: Senator Wightman, would you yield to questions from Senator Chambers? [LB321]

SENATOR WIGHTMAN: I will. I don't know that I would admit to being the resident guru, but... [LB321]

SENATOR CHAMBERS: Senator Wightman, would you turn to page 3 in this sheaf of papers that we have labeled "advantage job training funds." [LB321]

SENATOR WIGHTMAN: I'm there. [LB321]

SENATOR CHAMBERS: Do you see the fourth company from the top listed as Nelnet, Inc.? [LB321]

SENATOR WIGHTMAN: I see it. [LB321]

SENATOR CHAMBERS: Has Nelnet had some problems and been accused of gouging students on loans and gouging the government also? Have there been allegations? [LB321]

SENATOR WIGHTMAN: I've read something to that effect. [LB321]

SENATOR CHAMBERS: Now let's go over to the type of training. Under which of these categories would the gouging of students and the government fall when it comes to training? Would it be coaching/training skills provided by the Dartmouth Group? Are

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they the ones who advised Nelnet on how to carry out their nefarious activities? [LB321]

SENATOR WIGHTMAN: I guess I can't answer that, and I don't know whether any problems that they're having result from job training. You're making that assumption, I gather. [LB321]

SENATOR CHAMBERS: No, no, I'm saying that the state contributed \$265,500 to this nefarious company. Isn't that true, based on these figures that we have here? [LB321]

SENATOR WIGHTMAN: The \$265,000 appears to be the obligation. [LB321]

SENATOR CHAMBERS: Do you think that DED knew they were dealing with a bunch of cutthroats when they agreed to contract with this company? [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR WIGHTMAN: Well, I guess I'm not even willing to concede that they're a bunch of cutthroats. [LB321]

SENATOR CHAMBERS: So you think Nelnet has been legitimate in all their dealings, and that the federal government and New York State are unfairly harassing this very innocent, upstanding company. Is that your attitude? [LB321]

SENATOR WIGHTMAN: Well, your terminology was cutthroat. I'm not giving any terminology. [LB321]

SENATOR CHAMBERS: Well, let's drop cutthroat; backstabbers toward the students. Would that be better? We've dropped halfway down the anatomy almost. (Laughter) [LB321]

SENATOR WIGHTMAN: Yeah, the suggestion has been made maybe we go back to cutthroat. [LB321]

SENATOR CHAMBERS: Okay, cutthroats. And the time might run out, and then I will engage you further. But the comment that I want to make is this. We don't know what these companies are about. We don't know what they're going to do. Nelnet, I think, might run into some legal sanctions for the way they have inappropriately handled these student loans and financing... [LB321]

SENATOR ERDMAN: Time. [LB321]

SENATOR CHAMBERS: ...and maybe even some officials at UNL who have been implicated. Did you say time, Mr. President? [LB321]

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SENATOR ERDMAN: I did. [LB321]

SENATOR CHAMBERS: Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Chambers, Senator Wightman, and Senator Fulton. Senator Chambers, you may continue, though. It's your turn to speak. [LB321]

SENATOR CHAMBERS: Thank you. And Senator Wightman fell so heavily into his chair that I'm going to let him relax awhile before I further interrogate him, if I think I should do so. Members of the Legislature, I'm saying that I will put \$5 million more into the slush fund. Here's a question I'd like to ask Senator Fulton, if he's willing to yield. [LB321]

SENATOR ERDMAN: Senator Fulton, would you yield to a question from Senator Chambers? [LB321]

SENATOR FULTON: I will. [LB321]

SENATOR CHAMBERS: Senator Fulton, if when budgeting...if when we're looking...let me strike all of that. At what point is the Appropriations Committee going to review how this money is being spent and the contracts let and so forth? When will they look at that? [LB321]

SENATOR FULTON: Well, I'm speaking speculatively here because I don't know how the...I'm new. You know that. [LB321]

SENATOR CHAMBERS: Sure, I understand. [LB321]

SENATOR FULTON: I would hope that we do it right away at the beginning of next year. I mean it will be inquired about in the interim, but my guess is that we're going to be running around trying to make money in the interim, and the beginning of next year would be the time that's most opportune for us to review what's going on in the program. [LB321]

SENATOR CHAMBERS: Okay. And if this \$5 million is unspent and there are no contracts, what would you say then? That you miscalculated? That I was right and you all were wrong? [LB321]

SENATOR FULTON: If the \$5 million was unspent? Well,... [LB321]

SENATOR CHAMBERS: Yes. [LB321]

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SENATOR FULTON: ...I mean, we would inquire as to...I would, anyway, I don't know about the committee, I would inquire as to how many companies are considering this, tapping into this fund or utilizing this fund, or how many companies we are contemplating going after. And, I mean, I would get an answer as to why that we haven't got more if we need to have more, and if we do have enough then I'll say good job. [LB321]

SENATOR CHAMBERS: Well, do you think putting more money into it then...if the \$5 million is not spent, are you telling me that if you put more money into it, then you're likely to do better? Maybe I misunderstood you. [LB321]

SENATOR FULTON: Well, I'm...if...I'm not... [LB321]

SENATOR CHAMBERS: If the \$5 million is not spent, were you saying then you should add some money to the pot? [LB321]

SENATOR FULTON: Assuming that we would pass FA104? [LB321]

SENATOR CHAMBERS: No, no, leave everything like it is now. [LB321]

SENATOR FULTON: Okay. [LB321]

SENATOR CHAMBERS: And the \$5 million that is to be made available the first year, if there is no nibbling on that money, you would still want the second year \$5 million to be made available, so you then have \$10 million available, correct? [LB321]

SENATOR FULTON: Okay. I understand your question. That would depend on how many are nibbling at that money. [LB321]

SENATOR CHAMBERS: Well, if there aren't any of any consequence. [LB321]

SENATOR FULTON: If there aren't any, well, yeah, I would consider not making it available in the second year, if there are none. [LB321]

SENATOR CHAMBERS: Why not? Maybe the second year is when they're all going to get the...take the flame and come rushing in. So shouldn't you keep the full \$10 million available, the \$5 million for the first year, plus the \$5 million that will be in the pipeline for the second year, even though the first five years' \$5 million was not used? [LB321]

SENATOR FULTON: Yeah. Again, that's going to depend on how many companies are nibbling, and so there's a bit of speculation. I think that if there are no companies nibbling, then I would want to take a hard look at what that money is actually doing. But there is something to be said for having the money available to attract, I guess as you

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say, the flame and the moths. There's some...the money does have to be there. [LB321]

SENATOR CHAMBERS: But we don't...we don't say that about other programs in the state where we're going to make more money available for your budget on the chance you might need it and spend it efficiently, like HHS. [LB321]

SENATOR FULTON: Yeah. [LB321]

SENATOR CHAMBERS: You didn't even give them everything they asked for, did you? By "you," I meant the committee. [LB321]

SENATOR FULTON: That's correct. [LB321]

SENATOR CHAMBERS: Are any... [LB321]

SENATOR FULTON: And, Senator Chambers, if I could have ten seconds... [LB321]

SENATOR CHAMBERS: Sure. Twenty seconds. [LB321]

SENATOR FULTON: Okay. [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR FULTON: You're generous. [LB321]

SENATOR CHAMBERS: One minute, go ahead. [LB321]

SENATOR FULTON: This is a little bit different in that we're reacting, in a sense, to what other states are doing. Nebraska already has a hard time attracting people because we don't have mountains and we don't have oceans and whatnot, but we do have a good work force. And if we can train that work force then we are attractive for employers. So this is a little bit different than Department of Health and Human Services by way of mission (inaudible). [LB321]

SENATOR CHAMBERS: Okay, I'll accept that. Senator Fulton, do you think the fact that Nebraska is a low-wage state has anything to do with judging the work force here? [LB321]

SENATOR FULTON: I think to an extent, yeah, mathematically, sure. [LB321]

SENATOR CHAMBERS: And low unemployment benefits, low workers' comp benefits, and being a right-to-work state. Companies look at all those things, don't they? [LB321]

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SENATOR FULTON: I think so. That's fair to say, yeah. [LB321]

SENATOR CHAMBERS: If an IQ test were given of Nebraska's workers do you think they'd score higher than workers in other states? [LB321]

SENATOR FULTON: Say it again? [LB321]

SENATOR CHAMBERS: An IQ test, intelligence quotient. [LB321]

SENATOR FULTON: I think we would attract more companies to this state. [LB321]

SENATOR ERDMAN: Time. [LB321]

SENATOR CHAMBERS: Because they'd be dumber? [LB321]

SENATOR FULTON: (Laugh) [LB321]

SENATOR CHAMBERS: They'd be shown...okay. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Chambers and Senator Fulton. (Visitors introduced.) Senator Carlson, you're recognized to speak on the Chambers amendment, followed by Senator Pankonin. [LB321]

SENATOR CARLSON: Mr. President and members of the Legislature, this will be very short and, Senator Chambers, you've picked on this Swedish company, Husqvarna, and I just have something to tell you on that: "octavoda sayre, octovoda guerre, and toxamicka" (phonetic), Mr. President. [LB321]

SENATOR CHAMBERS: Who you think you're talking to? (Laughter) [LB321]

SENATOR ERDMAN: Bless you, Senator Carlson. Senator Pankonin, you're recognized. [LB321]

SENATOR PANKONIN: Thank you, Mr. President and members of the body. I think our discussion today has been helpful and no matter what we decide on this amendment, as we go forward, I think this is a program, from being new here to the Legislature, I want to watch over the years that are ahead of us to see that the money is spent effectively. Like so many issues, this one is not totally clear-cut. Why do companies expand? Would this happen naturally, or do incentives make a difference? And I think that's one of the basic questions that's hard to answer but yet probably applicable. The other question that I have as a small business person...I think most of you know I'm involved in a farm equipment dealership, we have 15 employees, I've been involved for 32 years and never have seen a dime of state money towards training, and we spend

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thousands of dollars a year sending our employees, at our expense, to training all over the country because the farm machinery has gotten a lot more technical, computer-based and that sort of thing. But I think as we go forward this is something, as the Legislature, we need to watch closely to make sure that we do get a good return on any dollars that are spent. I do want to talk...I know this Swedish company has become popular to talk about. I pointed that out to Senator Chambers earlier. Husqvarna, and that is on page 2 of this handout, I'm familiar with that situation because our company, our dealership sells Dixon mowers. It's a zero-turn mower that's popular in these parts. That company was bought by the Swedish company. They used to be located in Coffeyville, Kansas. They had a plant there that had a couple hundred employees and they moved their operation to a factory they already had in Beatrice, in Senator Wallman's district, and they have added 106 jobs at a cost, here on the handout, of \$84,800. I asked Richard Baier of DED if that was part of the negotiations and if it was an important piece, and he did say that this is...the reason this company moved, he felt, was part of this Nebraska Advantage training money and other incentives, and they've added 106 fairly good jobs in Beatrice and needed this money. And they've also added, that's not on the sheet, a parts operation in Omaha that I'm familiar with that ships parts all over the country. I don't know how many employees is there. So these incentives are part of the packages that are offered, and I can't tell you if that is the reason these companies come. Apparently it's part of the packages that are offered and probably in some cases does...is effective. But as we go forward, no matter what we do on this amendment, this is an area that I want to watch, and I also want you to remember that we've got thousands of small businesses in the state that never get any help on training dollars from the state and these multinationals, to attract them, we oftentimes spend big dollars. And sometimes that's effective and sometimes it might have happened on its own. This is something that I think as a body we need to watch in the future. Thank you. [LB321]

SENATOR ERDMAN: Thank you, Senator Pankonin. Senator Chambers, your light is on. You may speak or you may close. [LB321]

SENATOR CHAMBERS: I will speak. [LB321]

SENATOR ERDMAN: You're recognized. [LB321]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm glad Senator Pankonin called us back to earth and mentioned the small businesses. Why, even Senator Gay knows that there are more small businesses than these big businesses, and they are the backbone of the economy, we're often told. So you know what you all are doing? You're saying that these small businesses, through whatever taxes they pay, are subsidizing their competitors who may eventually run them out of business. These big companies are never going to contribute to a small business staying in operation, but you're going to make these small businesspersons contribute to competitors that will

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run them out of business. You call this a fair economy, where the little one subsidizes the big one? I'd like to ask Senator Gay a question, because I think he's a skeptic. [LB321]

SENATOR ERDMAN: Senator Gay, would you yield to a question from Senator Chambers? [LB321]

SENATOR GAY: Yes, I would. [LB321]

SENATOR CHAMBERS: Senator Gay, do you disagree with my contention that taxes small businesspersons pay, I'm saying their taxes go to make these subsidies available to big companies that will be their competitors and may drive them out of business? Do you disagree with that contention? [LB321]

SENATOR GAY: I think it's a little more complicated than that, but will you let me...yeah, I... [LB321]

SENATOR CHAMBERS: Is it true as far as what I said? [LB321]

SENATOR GAY: No. [LB321]

SENATOR CHAMBERS: Will Wal-Mart contribute anything to keep the small businesses in business? [LB321]

SENATOR GAY: No, I think the small businesses...small businesses' taxes are subsidizing the overall government, and the overall government is too large. Does it go directly to go subsidize this particular program? [LB321]

SENATOR CHAMBERS: It subs...these... [LB321]

SENATOR GAY: I don't know if you could connect all those dots. I suppose if you wanted to, some of those dollars would probably go into this fund, just like they go into the whole General Fund. [LB321]

SENATOR CHAMBERS: Thank you, Senator Gay, and mainly because my time will run out. And if you want to turn on your light you can, because I'm not closing. Members of the Legislature, what I said is true. You will hear citizens complain all the time that my tax money is going for this or going for that or going for the other, and we know that their tax money that they actually pay into the pot is so infinitesimally tiny that it is even smaller than what de minimis suggests. But nevertheless, they're contributing to the pot. So these small businesspersons, in fact, are contributing to the subsidization of their competitors. Their competitors don't pay any tax money that creates plans, giveaways, to help small businesses, but the giveaways go to the big ones that drive the small ones

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out of business. But you all don't want to look that far. You don't want to think about that. You want to talk about how many jobs are created, how great a thing is being done by these programs. But even accepting what Senator Pankonin said, if you listened, he mentioned incentives, plural; that there are much larger benefits that these companies can siphon from the Nebraska than \$84,000 in training. That would not have caused them, this big company, to turn a hair. [LB321]

SENATOR ERDMAN: One minute. [LB321]

SENATOR CHAMBERS: The Legislature is behaving in a way that, to me, is not prudent. You're violating the "Friendlyism" which says, economist that he is, you should not send good money after bad; you should not spend good money, send good money after unobligated, unspent money in a program. So we'll just have to wait awhile and see how this whole thing plays out. Thank you, Mr. President. [LB321]

SENATOR ERDMAN: Thank you, Senator Chambers. Mr. Clerk, items for the record? [LB321]

CLERK: Mr. President, Senator Synowiecki, an amendment to be printed to LB540. New resolutions: LR121, Senator Pedersen, and LR122, Senator Aguilar, both calling for interim studies; LR123 is by Senator McDonald, that will be...oops, wrong, LR123 by Senator Ashford, excuse me, that will be laid over. And the Education Committee will meet in Executive Session, Mr. President, at recess today in Room 2102; Education, Room 2102. (Also AM1263, an amendment by Senator McDonald to be printed to LB274). (Legislative Journal pages 1460-1463.) [LB540 LR121 LR122 LR123 LB274]

Priority motion: Senator Pirsch would move to recess until 1:30 p.m.

SENATOR ERDMAN: Members, the motion is, shall we recess until 1:30 p.m.? All those in favor say aye. All those opposed say nay. The ayes have it. We stand in recess.

RECESS

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good afternoon, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please return to the Chamber and record your presence. Mr. Clerk, please record.

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

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

CLERK: One, Mr. President. New resolution, LR124, Senator Fischer. That will be referred to the Executive Board. That's all that I have. (Legislative Journal page 1464.) [LR124]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. We'll now return to the afternoon's agenda, which returns us back to Select File, LB321. We were on floor amendment FA104. And Mr. Clerk, for a motion. [LB321]

CLERK: Senator Ashford would move to amend Senator Chambers' amendment. (AM1274, Legislative Journal page 1464.) [LB321]

SENATOR LANGEMEIER: Senator Ashford, you are recognized to open on AM1274 to FA104. [LB321]

SENATOR ASHFORD: Thank you, Mr. President and members. And I bring this amendment after listening to the discussion on...by Senator Chambers and others regarding the Nelnet contract for, I believe it was \$265,000, is the correct amount. And that may not be precisely correct. And what this amendment does is it deletes \$265,000 from this year's appropriation into this fund. I think the Nelnet issue is an important issue, and it's going to be my...I will withdraw the amendment. But for the record, there have been legitimate questions raised about the practice of providing consumer loans, in effect, to students to pay for their tuition. And as Senator Chambers suggests, and as others have said, and it has been reported widely in the press, that Nelnet is under investigation for its consumer loan practices. I think that I would...a couple of things. First of all, I think it would be important for the Department of Economic Development to report, at least to me and maybe to others who have raised this issue, as to what, if anything, the department is doing regarding this Nelnet investigation. And secondarily,...and my main concern is that we're dealing with students, college students who are going to be leaving college with a significant debt through this process that is provided by Nelnet, and that...and what is troubling to me is the practice of somehow delivering these names or making the names of these students available to other consumer loan companies and others for a fee. That, to me,...and encouraging these recent graduates to incur additional debt, which, to me, is adding fuel to the flames of the debt that they already have, and will be...it will be very difficult for them to pay. This whole practice has been called into question by members of the Board of Regents, by others. And I would just, at this point, just amplify what Senator Chambers has said, and call on others, Department of Economic Development, those in the Board of Regents who are concerned with providing assistance, need-based assistance, that we take a very hard look at this and that we watch very closely what this investigation in New York is all about, because it is to me a very serious matter, taking advantage of students, getting them into loans they can't repay in a reasonable manner, reasonable time, and

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then in addition to that, providing the names of these students through the alumni association to other consumer loan companies. It seems to me that we're taking advantage of, I wouldn't say vulnerable citizens, because they're certainly not vulnerable, but they are not yet in the business world, they do not...they are not sophisticated enough, many times, to make the kinds of decisions that adults make. It is of grave concern to me, and I know it is to many in this body that I've talked to. It's of grave concern to many individuals who have looked at this. There's been a significant amount of press about it, and now Nelnet is under investigation. So I...at this point, Mr. President, members, I withdraw the amendment. But I would ask that the Department of Economic Development report back to me, and I can provide that to others, as to what is being done to explore this Nelnet problem issue raised by the attorney general of New York, and to make sure that our investments are properly accounted for and that the practices of those businesses that do receive these benefits or appropriations from us, these funds from us, from the state, are utilizing practices which are appropriate. Thank you, Mr. President, and with that, I would withdraw the amendment. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Ashford. The amendment, AM1274, is withdrawn. Senator Ashford's light was on. It has been taken off. Senator Chambers, your light is on. However, you have spoken three times to FA104. Seeing no other lights on, Senator Chambers, you are recognized to close on FA104. [LB321]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'd like to ask Senator Fulton a question. [LB321]

SENATOR LANGEMEIER: Senator Fulton, would you yield to a question? [LB321]

SENATOR FULTON: Yes. [LB321]

SENATOR CHAMBERS: Senator Fulton, have you ever been to a seminary as a student? [LB321]

SENATOR FULTON: Yes, I have. I was, yes. [LB321]

SENATOR CHAMBERS: Had you studied sufficiently to be deemed a semi-priest, even if not a full-fledged one? [LB321]

SENATOR FULTON: Not even close, no. [LB321]

SENATOR CHAMBERS: Could you be considered a brother? [LB321]

SENATOR FULTON: (Laugh) Depends who's considering me, Senator. [LB321]

SENATOR CHAMBERS: In the opinion of those who have high regard for the studies

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you've undertaken and the sincerity with which you embarked on those studies. [LB321]

SENATOR FULTON: Well, officially, no, I would not even be considered a brother. [LB321]

SENATOR CHAMBERS: Could I consider you a brother if I chose to do so? [LB321]

SENATOR FULTON: Depends again, what you're considering, Senator, but I think you could, sure. [LB321]

SENATOR CHAMBERS: Well, I had turned on my light to speak on Senator Ashford's amendment, but he withdrew it, so I was caught with my light on, having already spoken three times. So I was chastised. So I will say to you, in lieu of a priest, forgive me, brother, for I sinned. [LB321]

SENATOR FULTON: (Laugh) I'll do what I can. [LB321]

SENATOR CHAMBERS: (Laugh) Thank you. (Laughter) So what I'm going to do is go ahead with my closing. What this amendment would do, and I offer it in all seriousness, is to look at the amount of money that the Appropriations Committee determined to give to this training program, as they call it. Under the appropriations bill as it stands, \$5 million will be added for the first year, another \$5 million the second year. And I think that is inappropriate, imprudent, totally uncalled for. This is a pandering gesture toward that amorphous entity known as business. This kind of slipshod, careless appropriating of the people's money would never occur in any other setting. Two years ago, \$15 million--not at the 11th hour; you can say the 11th hour and 59th minute--\$15 million was given to this so-called program. Two years ago. That money has not money has not been expended. The Appropriations Committee knows that there is not a legitimate possibility or likelihood that the money will be spent, because they're extending the deadline for the obligating of that money two years, and then they're adding an additional year for the money to actually be spent. That covers the original \$15 million. So DED knows that they're not likely to spend all of that money, but they like to have the slush fund there. On top of that, the \$10 million that I mentioned is being added. My amendment would say that the \$5 million that is to be made available the second year will not be authorized this session. I will leave in place the \$5 million contribution to the slush fund during the first year. That will give the Appropriations Committee and anybody else who has an interest the opportunity to see what is being done in this program, whether significant and meaningful criteria are established on which and according to which money will be made available for training; what will the training consist of; would it have occurred anyway without this money; with this money being available, is that which is called training genuinely training. I think this amendment is eminently wise. It doesn't cripple the program. They have at least \$5 million in their kitty right now. This would add an additional \$5 million, which would make \$10 million. In the

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prior two years, they have not spent quite \$10 million. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CHAMBERS: This gives them \$10 million to spend in one year. So I hope you will see the wisdom of this amendment and adopt it. I don't think this \$5 million is justifiable. But in trying to bring a bit of rationality, a bit of prudence into what we're doing, I want to at least eliminate the \$5 million additional donation to the slush fund. Mr. President, I would ask for a call of the house. [LB321]

SENATOR LANGEMEIER: There has been a request for a call of the house. All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB321]

CLERK: 33 ayes, 0 nays to place the house under call. [LB321]

SENATOR LANGEMEIER: The house is under call. Members, please record your presence. All those senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Chambers, how do you wish to proceed once everyone has arrived? [LB321]

SENATOR CHAMBERS: I'll take a roll call vote. [LB321]

SENATOR LANGEMEIER: In regular order? [LB321]

SENATOR CHAMBERS: Yes. [LB321]

SENATOR LANGEMEIER: Thank you. Senator Gay, please check in. The senators are all present or accounted for. The question is, shall FA104 be adopted to LB321? There's been a request for a roll call vote in regular order. Mr. Clerk, please call...one moment. (Visitors introduced.) We are now ready to proceed. Again, the motion is the adoption of FA104 to LB321. There's been a request for a roll call vote in regular order. Mr. Clerk, please call the roll. [LB321]

CLERK: (Roll call vote taken, Legislative Journal page 1465.) 9 ayes, 27 nays, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. FA104 is not adopted. Mr. Clerk, for a motion. And with that, I raise the call. [LB321]

CLERK: Senator Dwite Pedersen would move to reconsider the vote taken on AM1166. (Legislative Journal page 1423.) [LB321]

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SENATOR LANGEMEIER: Senator Pedersen, you're recognized to open on your motion, MO74. [LB321]

SENATOR PEDERSEN: Thank you, Mr. President, members of the Legislature. Sorry I have to do this, but I was not here for this amendment last night. And this was Senator McDonald's amendment on the area health education centers. And I'm going to turn my time over to Senator McDonald so she can re-present it at this time. Thank you. [LB321]

SENATOR McDONALD: Mr. President and members of the body, I wasn't going to bring this bill up again. I know that we voted it down last night. But unfortunately, there were eight people gone. And that's what happens in late nights, when we work late. A lot of people do have commitments and they're not able to be on the floor. And due to their encouragement and request, they have asked me to bring this back up. So those that have heard the debate on the floor last night, certainly, there is...was plenty of discussion on that, but this gives them the opportunity to make a vote that they were not able to do when they were here. As you know, the AHEC funding is used to help work with our youth to educate them on the medical opportunities that could be available to them. As we spoke this morning of the shortages in our communities with mental health providers and psychiatrists, it's very difficult sometimes to recruit here in Nebraska. So the best thing that we have to do is grow our own, and this opens the doors for many of our rural children, minority children, that have never even thought of becoming a doctor or a nurse or someone in the medical field. And this opens their eyes to those things and gives them firsthand experience of what it might be to become someone in the medical field. So basically, this is funding for that, short-term funding, because what...they have funding right now, but that funding is going to leave as soon as they go off the federal funding for four years, where they can reapply for that funding. So it's just a short-term interim to get them through the tough spots, because once they go away, we can never have them come back, because it's very, very difficult to maintain programs without funding. And to start up something like that, it takes years and years to go back and recreate those. So basically, it's short-term funding to get them through the tough spots, when they have the ability to go back on the federal core funding. I appreciate your vote. I won't take a lot of time, because I know that many of us have heard this last night. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator McDonald and Senator Pedersen. The floor is now open for discussion. Senator Heidemann, you're recognized. [LB321]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. And we're back talking again about the funding for AHECs. We had a good discussion about it last night. And once again, I'm not standing up here saying what AHEC does isn't a quality thing, isn't worthwhile. That's not what I'm standing up here for. I'm probably just going to reiterate that we are starting down the path of picking up federal funding for something that is not cheap, number one. I believe it's \$750,000 over two years. And

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the comment has already been that even though this is \$750,000 in two years, I think Senator McDonald will be back in the next biennium and ask again, she says, you know, to get them through the next four years. There is no guarantees in life, and we heard that last night. I would have to say that...I know Senator McDonald won't be here. She might be back by then, you never know. (Laugh) But I would have to venture to say that this isn't a short-term problem with the federal government. I've got a feeling that it won't be two years down the road, it won't be four years down the road, it won't be six years down the road. It will be something that we are probably going to be funding down the road for more than just two to four years. And if it's the will of the body to do that, that's fine, you know. Like I said, I don't have a problem with the program whatsoever. I think they do good work. But we're going down a path that I probably would rather see us not go down. I will say that we've passed some things, we've got some things even on today's agenda that are going to cost some money, and some of them considerable amount of money. I think we're looking at a community college bill that could be up into the millions. If I want to convey anything to the body, is that we need to start looking at our priorities. I think I had a little speech before that...earlier on in the session, that we need to look at priorities. Not everything that we want to do are we going to be able to do. And so I urge you to start looking and see what you think is important to you. And then maybe we'll have enough money to fund some of it, but not all. I want you to keep that in mind. I also want to keep you in mind that the amendment before us is because of loss of federal funding, and it's something that we normally don't go down that road. And I ask that you support me in my opposition of the reconsider motion for AM1166. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator McDonald, you're recognized. [LB321]

SENATOR McDONALD: Well, I'd like to be here after next year, but I guess I can't be here. Somebody else will have to take the role of working on this. And as you know, every time the Appropriations Committee meet it's a new life, it's a new year, with new issues and new opportunities to spend our state's money. So there is no guarantee what will happen the year after next to fund this, no guarantees in life, whether it's federal money or state money. There's always the opportunity to not vote something in the second time, even though there's a shortfall then. But there would only be two years left before they were able to get back on that core funding, and so that wouldn't be as dire as it is now, because if we can get them through this two years and if it didn't happen the next time, I think they'd be able to make it. That's the sad thing, is, once they're gone, they're gone. And they have...there are four AHECs across the state of Nebraska. They have helped recruit and work with our youth to make sure that we do have people that go into the medical field and hopefully become psychiatrists and mental health providers, so that we can utilize those community services in our own counties. And that's something that we struggle with continuously. Many of my rural communities do not have any ob-gyns, which means that if you're expecting a baby and

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you have complications, you cannot have that baby close to home; you have to go somewhere else where they do have an ob-gyn, because of the safety of you and your child. So not only that, we have surgeons, we have other doctors that don't practice in rural Nebraska. And so we need to look at the future in this. And this basically works with economic development, because once you have doctors in your communities, it's much easier to recruit people back into those communities, because there's healthcare providers that take care of us, not only when we're young, but when we're old. We need medical assistance many, many times, and without local doctors, it's very difficult to maintain hospitals, and we just go down a path where it becomes more and more difficult. We see the drain with people outside of the state of Nebraska and will continue to happen unless we stop it and work towards it. And we have to work from the ground up, and this program does that. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator McDonald. Senator Karpisek, you're recognized. [LB321]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I will just say that I was probably the main instigator to ask Senator McDonald to bring this back. Last night having 20 votes and 8 people gone, I thought that she deserved a chance to reconsider and see what this can do for rural Nebraska and also central Nebraska and metro. We are short on doctors, nurses, all those sort of things, so I think if we can help out, we can help ourselves. I don't want to take a lot of time either. We did talk about it at length last night. But I feel that she deserved to have another vote. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Karpisek. Seeing no lights on, Senator Pedersen, you're recognized to close on your motion to reconsider. Senator Pedersen, you're recognized to close on your motion to reconsider. Senator Pedersen waives closing. The question before the body is, shall the vote taken on AM1166 be reconsidered? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB321]

CLERK: 26 ayes, 13 nays on the motion to reconsider. [LB321]

SENATOR LANGEMEIER: The motion to reconsider is passed. We return now, AM1166, back. Senator McDonald, you are recognized to open on AM1166. [LB321]

SENATOR McDONALD: I thank...Mr. President, members of the body, I thank the body for the opportunity to reconsider this vote, because I think it's so important that we move forward on this. And I'd appreciate your support. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator McDonald. The floor is now open for discussion. Senator Chambers, you are recognized. [LB321]

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SENATOR CHAMBERS: Thank you. Mr. President, I support this reconsideration motion. Senator Karpisek did a good thing by encouraging the reconsideration to be undertaken, and it was successful. So this is one time one of the newbies has provided great leadership. Somebody on the right-hand side of the aisle, where they are often wrong, made a reference to the benefit this could be to rural Nebraska, and that comment is very well taken. This morning, when I was having my teeth kicked in, comments were made that this training program that I was so opposed to had benefitted rural Nebraska, and I had made the comment that when it comes to favoring business, the Legislature--I'm paraphrasing--would more or less roll over. Now we're talking about rural Nebraska directly, and we're talking about the health needs of our citizens. And if we're going to say, as Kipling said in one of his poems, "But there is neither East nor West, Border, nor Breed, nor Birth,"--he was a chauvinist--"When two strong men stand face to face, tho' they come from the ends of the earth!" So we want to do away with the borders that might ordinarily separate rural Nebraska from the rest of Nebraska and recognize that a program such as this will address concrete needs, and we will not neglect that part of the state which often is neglected. This program, based on what I've heard, is not going to cost anywhere near \$10 million, and that \$10 million was snuffed up by the Legislature like somebody snuffing up heroin or crack or...what are some of the others? (Laugh) You all know more about these things than I do. Do they snuff meth? Cocaine? Right. See, a lot of knowledge about great things in here. (Laughter) So this amendment I think we ought to adopt. And I certainly would hate to see rural people in a position once again of putting everything above and in front of the interests of the people in the area they represent. At some point, we may reach that juncture where we'll talk only about Nebraskans, and the geographic location won't make any difference. I am not so naive nor so idealistic, "Parson," as to think that issues of race, gender, national origin, religion, will vanish. Those problems are always going to be here. But the easiest one to overcome is geography, meaning that where you live should not determine what kind of consideration you'll receive. And any other prejudices that people have can remain intact, remain undisturbed. You can vote for this amendment and still hate everybody you hated before. But it will show that when it comes down to the basic question of fundamental human dignity, that we can unite and operate in unity on something like that. Now, I'm not saying this amendment is an earth-saver or a humanity-changer. But don't they say, "Parson," that the longest journey begins with the first step? And I would add that a chasm cannot be bridged in two steps. You have to do it in one long step, because if you take one step and you wind up in the middle, you fall. This is something... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CHAMBERS: ...that I think should be very easy for us to support, and Mr. President, I hope that we do so. Thank you. [LB321]

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SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Fulton, you're recognized. [LB321]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. I'll reiterate the point that I made last night, and...I think it was last night. This...within the overall budget, we're going to...we've tried to put out a budget that's responsible, and numerically that's lesser than what has been put forward in years previous. Again, the past 20 years, the average budget growth has been a little less than 7 percent. And so we have tried to put something out that's less than that, in an attempt to reflect what we're doing by way of our tax relief package...to reflect what we're trying to do with our tax relief package, and to keep our level of spending in state government down such that our taxation does not need to be egregious when compared to neighboring states. Last night, when the Appropriations Committee was getting its teeth kicked in...(laugh) it was \$290,000 worth of teeth getting kicked in last night. This would be an additional \$750,000. And so I point this out just by way of putting us into the recognition of a mathematical reality here. We have a given budget. It was 4.5 percent that we recommended. We have added something. Senator Chambers has championed a cause that we as a body have decided to add to that budget \$290,000. Were we to vote for this amendment, we would be adding another \$750,000. And these, I remind you, are General Fund dollars. What we had...what we talked about previously today were reserve fund transfer, I believe, is how...the reserve fund transfer over to that job training. And this is General Fund dollars. These are taxpayer dollars that are set in the General Fund, and so it will have a direct impact on what our budget is. So I won't get into the laurels of the amendment itself. I just want to point out the math behind this, and that we will be adding again to the budget with this amendment, to the tune of \$750,000. So thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Dubas, you're recognized, followed by Avery. [LB321]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I appreciate the body giving us the opportunity to revisit this very, very important issue. Thanks, Senator McDonald, for bringing it forward, and Senator Karpisek also. We are constantly talking about economic development on this floor and out in our communities, and that is important. That's where our survival is in growing our economies. But growing our economy means much more than jobs. And people...that's the first thing they're going to look for, is a job and a way to support their families. But they're going to be also looking at a lot of other things to make the determination of whether they feel moving their family to a certain community is going to be worth their time. Having a good job definitely is at the top of the list. But they want good schools there, they want recreation, they want to have some of the amenities that maybe larger communities have. They want access to technology and a good, strong infrastructure. And they definitely look at medical services, and we need to be doing whatever it is that we can to build and

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support the medical services across the state and in rural Nebraska. As I stated earlier this morning on the floor, you know, mental health practitioners, we are definitely in the deficit in that area. We're in the deficit for just general practitioners, for PAs, for nurses, for dentists. I mean, I think you can just go down the line. We are struggling to meet those needs out in rural Nebraska. And we need to do whatever it is that we can to help facilitate providing those services. I don't think we can, nor should we put all of our eggs in one basket when we come to looking at how to grow our rural economy. We need job training, we need jobs, we need schools, we need the whole ball of wax when we come at looking at how to grow our rural economies. So again, I appreciate Senator McDonald bringing this amendment forward, and the body's wanting to reconsider it. And I stand in support of this amendment. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Avery, you're recognized. [LB321]

SENATOR AVERY: Thank you, Mr. President. I'm generally in support of this program. I think it's a good program. But I'm also concerned about what this might do to other things in the budget. In particular, I'm concerned about the university budget. So I'm going to ask Senator Heidemann if he would answer a question or two. [LB321]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question? [LB321]

SENATOR HEIDEMANN: Yes. [LB321]

SENATOR AVERY: Where would you find the money in the budget for this if we were to pass this amendment? [LB321]

SENATOR HEIDEMANN: This is actually, it was federal flow-through money, went through the university. But it was just flow-through money, and they put it through the university's budget because you had to find something. But it was in the university...it will be in the university's budget. [LB321]

SENATOR AVERY: So would this be...would this, in effect, be a cut in the university funding? [LB321]

SENATOR HEIDEMANN: No, sir. [LB321]

SENATOR AVERY: It would not. So it would just be...money that's there would be eliminated, it would not cut any other university programs? [LB321]

SENATOR HEIDEMANN: This money is...it will be new money that will be appropriated to the University of Nebraska, or into their program...into a program under them and their agency, and it will flow through to these AHECs. It just... [LB321]

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SENATOR AVERY: So it would be new money to the university. Where would it come from? [LB321]

SENATOR HEIDEMANN: General Fund. [LB321]

SENATOR AVERY: So this would be adding to the overall appropriation bill. [LB321]

SENATOR HEIDEMANN: This will be adding to the spending, adding to the expenditure growth, yes. [LB321]

SENATOR AVERY: Okay. Thank you. [LB321]

SENATOR HEIDEMANN: \$750,000, over two. [LB321]

SENATOR AVERY: If I have any remaining time, I'd like to have Senator Chambers respond to that. Thank you. [LB321]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB321]

SENATOR CHAMBERS: Yes, I will. And I would like him to rephrase it, so I know exactly what I'm responding to. [LB321]

SENATOR AVERY: Then I'd have to know what I was asking, wouldn't I? (Laugh) [LB321]

SENATOR CHAMBERS: (Laugh) More or less. [LB321]

SENATOR AVERY: My question is, what effect does this have...or potential effect, does this have on the university budget? Any money taken from the university that the university would need? [LB321]

SENATOR CHAMBERS: No, it's not going to affect what they would receive at all. They are the conduit through which this money would flow. In the same way that water flowing through a hose does not reduce or enlarge the size of the hose, but it just passes through, that, according to my understanding, is what would happen here. So the university would be left intact and undiminished. [LB321]

SENATOR AVERY: And so there would be no attempt then to go back and to recover this money by taking additional money from the university out of another program? [LB321]

SENATOR CHAMBERS: Oh, no, we'd fight that off, but I don't think anybody is of a

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mind to do that. That's not even an issue. [LB321]

SENATOR AVERY: Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Avery. Senator Chambers, you are recognized. [LB321]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm glad Senator Avery asked his question, because it could have been lurking in the minds of some of our colleagues. But when we were talking earlier and I was speaking strongly against putting more money into the Roads Department budget by taking that sales tax money from leased vehicles and putting it in the Trust Fund and the Highway Allocation Fund, the two words "economic development" kept cropping up, but that money was not going directly to people; it was going to road contractors, it was going into the pockets of entrepreneurs, and some who do shoddy work, by the way. When we were talking this morning and I was railing against that so-called jobs training program, the term "economic development" was utilized, but that money was not going to help a single worker; that was going into the pockets of business people. So my colleagues who talk about economic development mean only that it should apply when business people are gaining from it. But when we have an opportunity to do something that will also have a bearing not just on economic development, but the overall health of our rural part of the state, suddenly economic development is out the window, because now we're giving it directly to the people who are to benefit. My colleagues apparently mean economic development only for the business people. But this is something that would have a direct impact of a positive nature on citizens of our state, and residents who may not be citizens of our state, who need it. Suppose somebody is driving through here on the way to another state and they're injured in a rural area, but they don't need to be flown by helicopter to one of these hospitals in Omaha or Lincoln. Healthcare service is needed everywhere. I'd like to ask Senator Avery a question. [LB321]

SENATOR LANGEMEIER: Senator Avery, would you yield to a question? [LB321]

SENATOR AVERY: I will. [LB321]

SENATOR CHAMBERS: Senator Avery, I got the impression that you would support this amendment, provided that in doing so it would not harm the university's budget, because you said ordinarily you'd support this, but you wonder what negative impact it would have on the university's budget. Did I understand you correctly? [LB321]

SENATOR AVERY: You correctly understand my thinking. Not...I didn't make a commitment. [LB321]

SENATOR CHAMBERS: Well, since thought is father to the deed, if you thought it, I

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expect you to do it. Does that seem unreasonable, Senator Avery? [LB321]

SENATOR AVERY: You expect me to do what I think? If you expect me to do everything I think, (laugh) we would have a lot of fun in this place. [LB321]

SENATOR CHAMBERS: I don't necessarily say that everything that passes through your mind would constitute thinking. (Laughter) But on a matter such as this, where you have applied your intellectual powers and analyzed and evaluated, that is what I call "thinking." [LB321]

SENATOR AVERY: That's a very good distinction. [LB321]

SENATOR CHAMBERS: Yes. And your thinking led you to the conclusion that I expressed earlier, I believe, that you are now in a position to support this amendment, which nobody would say lacks merit. [LB321]

SENATOR AVERY: My thinking is now clearer,... [LB321]

SENATOR CHAMBERS: And you're more... [LB321]

SENATOR AVERY: ...and I'm much closer in my thinking to the deed that you're trying to get me to do. [LB321]

SENATOR CHAMBERS: Thank you. And Senator Avery, (singing) I know when to hold 'em, know when to fold 'em, so I'm going to leave you alone now and leave your higher angels to bring you the rest of the short distance you need to travel. Members of the Legislature, we cannot be frightened out of doing virtuous acts by the mere specter raised that less than \$1 million is somehow... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR CHAMBERS: ...going to knock the wheels off the budget of this state, which is several billions of dollars. This amount is not going to do anything to harm the budget. This would not even qualify as a nano-hiccup. Now, a hiccup, Senator Carlson, is measured in nanoseconds, and this is a nano-hiccup, which would be virtually immeasurable. So I hope my colleagues will vote for this. It's of value. It even looks to me like Senator Pirsch may come our way and do the right thing, too, because by and large, Senator Pirsch is a righteous young man. I believe that, or I wouldn't say it. I see Senator Fischer with an angelic smile on her face. But I'm not going to speak too long. I just hope that we will... [LB321]

SENATOR LANGEMEIER: Time. [LB321]

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SENATOR CHAMBERS: ...adopt this amendment. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator Nelson, you're recognized, followed by Senator Nantkes. [LB321]

SENATOR NELSON: Mr. President, members of the body, I'd like to direct a couple of questions to Senator McDonald. [LB321]

SENATOR LANGEMEIER: Senator McDonald, would you yield to a question? [LB321]

SENATOR McDONALD: I will. [LB321]

SENATOR NELSON: Senator McDonald, we've heard quite a bit of discussion today and also last night about the need for doctors and nurses and nurse practitioners. I'd like to know a little more about what AHEC is. Are we training doctors in medical school through this program? [LB321]

SENATOR McDONALD: No, we're actually working with students in many of our schools, to subject them to the opportunities of the medical field. But it's not just doctors and nurse practitioners. It could be physical therapists, it could be EMTs, it could be dentists, anyone that deals with anything to do with the medical field. So what we're doing is just opening minds to the opportunities. [LB321]

SENATOR NELSON: Right, and that's very worthwhile. And it's a recruitment program, really, is what it boils down to, recruitment and interesting people in those professions. But is this going to guarantee that we're going to have doctors come from UNMC back out into our rural areas, or nurses, or dentists? [LB321]

SENATOR McDONALD: Well, actually, UNMC does rural programs, and many times, when those doctors go out and do their...I don't know what you call that. Once they've had their...they've gone out into...I don't know if it's called rotation, what it is, back into those rural communities, many of those students like to go back to home, home where they were grown, home where they were raised, so that they can practice back there. In Burwell, there was a doctor that had...in fact, him and three other of his college, or high school friends had decided they would come back. And he is the only physician in Garfield County. He's the only doctor there. He came back to his rural community to practice. And we're seeing that more and more. But if we don't open those people's mind to think that they could be physicians and dentists and physical therapists in their own communities, probably not going to happen. They've also done work with the telemedicine, and implemented that. They've done interpretation, because many times, in some of our communities, the people that call our hospitals do not speak English, and they've been working on interpretation programs. So it does spread much further than just the education of our youth. There are programs that they have implemented that

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have benefitted all of us. [LB321]

SENATOR NELSON: Again, we're benefitting from the standpoint that we're putting this out in front of students and encouraging them to enter those professions. But there's a long way to go after that. First of all, they have to be admitted. First of all, they have to pass the training, the med school, the nurses. There's a long way to go, and even then, unless there are special provisions, we don't have any guarantees that they're going to come back out into rural Nebraska. So while I think it's a very good program, I don't think it's an essential program. And I don't think it's worth adding another--this is my own opinion--worth adding another \$750,000 out of our General Funds, when we do have funding there that will keep them going for the most part, and we know that federal funds are eventually going to bring them back. So I stand in opposition to this. I'm...I don't understand. Also, we voted to reconsider this. I'm a newbie here, but goodness' sakes, most of us stuck around till midnight last night, and we all had plenty of notice that we were going to be here, 9:00 last night, that this was going to be a long day. And I think that it's incumbent on all of us to stay here and settle these matters, and not come back and spend additional time on reconsideration. So even though it's a worthwhile program, I'm just going to argue that we should not... [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR NELSON: ...vote this money, this additional \$750,000, leave things the way they are, and move on. Thank you very much, Senator, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Nelson. Senator Nantkes, you're recognized. [LB321]

SENATOR NANTKES: Thank you, Mr. President, colleagues. I rise in opposition to this amendment, not only for the reasons I think that many members of the Appropriations Committee mentioned yesterday, but for some additional reasons, as well. I guess just as a cautionary tale, I want to remind the members that we as a state dodged a very, very big bullet in the defeat of Initiative 423 that was proposed on our ballot last fall. When Senator Avery brings up concerns about, will this affect the university budget, well, I think it will. I think the answer is yes. I think unless we act as responsible stewards of the taxpayer dollar in this body and keep our commitment to the voters that we will keep a rein on state spending and be ever watchful of what that spending growth number is, we'll see another 423, and we'll continue to see another 423 until it is passed by the citizens of this state. And then the issues that we do care about, like the university, like the roads budget, like corrections, our hands will be tied in regards to all of those concerns. So each time we add another \$100,000 here or another almost \$1 million under this amendment, that has significant impact as to what our overall spending growth is going to be, from this body, in this budget, for this session. And I don't think that's being responsible stewards of the taxpayer dollar, or being responsive

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to what the citizens of Nebraska gave us this session. It was an opportunity to show them that we can be fiscally conservative and responsible with their dollar. And any increase in spending does not help us to achieve that. I think another point that I want to note in regards to this amendment is that this has been posed in some ways as a rural versus urban issue, and as a rural health issue. And I don't think that paints, really, the entirety of the picture in that regard. We have other programs available on the statewide level to encourage medical practitioners to practice in rural settings. We have loan repayment programs, we have a variety of different recruitment and retention programs through the universities and higher education system. And I think that, you know, this is a wonderful program in what it does. It goes against our tradition of replacing federal funds with General Funds. It has a lot of overlapping and competing functions with existing programs, and it increases our spending at the end of the day. And I think that's an irresponsible move. With that, I yield the balance of my time back. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Nantkes. Senator Fulton, you're recognized. [LB321]

SENATOR FULTON: Thank you, Mr. President. I'll echo a little bit on what Senator Nantkes said, that Initiative 423...I heard a lot of those who were for and against. There was no one who was willing to say that we don't have a spending problem in Nebraska. The difference there was how we go about addressing it. Do we address it with a constitutional amendment, or do we address it with our elected representatives here in the Legislature? Now, it may be argued that this isn't a substantial financial obligation. I would beg to differ with that, but it is...it could be argued that this is a drop in the bucket compared to the rest of the budget. But we're going back to add, again, after we have made a decision not to as a body. This is another \$750,000. The...would Senator McDonald yield to a question? [LB321]

SENATOR LANGEMEIER: Senator McDonald, would you yield to a question? [LB321]

SENATOR McDONALD: Yes, I will. [LB321]

SENATOR FULTON: Okay. I'm getting back up to speed with, again, what the AHECs actually do. Could you provide...and this...I'm giving you an example to put a sell job on us here, I guess, but nonetheless, I think it's important to hear. What are some of the things that the AHECs do, pragmatically, specifically? What do they do? [LB321]

SENATOR McDONALD: Well, and I misspoke earlier. I said that we only had four AHECs, but we actually have five AHECs. We have one out in the Pan...because the nice thing about it is, they're broad-based across the state of Nebraska, so what the Omaha AHEC basically does is totally different from what the Panhandle basic...the AHEC does. The Central Nebraska, the Southeast, and what...and the northeastern one, some of them deal with telehealth, some of them encourage our kids to become

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doctors, some of them work with continuing education. Many of our nurses and doctors live in rural communities, and they don't have opportunities for continuing education. AHECs have set up programs to allow them to continue to work, because they cannot afford...in fact, their hospitals and doctor's office cannot afford them being gone to go take tests and seminars, because there's such a shortage in our communities. So they're offering those opportunities for them to stay at home and take those tests. So recruitment, education, telehealth, anything that deals with promoting our rural communities. And I think that what we really need to look at is rural, and also underserved and minority. [LB321]

SENATOR FULTON: Would...one of the things you point out, recruitment, you mention that there was a doctor that came back into Burwell, which I have some affinity for as a town. Was it a result of the work of the AHEC in that area? [LB321]

SENATOR McDONALD: The rural health education? Is that what you're talking about? [LB321]

SENATOR FULTON: Well, I'm just...I'm looking for result. And you mentioned that there was a doctor that came back to Burwell. Did he come back because of the work of the AHEC in that area? [LB321]

SENATOR McDONALD: Well, you know, I can't answer that. I don't know what contributed to that. But they also...we also have a rural health network, which allows people from other areas to find out if we have some availabilities here for somebody that wants to come back. Yeah, I'd have to specifically ask him. You know, I've never...I've talked to him, but I've never asked him specifically if it was the AHEC program that brought him back. I'm sure it was a lot of different things that brought him back. But I think that's just one opportunity when we look at rural Nebraska and having people come back and serve us. We spend a lot of money in Omaha and other programs, but we need to look at the continuing of the whole state. [LB321]

SENATOR LANGEMEIER: One minute. [LB321]

SENATOR FULTON: Okay. Thank you, Senator McDonald. The...again I'm going to reiterate, this is a replacement of federal funds. It sets...again, this isn't...we're not saying that this is the first time this has been done, but it doesn't happen often, and the more we do it, the easier it is for us to continue to do it. Again, we're adding onto the budget. And while it's not a substantial number in some people's views, it's \$750,000, it's General Funds, and the more we do that, the easier it is to continue doing that. With specificity, I'm not certain that the examples that are put forward indicate that is the work of the AHECs. If an individual...we all know that we need help in rural America, but are we certain that it's the work of the AHECs that bring the people back? I personally came back to Nebraska because of family, and so I'll make an argument on tax policy that

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family is what kept me here. If we knew specifically that the AHECs are bringing people back, then we could look to those examples. But as for the doctor in Burwell, we don't know that for certain that it's the AHEC that brought him back. I suggest...or, I would suspect it's something else. But we're... [LB321]

SENATOR LANGEMEIER: Time. [LB321]

SENATOR FULTON: ...again, we're making a...thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Wishing to speak we have Aguilar, Engel, Chambers, and Wightman. Senator Aguilar, you're recognized. [LB321]

SENATOR AGUILAR: Question. [LB321]

SENATOR LANGEMEIER: The question has been called. Do I see five hands? I do see five hands. The question is, shall debate cease on AM1166? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB321]

CLERK: 29 ayes, 3 nays to cease debate. [LB321]

SENATOR LANGEMEIER: The motion to cease debate is successful. Senator McDonald, you are recognized to close on AM1166. [LB321]

SENATOR McDONALD: Mr. President, members of the body, I think what we need to understand here is, this budget is a budget of the body, appropriations are appropriations of the body. Yes, we have people on the Appropriations Committee that work to develop the budget, but the budget is a product of the body. We take what they say, we bring it to the body, we make decisions that affect all of us. And because it does affect all of us, we have the opportunity to vote on it. And if it's voted on by the body, then it moves on. I think the important thing that we need to look at, we look at \$750,000. And if you look at 1 million people, that's 75 cents per voter. That's certainly not a lot of money. And if we can...and that's in a two-year period, so if we can ensure that rural health centers continue to operate, we all benefit from it. I certainly do hope you support this amendment, because I think it better understands where Nebraska needs to move to, to continue our economic development in rural communities. Thank you. [LB321]

SENATOR LANGEMEIER: Thank you, Senator McDonald. You have heard the closing on AM1166. The question before the body is...for what purpose do you rise? Roll call has been requested. There's been a request for a call of the house. We'll do that first. All those in favor of putting the house under call please vote yea; all those opposed please vote nay. Record, Mr. Clerk. [LB321]

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CLERK: 37 ayes, 1 nay to place the house under call. [LB321]

SENATOR LANGEMEIER: The house is under call. All those senators please record your presence. All those senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. There has been a request for a roll call vote in reverse order. And upon everyone's return, we will do that. Senator Fulton, would you please check in. Senator Synowiecki, would you please check in. Senator Hudkins, would you please return to the Chamber. The house is under call. The question before the body is, shall AM1166 be adopted to LB321? There's been a request for a roll call vote in reverse order. Mr. Clerk, please call the roll. [LB321]

CLERK: (Roll call vote taken, Legislative Journal page 1466.) 27 ayes, 15 nays, Mr. President, on the amendment. [LB321]

SENATOR LANGEMEIER: AM1166 is adopted. [LB321]

CLERK: I have nothing further on the bill, Mr. President. [LB321]

SENATOR LANGEMEIER: Nothing further on the bill. With that, I raise the call. Senator McGill, for a motion. [LB321]

SENATOR MCGILL: Mr. President, I move LB321 to E&R for engrossing. [LB321]

SENATOR LANGEMEIER: The motion before the body is the adoption...Senator Chambers. [LB321]

SENATOR CHAMBERS: Mr. President, members of the Legislature, you all have heard of channeling? Messages come to you. I don't know the meaning of this message, but it had something to do with a guy named Johnny Appleseed. I won't tell you his real name. But he planted apple seeds, and sometimes an apple seed, when it comes to fruition, produces a crab apple. Whatever that means, and for whomever it is intended, I'm sure the message will strike the target. Thank you, Mr. President. [LB321]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Senator McGill, for a motion. [LB321]

SENATOR MCGILL: Mr. President, I move LB321 to E&R for engrossing. [LB321]

SENATOR LANGEMEIER: You have heard the motion for the adoption of LB321. All those in favor say aye. All those opposed say nay. LB321 does advance. Mr. Clerk. [LB321]

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CLERK: LB322. Senator, I have Enrollment and Review amendments first of all. (ER8099, Legislative Journal page 1389.) [LB322]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB322]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB322]

SENATOR LANGEMEIER: You have heard the motion to adopt the E&R amendments to LB322. All those in favor say aye. All those opposed say nay. They are adopted. [LB322]

CLERK: I have nothing further on the bill. [LB322]

SENATOR LANGEMEIER: Senator Erdman, you're recognized. [LB322]

SENATOR ERDMAN: Mr. President, thank you. Senator Heidemann, would you yield to a question, please. [LB322]

SENATOR LANGEMEIER: Senator Heidemann, would you yield to a question? [LB322]

SENATOR HEIDEMANN: Yes. [LB322]

SENATOR ERDMAN: Senator Heidemann, I'm interested in certain areas of the budget. And we had a conversation earlier, and I was a member of the Legislature when LB692 passed. LB692 originally was the fund that was used by the tobacco settlement to create a number of other mechanisms to distribute funding for different projects. If LB322 does not pass with the language in there raising the limitation of that fund from \$52 million to \$54 million, is it a true statement that the funding for biomedical research to the university and to Creighton will not be increased? [LB322]

SENATOR HEIDEMANN: I would have to say that is probably true. There wouldn't be enough money to make that work. [LB322]

SENATOR ERDMAN: Is it...could you elaborate just briefly...again, I don't have a...I do have a fundamental problem with that number. But we'll have an opportunity, I think, in a later bill to discuss that. Was there discussion within the committee about looking at priorities within that fund, as opposed to adding an additional \$2 million to that fund? Stated another way, did the committee look at the Health Care Cash Fund as a mechanism to distribute priority funding or as an opportunity to add additional funding, given the fact that the financial analysis would support that additional principal or interest contribution? [LB322]

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SENATOR HEIDEMANN: I believe that...and this was before...this Health Care Cash Fund was created before I was here. What I've been told, it was always the intent that eventually \$14 million was going to get spent in biomedical research. I think they started--and this is all from what I've been told--they started that at \$10 million. It was supposed to increase to \$12 million, and then to \$14 million. This is the last of that step that we did this year--we took it to \$14 million. The fund started at \$50 million; we took it \$52 million. And when we went to \$12 million, this will take it to \$14 million, thus increasing it...no, from \$50 million to \$52 million. So I believe this was something that was intended to do, even before I came into the Legislature. And this is the action that we took this year. [LB322]

SENATOR ERDMAN: Thank you, Senator Heidemann. I think the answer would be no, because if you'll go back and look at what was intended, you're right, it was intended to go up. I don't recall we were going to be raising it. I think there were some offsets that were going to happen. But I appreciate your information. I can say that that is consistent with what we intended to do with LB692. However, there have been additional things that have been added to take funding out of the Health Care Cash Fund that were never envisioned under LB692, and I was just curious to note that. If LB322 does not pass, those of you that are interested in the biomedical research issue, or funding, as I am, that money will not be able to be spent or actually appropriated by the university. And we will have a discussion. Senator Pahls and Senator Johnson have another bill this session to try to take more money out of that fund, and we will be able to continue this discussion at that point. But I just wanted to ask that question so that I had a better understanding of the committee's efforts, and I look forward to future discussions. Thank you, Senator Heidemann. Thank you, Mr. President. [LB322]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Seeing no other lights on, Senator McGill, for a motion. [LB322]

SENATOR MCGILL: Mr. President, I move LB322 to E&R for engrossing. [LB322]

SENATOR LANGEMEIER: You've heard the motion on the advancement of LB322. All those in favor say aye. All those opposed say nay. LB322 does advance. Mr. Clerk, LB323. [LB322 LB323]

CLERK: LB323. Senator McGill, I have Enrollment and Review amendments. (ER8101, Legislative Journal page 1389.) [LB323]

SENATOR LANGEMEIER: Senator McGill, for a motion. [LB323]

SENATOR MCGILL: Mr. President, I move the E&R amendments. [LB323]

SENATOR LANGEMEIER: You've heard the motion on the advancement of the E&R

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amendments. All those in favor say aye. All those opposed say nay. They are adopted.  
[LB323]

CLERK: Senator Erdman would move to amend with AM1229. (Legislative Journal page 1467.) [LB323]

SENATOR LANGEMEIER: Senator Erdman, you are recognized to open on AM1229.  
[LB323]

SENATOR ERDMAN: Thank you, Mr. President. If you'll recall our discussion yesterday on LB321, it was brought to the body's attention directly, in the form of an amendment, that with the passage of LB321 in its current form, a gas tax increase will be necessary to fund the obligations of the state under roads construction in the budget. I was not comfortable with that yesterday, and in keeping with my word to those of you that were following our discussion, I have offered this amendment as a second opportunity for us to avoid the increase in gas taxes and to still fund that obligation. Specifically, what AM1229 does is it adds 19...it replaces, excuse me, the cash fund appropriation...or, it adds a cash fund appropriation of \$19 million to the Highway Cash Fund, and by doing that, we offset the need for the increase in the gas tax, based on our current projections. Now if some of you would like to oppose this amendment as it's unnecessary, you may do that. If some of you would like to vote for a gas tax increase, you could vote for LB321, as all of you did, by a voice vote, at least all that I can hear. However, if you'd rather not do that, I'll give you another opportunity. As I mentioned yesterday, just because you voted for or against the White amendment doesn't necessarily mean that you were in favor of raising the gas tax, because you would have another opportunity today to take another shot at it. The strategies that were outlined to you yesterday, according to the encouragement of Senator Kruse, were to look at all the strategies. Strategy one was to adopt...or, to advance the committee's bills in the form that they were in, and you'd be raising the gas tax, based on our projections. Strategy number two was to adopt the White amendment, and then I would have offered a different amendment, and it would have accomplished the same goal while still maintaining the funding and not increasing the gas tax. Strategy number three, since the White amendment failed, you now have AM1229. So for those of you that were keeping notes yesterday on which strategy we're operating under, this would be number three. It's a simple opportunity for you to decide whether or not you want the opportunity to vote for the budget without a gas tax increase. Some may argue that taking this money out of the Cash Reserve Fund is inappropriate. Maybe. Senator Heidemann will probably argue that. But you may also then argue that taking \$113.8 million out of the Cash Reserve Fund in other areas is probably inappropriate, too. I have not made that argument. I think most people came into this session, at least those that were responsible for crafting or following this process, and thought, if we could hold the Cash Reserve at around \$400 million, that would be a good target. With the adoption of AM1229, we would have \$405 million in the Cash Reserve Fund. We would still be

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exceeding that \$400 million. Senator Friend said this yesterday--I will repeat it today: I will not vote for LB321 if it contains a gas tax increase. So this is another opportunity to earn my vote on the budget, and which the Appropriations Committee has worked very hard on and very tirelessly on, and on the floor have worked very admirably to stick together and bend but not necessarily break. So I offer you this opportunity. Do with it what you will. And I would be available to try to answer questions regarding this amendment if you would have any. Thank you, Madam President. [LB323 LB321]

SENATOR SCHIMEK PRESIDING

SENATOR SCHIMEK: Thank you, Senator Erdman. Senator Avery, your light is first. [LB323]

SENATOR AVERY: Thank you, Madam Chair. The primary purpose, as I understand it, of the Cash Reserve Fund is cash management. When we created this back in 1983, it was to provide a source of funds for temporary transfers to the state General Fund when balances were not sufficient to process expenditure transactions. That was the original purpose. Over time, the purpose kind of changed, and in many instances money has been moved to accomplish policy initiatives that were not related to cash management. And actually, this amendment is one of those. We...if you look at the underlying bill, LB323, you will see that there are several instances in there where transfers are made for specific policy and operational objectives, and not cash management. I would call your attention particularly to \$75 million that will be moved to the General Fund to offset higher tax refunds in April of '08, due to the retroactive nature of the Governor's recommended income tax cuts. Well, I would like to ask you a question. What if we don't make that retroactive? What if we take that \$75 million and save it for something else? For example, what if we were to invest in the future, in the future long-term being of this state? You know, we've done an awful lot on tax cuts. I voted for them, and I think that they are largely good. But we are missing an opportunity, I believe, at this time of significant budget surplus, we are missing an opportunity to invest in the long-term future of the state. What am I talking about? Well, for example, you've heard me talk about the Scholarship Trust Fund. I won't go into that again. That's just one of the things we could do. But we could also do something about improving teacher pay. The average salary for Nebraska teacher ranks right now in about 42nd in the country, and that's compared to 38 just nine years ago. Not only is Nebraska teacher pay stagnant, we're losing ground. Colorado ranks 22nd in the country. Iowa ranks 37th. And by the way, they just did something really significant for their teachers when they voted just this year to give teachers an average increase of \$5,400 per teacher over the next two years. Why can't we do something like that? Why can't we do something to help our teachers? I could give you some other examples of how we can use this \$75 million, by simply delaying the implementation of the income tax reduction. The university--you've heard me speak about the university, and I'm not finished with that, because you're going to hear that a lot--it's the lifeblood of this state.

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Economists speak often about newly emerging economies as reaching the threshold of takeoff, poised to experience significant growth and development. I believe that the University of Nebraska right now is on the threshold of takeoff. I believe that the university is in a great position today to help the state of Nebraska become more competitive. Continued investment in the university is good for our future, and the budget that we are just...the portion that we passed just a few minutes ago, does not put enough money into the university; 4 percent is better than what we were initially looking at, but it's not enough to cover the cost...increased costs. We're going to see tuition increases. And when those tuition increases come, what you're going to find out is that a lot of students are going to be hurting, a lot of families aren't going to be able to afford to send their kids to our schools. Tuition increases mean that...now 61 percent of UNL students already have to take out loans. The average loan that a UNL student has by the time they graduate is almost \$17,000. [LB323]

SENATOR SCHIMEK: One minute. [LB323]

SENATOR AVERY: Let me suggest to you that the University of Nebraska is an asset, and we need to think about doing more for it. We have...we're recruiting top students, more than we ever have before, promising new faculty members, new research programs. And what are our neighboring states doing with their universities? North Dakota, 6.9 percent increase over last year's funding; Missouri, 6.2 percent increase; Colorado, 7.2 percent increase; Wyoming, 15 percent increase; North Dakota, 21 percent increase in higher education; New Mexico, 8.6. Virtually all of our neighbors are investing more in their universities than we are. I feel like I'm kind of forced into a Faustian bargain here. You may recall that Faust was...traded his soul to the devil in exchange for knowledge. So to strike a Faustian bargain is to be willing to sacrifice anything in order to satisfy one's desire for a highly prized goal. [LB323]

SENATOR SCHIMEK: Time. [LB323]

SENATOR AVERY: That's a highly prized goal for me. Thank you. [LB323]

SENATOR SCHIMEK: Senator Heidemann, you are next to speak on AM1229. [LB323]

SENATOR HEIDEMANN: Thank you, Madam President and fellow members. I actually thank Senator Erdman for bringing this up, because it's going to give us a little bit of an opportunity to talk about the Cash Reserve, and that's what I want to do right now. I wish a few more members of the body would be in here to listen. But I handed a piece of paper out, and I encourage everybody to grab the piece of paper, and we're just going to shortly just go over the actual versus projected General Fund receipts. This is over the forecast projected at sine die. And I find stuff like this very interesting, to me, anyway. And you can never probably project the future, but you can kind of just...you can maybe prepare for it. And if you look at it, we have good years and we have bad

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years, and they tend to come in cycles, and that's just the nature of the beast. And you look at the last three years, we're doing pretty good. But let me warn you, if you look at the nature of the beast and if you go up and look at that, we're either one year or we're two years off from going into a down cycle. And you can argue about it--times are too good, I can't believe it's going to happen. It's going to happen. History has told us it's going to happen. What is it going to take us to get us through that next bad time? That's an interesting question. If you look at the very bottom line, it said "standard deviation." Over the years, the standard deviation is \$119.3 million. That would be the difference between the forecasts and what actually come in...came in. So...and then you go up and look at the amount of years that you was in your shortfall. And over the last two, it would have been from fiscal year '91 to '95, and then we was in good times again, but then we hit bad times again in 2001 to 2004. They were four-year spans, weren't they? You can see that on your piece of paper. So what is it going to take to get us through that four-year span? Well, it will be that standard deviation of \$119.3 million times four. What does that add up to? \$472 million. I am conservative by nature, and I come to the conclusion that if I get reelected and I'm here, I will have to go through the bad times. And I haven't lived through them before, but I'm a type of person that, I want to prepare for it. And by preparing for it, you're going to keep a healthy Cash Reserve, and in order to keep a healthy Cash Reserve, you have to keep money in there. And I understand what Senator Erdman is doing. It's...I call it creative funding. And...but I don't believe this is the path that we want to start to go down. And for one thing is, I think we need to keep a healthy Cash Reserve. But for the other thing, I believe what he's doing is going to accomplish something in the short term, but that is it. It's delaying the pain, because what will happen in the next biennium, we are still going to be short for road building, for construction, for maintenance. So all you're doing by taking \$19 million out of the Cash Reserve right now is just delaying the pain. If you think...and I think this body spoke yesterday that they think the roads building program is important, fund it. Pure and simple, fund it. [LB323]

SENATOR SCHIMEK: One minute. [LB323]

SENATOR HEIDEMANN: If you think it's important--we decided that it was yesterday--just fund it. If you think that you have a proposal before this body that costs money, there's always an A bill that goes with it. If your bill is important, then it's important that that A bill follows, and that you support it, and that you fund it. This body yesterday decided that road building and road construction was important for them. They voted for a \$19 million--I'll give you that--tax increase. But it was important. If it's important to you, stand up to the plate and fund it. That's all I'm saying. The other thing is, we heard from Senator Erdman, and I think we heard a little bit from Senator Friend yesterday, that they can't vote for this budget. There is a \$19 million tax increase in this budget, and I think that's the reason they're going to oppose it. [LB323]

SENATOR SCHIMEK: Time. Thank you, Senator Heidemann. Senator Mines, you're

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recognized to speak. [LB323]

SENATOR MINES: Thank you, Madam Chair, colleagues. Senator Heidemann, with due respect, I disagree. We are...I think we as a body, we as Nebraskans, value our roads system. I also think that we're willing to fund it. And you may call this measure creative funding, but here's why I voted for the sales tax...or, the gas tax increase yesterday, was because I knew Senator Erdman had AM1229 on the books. I can't in good conscience go back to my constituents and tell them that we're flush with cash, we are funding programs and we're going to give you some money back, but oh, by the way, we're going to increase your tax on gasoline. No matter how little or how much, it's a tax increase and that doesn't sit very well. Now whether you call this creative, coming from our reserve, or not, this is monies that have been received by the state, and how you choose to categorize them or distribute those monies is a term of art. And I believe that if we've got significant cash reserves...\$400 million is just about the right number. Long before you came here, we talked about reaching that \$400 million mark. We are there, we are in excess of that. I don't want to raise sales...or, gas tax. I don't want to raise any tax. And this gives us an opportunity to fund the program that we all agree is so important. It allows us to move that forward without raising taxes. And however you choose to categorize this, Senator, this is the right thing to do. I won't vote for LB323...or LB321 without this amendment. And I would encourage all of you in the body to do the same. Thank you, Madam President. [LB323]

SENATOR SCHIMEK: Thank you, Senator Mines. Senator Friend, you're recognized to speak. [LB323]

SENATOR FRIEND: Thank you, Madam President. Members of the Legislature, let me make sure everything...we got everything straight here. We can go out two years from now, under the cover of darkness, and take an ax to the door of the treasury, take \$15 million out of the Cash Reserve, and use it for job training. Then in the light of day, with no bandit mask over our face, we can just go ahead and do it again. Frankly, I was okay with this one. I didn't like it too much two years ago, but that was fine. I did it. That was old Cash Reserve money. We raided the treasury to do it. I want to vote for the Appropriations measure. I can't tell you how badly that I want to vote for what Senator Heidemann and the Appropriations Committee has created and helped us as a body deal with today and yesterday. I want to do that. This Appropriations Committee, like others before it, has worked very hard, and frankly, worked harder than me, a person like me. They're here eating cold sandwiches and listening to stuff that I have not had to deal with. And they've followed a path of success over the years. And this Appropriations Committee is no different. They have success, but it's limited success, flat-out limited. There's no need to raise taxes at all, absolutely none, not one penny, and we know that. And with all due respect, Senator Heidemann knows it, too. What we have to talk about is a Cash Reserve and what it's for. Let's take a quick quiz, because I don't know the answer to it: (A) a rainy day fund; (B) cash transfers and cash

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management; (C) emergency items; (D) items of sheer importance to Nebraskans. Which one is it? Is it none of the above? Is it (E) or (F)? Or is it all of the above? Because we've used this thing as a slush fund. We are all called to be good stewards of the people's money. We know that, and we're trying to do that. I think everybody in here is. Not placating you, I think we are. But this Cash Reserve can be a sign of good stewardship. We've done it before. It's also a sign that the Legislature is looking to show some of that creativity that Senator Heidemann kind of playfully mocked. We have to be fairly creative, and we have to think on our feet as a body. We don't have to raise taxes right now. By the way, I'm not sure...we rarely have to raise taxes. I've been here five years, and some of the worst times, what people say in the second year...or, the first year: the worst time that we've ever seen. We didn't even technically have to do it then, I would still submit to you. We did. I would say that we have a responsibility to manage the Cash Reserve tightly and carefully, and I think the Appropriations Committee has done that. But this game isn't over. I think that it can be seen as creative. I think it can be seen as legitimate. I think it can be seen as careful, the \$19 million that we're looking for, if we believe... [LB323]

SENATOR SCHIMEK: One minute. [LB323]

SENATOR FRIEND: ...that this...the funding for the roads, or the lack thereof, is that important. I do. But you saw my vote last night. We don't have to raise taxes. I believe that we have to fund roads, too, and I believe that based on all the discussions I've had with folks, that they are underfunded, because I don't believe this Appropriations Committee would have been dealing with this if they didn't feel like that was the case. But we have an option here. I don't know that the option is needed, but I think it's a viable option. Thank you, Madam President. [LB323]

SENATOR SCHIMEK: Thank you, Senator Friend. Senator Pirsch, you're recognized to speak on AM1229. [LB323]

SENATOR PIRSCH: Thank you, Madam President and members of the body. The allocation of funds to pay for new construction and keep in shape the roads in Nebraska, is done. It's complete. I believe that's a fait accompli. Now looking at the ways that will be funded is one of two alternatives, one of which is to raise taxes. The second way is through the method that's suggested in this AM1229. I tell you, when we look at the effect of the taxes upon the people of Nebraska, adding on top of the taxes that people already pay for their automobiles and gas in the state of Nebraska, we are...it makes the choice, as difficult as it is either way, clear for me. I don't think that we can ask legitimately, the taxpayers, to come forward with another tax increase. We are already one of the highest taxed, when it comes to gas tax, states in the nation, and this is a regressive tax. The very poor, those who are the working poor, if you will, in society, still have to pay to get up in the morning and to drive to work and to pay for that gas. And we are already...there was a AAA daily fuel gauge report, a survey of over 60,000

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self-serve stations. It was taken recently. And that lists Nebraska as tied for the ninth highest overall prices of gasoline in the United States, and we are also, when you just compare the gas tax as it is, exists in Nebraska versus other states, we are one of the highest taxed states in the nation. Again, everyone has to drive, whether you are poor or middle class or rich, and so it is a regressive tax. And so when you look at the alternatives, though I think you're right, a certain amount of caution must be adhered to anytime that you take from the fund that would be the Cash Reserve Fund there, as AM1229 proposes, I think you do have to be careful and cautious. But when you look at the alternative and how abhorrent it is, I don't think we can legitimately go back to the taxpayers and ask them for another tax increase. I don't think they're going to understand, in a year in which we're giving back money in tax relief, that we're at the same time asking for a tax raise on gas taxes. And so for those reasons, in view of the two choices, I would urge you to support Senator Erdman's amendment. Thank you. [LB323]

SENATOR SCHIMEK: Thank you, Senator Pirsch. Senator Erdman, you are recognized. Following Senator Erdman is Senator Carlson, Senator Gay, Wightman, Kruse, Synowiecki, and others. [LB323]

SENATOR ERDMAN: Thank you, Madam President. You know what's a very refreshing part of this debate is that what we're arguing over is fiscal responsibility, and that generally was set, first, by the Governor, and has been maintained by the Appropriations Committee. Senator Heidemann accurately points out the history of actual versus projected General Fund receipts. But what you also have to take into consideration is, is that if you grow the budget at 15 percent as you did the last two years, which I voted against--Senator Heidemann knows that--and you compare it to growing the budget at 4.5 percent or even less, depending upon what the Governor does, because you know he's going to go after some of the projects--I would imagine we're going to have a third vote on Senator McDonald's amendment as an override--but if you start off at a lower number, the numbers on the actual versus projected becomes less of an impact. You need less money to cover in the short times if you're not building into the base more funds at a time like this. So Senator Heidemann is right on that. Here's what he's not right on. If you're going to argue that you need \$472 million, if you take the standard deviation of \$119.3 million, which is on the last line of the sheet he distributed, do me a favor: Turn to the status sheet dated April 26 and tell me what the Appropriations Committee left in the cash reserve. \$409 million. If this amendment gets adopted, we're at \$405 million in the cash reserve. We're not arguing over \$19 million. If you're honest about where we're at, you are arguing over that five, and you can argue also that with that became the revised numbers and increased the amount of money in the cash reserve. Actually what it did was it increased the general receipts, and to the extent that that gets funneled back into the cash reserve, you have that opportunity. So if you're going to stand on the floor and argue that \$472 million is the target for the cash reserve in order to get us through a four-year shortfall, then the Appropriations

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Committee shouldn't have put all the money out of the cash reserve into those little programs that they did. If you're going to delay the pain, as Senator Heidemann also pointed out, here's the pain: The pain is you don't have to raise taxes to fund roads. And if you don't fund the roads at the rate that they're at, you'll have later pains that will be even harder because everyone on this floor has admitted that even under this budget, the needs that are out there are not even being funded. So go ahead, raise gas tax \$19 million, but understand this: You're probably going to see a line-item veto on that. The only funding for roads you may have this session is in LB305. There are going to be trade-offs in this process, going forward, whether it's trade-offs we as a body has to make or elsewhere, the opportunity that I'm providing you is the chance to fund the Appropriations Committee's recommendation without a gas tax increase. And within less of 1 percent of a deviation from the Appropriation Committee's recommendation to the body, what they felt was an appropriate level of cash fund balance, we're there. Thank you, Madam President. [LB323 LB305]

SENATOR SCHIMEK: Thank you, Senator Erdman. We'll now go to Senator Carlson. Senator Carlson, you are recognized to speak. [LB323]

SENATOR CARLSON: Madam President and members of the Legislature, listening with interest to the testimony here. Senator Avery, I maybe got lost a little bit, but he talked about \$75 million in a decision to do something with it or to keep it. And I would remind all of us that it's not our money; it belongs to the people. There may be a part of it that we could classify and define as our money. Senator Heidemann talked about a cash reserve and the importance of it, and I agree wholeheartedly with you. I certainly subscribe to a prudent cash reserve when times are difficult, which those of us that are new haven't experienced yet, and I hope I'm around long enough that we might experience it because it would be an entirely different challenge. Madam President, I'd like to ask a question or two of Senator Erdman, if he would yield. [LB323]

SENATOR SCHIMEK: Senator Erdman, would you yield to a couple of questions? [LB323]

SENATOR ERDMAN: I will. [LB323]

SENATOR CARLSON: Senator Erdman, we talk about moving money from the Cash Reserve Fund. What's the source of dollars in the Cash Reserve Fund? [LB323]

SENATOR ERDMAN: The source of dollars in the Cash Reserve Fund is the same source we have the General Fund, Senator Carlson: sales tax, income tax, other taxes that we collect as a state. [LB323]

SENATOR CARLSON: Okay. And the vast majority of that would be sales and income tax, so would you agree? [LB323]

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SENATOR ERDMAN: I think that's a reflection of reality. [LB323]

SENATOR CARLSON: Okay. Now, I don't expect you to have an answer to this. If you do, I'm going to be very surprised, but I'll ask. Of the Cash Reserve Fund, do you know what percentage of that is sales tax and what percentage is income tax? [LB323]

SENATOR ERDMAN: I don't, Senator Carlson, and I think to go back to an earlier conversation between Senator Gay and Senator Chambers, I don't know that you can target and track every dollar that's collected as to where it ends up once it ends up in the General Fund. [LB323]

SENATOR CARLSON: Okay. I agree with you. I know that that's difficult. And so it would be even more difficult, and I think this is...I don't know if there is an answer to this but this really makes it tough, I think, on tax policy because if we looked at the dollars that come into the Cash Reserve Fund from sales tax, we can't separate out from the sales tax what portion of those are paid by resident Nebraskans and what portion are paid for by people who don't live in Nebraska. But the...whether it's the General Fund or the Cash Reserve Fund, if we look at streams of income, and we've talked a lot about rivers this session, that stream that comes in from sales tax, a portion of that is a stream that comes in from people that don't live in Nebraska. And I really struggle when we do things to talk about tax reduction, and I'm all for tax reduction on the people that are residents but I'm not all that concerned about tax reduction on the people that are visitors. And...but certainly if we were talking about income tax and reduction in income tax, that directly affects the people who live here. Sales tax is a different thing and a portion of this money that would be transferred over comes from sales tax, and I still like the idea of letting our visitors help us pay for it. Thank you, Senator Erdman; thank you, Madam President. [LB323]

SENATOR SCHIMEK: Thank you, Senators Carlson and Erdman. Senator Gay, you are recognized to speak. [LB323]

SENATOR GAY: Thank you, Madam Chairman. I would like to discuss...I think this is a very good discussion we're having and we can learn a lot by having this discussion. I too question...I voted against the...I'm for the roads and I want to pay for the roads out of cash reserve. I had questions before that came up, too, about the balance we're keeping in the cash reserve. Senator Heidemann mentioned that and he pointed out, the sheet he handed out, actual versus projected General Fund receipts. In those cases where you have, in '81 to '83, we had a minus 11.8, minus 9.6, and then you have some really large deviations. In 2001, minus 10. And then we had a four-year stretch in the '90s, from '90 to '95. But...and I don't know; I haven't been here long enough, but if I can...I would bet you...I know, in 2000, that's when they added these tax increases when we had that 10.6. It's not like they're not going to raise taxes. This fund is to

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help...and Michael Calvert was talking about this and I agree...it helps mitigate the pain by keeping a reserve. But if you get into tough times, you're still going to have to go do something, either cut programs or raise taxes. That's all there is to it. I hope we don't have to do that but we still have the minimum reserve, which is \$217 million and \$253 million. So there is a certain point...I think we should take some of this money. We need to control our spending. I will vote for the budget. I think this is a good budget we're putting together. Being on the Appropriations Committee is a thankless job and I'm glad I'm not on it. But we appreciate their work and we don't agree with everything, we're going through that process and that's fine. But I think we do have a budget. They took some of this money, though, in their wisdom, and we voted for this too, and they paid on some capital construction projects over the next four years is the way I understand it. And I agree with that, as well. I think that was probably a good move. A lot of us didn't have the opportunity to vote on those projects, but they need to be funded, so to take care of those is a good idea. What I would suggest, possibly, is we take out some of the worst-case scenarios, see where our average is, but also on this variance, because I think by using, factoring in those bad years when you're going to have a large variance, I doubt very much we're not either going cut programs or raise revenue somehow. We will be having to do that. And I have been through some great years and I've been through some bad years, not here but in other places, and those are just tough decisions have to be made, so. But one thing that we could possibly look at, and I would encourage maybe that we...I know we have a...it would be to create a capital projects construction fund where we put some money into this fund, it's used for these buildings. I know we have another fund that takes some of the depreciation and helps for upkeep, but a capital projects construction fund would help us budget for these buildings and other projects that may occur. And maybe that's already out there. If it is, please correct me. But as we look at the growth rate of 6.9 percent, I think the Appropriations Committee, and we're hopefully going to do a good job here holding the line, we're only looking at a 4.5. Would I like it to be lower? Sure. But that doesn't look where we're going right now. But as we go in the future here, if we can keep that growth down we won't need this cash reserve as high as it is. So I think it's up to us as we look at this, control your spending and you don't need the big cash reserve. Senator Carlson mentioned this is taxpayer money that we're sitting on, and again, it's to help avoid some major fluctuations. I would argue though, when those times do come, and they will again, that this body will either...you've got two choices--raise revenue or cut programs; probably three choices because you could do a little of both. And I think when that time comes and it always does...there's good times and there's bad times, and we're fortunate to have some extra revenue now, and I think we're being responsible giving that back. But this is just another way. I want to fund those programs. I think we can have excess in the cash reserve. It is not a savings account, as I've heard. It is not. That's what the minimum reserve is to help for. So I would just say, look at it and see where we're coming from. The other fact, when we have that kind of balance in there, I think it encourages spending: Ah, we've got the cash reserve at \$500 and some million. That's probably not a good way to look at it, either. So we need to find that balance,

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where it is. I think it's at \$400 million, maybe a little less, but as we study this issue I'll look forward to finding out where that is. Thank you, Madam President. [LB323]

SENATOR SCHIMEK: Thank you, Senator Gay. Senator Wightman, you are recognized to speak. [LB323]

SENATOR WIGHTMAN: Thank you, Madam President, members of the body. Yesterday I discussed about how much this would cost if we raised the gas tax to an average automobile owner, somebody that drives 15,000 to 16,000 miles a year. And based upon 20 miles per gallon, that came to \$14.04. I'm probably a little low on their average mileage, so today I'm going to suggest that it might be 22 miles. That would cost about \$12.60 per year for the average driver. It seems to me that to avoid that much expense to the average driver in Nebraska, which is about the amount maybe two or three cartons of soda, maybe a couple of six-packs of beer, way less than a carton of cigarettes, we're talking about completely changing our method of funding roads. We've never funded them--as far as I know we haven't during my time here, which I will concede is very limited--never funded them with General Funds. The whole purpose has been to create highway trust funds, highway allocation funds, that we can use for maintenance and construction of roads. I will suggest to you that if we take money out of cash funds or transfer money from our Cash Reserve Fund into the General Fund, that is going to become an annual occurrence. I will predict that, because if we increase the gasoline tax by the 1.8 cents in the second year of the biennium, as we discussed, that will be at least somewhat self-sustaining. There may be years that we don't have to have any increase in that. We've continued to fund the roads and the highways out of the gasoline tax and out of the sales tax on motor vehicles that now the sales tax on longer-term leases of motor vehicles, that will be self-sustaining. But if we are going to continue to beat inflation by taking money out of the Cash Reserve Fund this year, it's going to be required, I think, that we do that every biennium. And so I think to save \$13 or \$12.60 or whatever the figure may be, to the average driver of a motor vehicle we're completely changing our funding because, in effect, we are going to be funding it out of General Funds. The General Funds get rolled over into the Cash Reserve Fund and so we are departing the method we've used for many, many years as a means of supporting our roads, the maintenance and capital construction of our roads. We may have to do that down the future, but it seems to me we're doing it much quicker than necessary. I think we're using smoke and mirrors and I know that Senator Erdman has made that allegation with regard to the amount we're...the larger amount that we're transferring out of the Cash Reserve Fund to do capital construction. But it seems to me we're looking at an area that we've always funded in a particular manner. We can continue to do it with very little pain to the taxpayer and minimal amounts--probably truckers pay the most of it. They have at least come in, their lobby group, and they've supported the increase in the fuel tax. So I am certainly going to stand in opposition to AM1229. I don't think it's necessary that we transfer money out of the Cash Reserve Fund to do this, and then it certainly departs from our long-established method of paying

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for roads. [LB323]

SENATOR SCHIMEK: One minute. [LB323]

SENATOR WIGHTMAN: Thank you, Madam President. [LB323]

SENATOR SCHIMEK: Thank you, Senator Wightman. Senator Kruse, you are next, followed by Senators Synowiecki, Nelson, Friend, Lathrop, Heidemann, and others. [LB323]

SENATOR KRUSE: Thank you, Madam Chair and colleagues. Ah, we finally get to a subject that I really enjoy. I've been anticipating this for several years, so hang on. What have I got? Fifteen minutes? First, I stand to support Senator Heidemann's comments about the amount of cash reserve. The cash reserve that he picked out there, that figure, is seven weeks. I want you to find me a business that would be comfortable with being seven weeks away from zero. That is a minimal amount that he is talking about. The use of the word "prudent"; that's prudent, and I've picked \$500 million as prudent for several years. If we would have had that kind of money in '03, we would not have had to take serious cuts that hurt us, and we're now paying for it in our budget because we had to cut out prevention, we had to cut out treatment dollars and so on at that time, because we did not have a cash reserve. We did not have the money in the bank. I'm not going to comment on Senator Erdman's thing here. I would simply remind all of you, we're talking about \$15 per taxpayer on this item, so keep it in perspective while you're working. I am bemused by these comments about we're not going to raise taxes. Well, we raise taxes every year. We've raised taxes 5 percent per year for the last 20 years. You know, let's get over it. What we mean is, we haven't changed the rates. But, (laugh), we're raising taxes and we know that taxes are going to go up. And we need to see this as a tax shift when we are making the kinds of adjustments, and that's a whole nother speech. Look at this roads tax that we're thinking about here. That roads tax has been cut from 25 percent of the price of gasoline a few years ago, to 10 percent. We cut the roads tax 1 percent last week when the price of gas went up. It's now 9 percent. Let's get some perspective on this. The one...or put it another way, the 1 to 2 cents that we're talking about adding to the road tax is less than a 1 percent increase per year for the last ten years. How can we call that a significant increase? How can we even, with a straight face, act like the public is going to be upset about that when our gas prices have changed by 20 cents in the last two weeks? Also we talk about being a high-tax state. Well, I don't agree with that. I know I've seen those figures but most of the ones, especially the Tax Foundation, are phony. They are based on figures that do not compute with what our actual tax receipts are in Nebraska. They are skewed by that group. Rather, I would look at another figure that people don't seem to quote very often. We're thirty-fourth in the nation by that same group in our spending. Why don't I hear something about that? Thirty-fourth in the nation in spending. Man, we've got to get it up there. We never talk about that. And finally, because I know time is limited and I can't

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say all I'm thinking, but I really have some strong feelings about this. Responding to Senator Carlson, he wants to know how much this amounts to. Well, I've been keeping track of it every year--the percentage budgets or the percentage in terms of revenue. And taking the property, sales, and income tax, 13 years ago property tax was 45 percent of our income for the state. [LB323]

SENATOR SCHIMEK: One minute. [LB323]

SENATOR KRUSE: It's now 38. Thirteen years ago sales tax was 30 percent of our income; it's now 30 percent. It has stayed the same. Income tax was 25 percent 13 years ago; it has climbed to 32. So property taxes have gone down; income taxes have gone up in terms of their percentages, and income tax would be a little over...well, right at about 42, 43 percent of our income in this last year. I don't have time enough to fine-tune that. I thank you, Madam President. I hope that we can give support to a strong reserve. Thank you. [LB323]

SENATOR SCHIMEK: Thank you, Senator Kruse. Senator Synowiecki, you are recognized to speak. [LB323]

SENATOR SYNOWIECKI: Thank you, Senator Schimek and members. I have profound philosophical problems with the amendment, AM1229, offered by Senator Erdman. I think it violates principles of equity and fair taxation. You know, historically, funding of the roads construction program has been exclusively based upon a user-fee program. What funds our construction program is motor vehicle registration fees, sales tax on vehicles, gas tax, and now it looks like under LB305, in keeping with this philosophy of a user-fee system, the long-term lease on vehicles, again in keeping with that philosophical user-fee approach. Senator Erdman, I've got a lot of constituents that don't own cars. They either can't afford them or perhaps they might be elderly and they depend upon the public transportation system. What you're asking those folks to do is to pay what they pay in general sales tax and income tax on the state level to fix our roads. And I don't think that that is aligned with fair, fundamental taxation principles that abide by social justice policy. We're stepping out of what we've done historically in the area of roads, in the area of roads maintenance, and in the area of our program budget for roads construction. It has always been a user-fee schedule. It has always based upon motor vehicle registration fee, sales tax on vehicles, gas tax, and now, with LB305, which keeps with that philosophy. If we go to the cash reserve, we're dipping into those folks, our constituents, who pay general sales tax and who pay income tax and who may not even own a vehicle. I don't think that's appropriate and I will not support the amendment. Thank you. [LB323 LB305]

SENATOR SCHIMEK: Thank you, Senator Synowiecki. Senator Nelson, you are next to speak. [LB323]

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SENATOR NELSON: Madam President, members of the body, I rise in opposition to AM1229 that's been proposed by Senator Erdman. An earlier speaker said that we need to be creative. What is creative about raiding our Cash Reserve Fund? Senator Synowiecki has talked about a user fee that we've traditionally used for funding of our roads, and I support him in that. We spent a great deal of time debating about funding the roads. We settled on \$356 million next year and \$370 million the following year, so they will be funded to that extent. And we have supported raising the gas tax, not next year--we don't need to next year--but perhaps 1.8 cents...1.8 cents, yes, for the 2008-09, and that's \$19 million. When I campaigned recently, all we heard about was the property tax, and I said we could do what we might be able to do as far as doing something or reducing the property tax. Nothing was ever said about gas tax or gasoline or those type of taxes, and here we are, talking about raising gas tax to the tune of \$19 million, which is not very large. Especially it's not large when we think about the fact that we have already voted to return \$400 million to the residents of Nebraska, \$200 million each year in the form of property tax relief. Now that is real tax relief. I've spoken before on the matter of using a slight increase in the gas tax to fund this additional amount for the roads. I simply don't believe that anybody is going to be aware of it or they really won't care that much in light of what we have to pay, and I won't pursue that. Where will we be two years from now? What are we going to do? Are we going to raid the Cash Reserve Fund again? Are we going to deviate from the policy that we have in the years past? I don't think that we want to go that way. If you look at the green sheet that's been handed out, you'll see that our present ending balance on the Cash Reserve Fund is slightly over \$500 million. We're in really pretty good shape. Next year it goes down by about \$6 million. But you look at 2008-09, we're down to \$423 million, almost \$424 million, and Senator Erdman wants to reduce that by another \$19 million, which will take us just a little shy of \$400 million. In light of the fact that we're almost certain to see some hard times in another year or two, I don't think we want to be there. I think we need to be more in the area of \$480 million, so as Senator Heidemann said, we've got enough reserve there for four years to get by. I didn't go through the budget cuts two or three years ago, but I heard the wails of agony in Lincoln all the way up to Omaha and around the state because people had to be cut. We might hearken to Joseph in the Old Testament where we knew that there were seven years or he knew there were seven years of drought ahead, and he filled up the bins with grain and not only took care of Egypt, he also took care of part of Israel and other surrounding states. I think we need to fill up our coffers. I don't think we need to reduce that \$423 million anymore. I think we need to start building that up and get to the point where we are at \$480 million. I support LB323, which the Appropriations Committee is proposing, and I would urge you to vote against AM1229. Thank you, Madam President. [LB323]

SENATOR SCHIMEK: Thank you, Senator. Senator Friend, you are recognized to speak. [LB323]

SENATOR FRIEND: Thank you, Madam President. You are in fine voice today, Madam

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President, by the way. [LB323]

SENATOR SCHIMEK: Thank you, Senator. [LB323]

SENATOR FRIEND: You're welcome. They were talking earlier about the idea...the speakers have brought up the idea the difference between, more or less, what we're dealing with--\$404 million and \$423 million--that wouldn't be prudent. Nineteen million dollars, folks. I'm not sure I buy that. We had a revenue package last week where we handed out \$400 million in real tax cuts. Okay, some would argue whether they're real or not, all right, and we can continue that argument if we would like, but nevertheless we did it. Four hundred million dollars, and Senator Heidemann had pointed out we left that on the table in appropriations for the particular purpose of creating those tax cuts. Yesterday, today, we're approving the raising of taxes by \$19 million. Members of the Legislature, I would say that's like running a half marathon and then sitting down after you get across the finish line and just pounding down 12 Krispy Kreme donuts. That's what it's like. You say, well, gosh, I feel great; I can eat these 12 Krispy Kreme donuts. And you know it's still not going to be good for you, even after you've done that half marathon; it's still not going to be very good. And I love Krispy Kreme donuts, don't get me wrong, but 12 of them? That's what we're doing here. Why even bother? We should have left \$419 million on the table, \$400 million for tax cuts, or...yeah, tax cuts, and then another \$19 million to fund the roads if that's what we feel is important, because that's where we're at right now. Look, here's where I'm at, and this is probably the last time I'll speak to it, and you say thank you. We have a \$7 billion budget and we can't find \$19 million. Well, we could find it but we chose not to when we chose to raise taxes. By \$19 million, we chose to raise taxes instead. Senator Heidemann pointed out that they left \$400 million on the table--great. We should have left \$19 million; I've said that. Why wouldn't you vote for a budget, people ask me, why wouldn't you vote for a budget with this minor of a tax increase? It's not really that big a deal, Mike; it won't even hurt; you know, you won't even know. Well, it's death by a thousand cuts. If I walked up to Senator Lathrop and said I have a really sharp knife, Steve, I'd like to cut your finger. He says, well, that will hurt and I'll bleed. Yeah, but I'm not going to cut your finger off; don't worry about it; you'll be fine. It'll make me happy, Steve, to cut your finger. It'll make me happy to see you bleed; and plus, I need to see that, I have to have that. I want to see Senator Lathrop bleed, but I don't want to cut your finger off and hurt you. The analogy plays out. It doesn't make any sense. Look, here's where I'll leave it, I think. If this is inappropriate to take it out of the cash reserve, fine, let's not do it. But here's what that means: I can't vote for the appropriations measure. We didn't have to do it. So for the fifth straight time, he says, exasperated, it's a big fat red. Thank you, Madam President. [LB323]

SENATOR SCHIMEK: Thank you, Senator Friend. Senator Lathrop, you are recognized to speak. [LB323]

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SENATOR LATHROP: Thank you, Madam Chair and colleagues. Senator Friend, I don't know why every time you want to hurt somebody, you use me as an example (laughter), even one little cut. I am standing in support of the Erdman amendment, and I have to say that I appreciate the work that the Appropriations Committee. They've given us a number for what it's going to take to maintain and improve our roads, and that's important to me. I needed to hear what that number is. I support the roads projects. I support maintaining our roads and constructing new roads is necessary, and they've given us that number. I don't, however, support, under the circumstances that we find ourselves in, an increase in the gas tax. And there are some things about a gas...this increase, that I think are true. First of all, it's terrible timing. Gas is over \$3 a gallon, and even to add a couple of cents to that affects people who are buying gas and driving. When you raise the gas tax, there are people...this is something the folks have talked to me about when I was campaigning. They actually will, if they're coming back from Iowa from something, they'll stop and fill up their tank in Iowa because the gas is cheaper over there because of our tax. People are opposed to this tax increase. It will never go down once we increase it. You can say that, but I'll bet you if we talk to the folks on Appropriations, we've never seen the gas tax go, actually go down. It's now at 27.1. If it goes up a penny, one and an eighth, it's not going down from there. And it will move us up to 13--thirteenth highest gas tax in the country. And when we talk about economic development and we talk about what people look at in the business climate and the fact that Nebraska is a...you hear people say it's a high-tax state, why would we increase a tax when we have the funds to pay for the expense right now? I do support Senator Erdman's amendment. What we haven't had much of a discussion about...and I think there is a relationship between the fact that gas is three bucks a gallon so people are driving less and now we have less gas receipts. Another argument, I think, can be made for taking this money out of, essentially, General Funds, and that is, if gas goes down to \$2 a gallon, is our 27.1-cent-a-gallon tax going to be enough? In other words, will our receipts go back up? And I think it's worth paying for the additional roads funding from, as proposed in the Erdman amendment...to at least see if gas prices go down and our gas tax revenue goes up sufficiently that we didn't need to raise the gas tax in the first place. So I will support Senator Erdman's amendment and encourage you to do the same. Thank you. [LB323]

SENATOR SCHIMEK: Thank you, Senator Lathrop. Senator Heidemann, you are next in line. [LB323]

SENATOR HEIDEMANN: Thank you, Madam President, fellow members. I'm going to yield just a little bit of time to Senator Fischer. [LB323]

SENATOR SCHIMEK: Senator Fischer. [LB323]

SENATOR FISCHER: Thank you, Senator Heidemann. Madam President and members of the body, I stand in opposition to the Erdman amendment. That might surprise some

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of you, since I've been on this floor for the past few weeks asking for money for the roads in this state. We're a state of distances. We need to maintain our roads. We need to construct new roads. In my opinion, this amendment is not the appropriate way to do it. We fund our roads in this state through a number of different ways, and all of these ways are very open for public scrutiny. I thank you for your support on LB305 because we fund roads in this state through sales tax on motor vehicles, and I thank you for your support. I thank you for your support of the appropriations budget that increased, possibly increased the gas tax, because we fund roads in this state through that fuel tax. It is open. It is accountable to the public. Your votes on LB305 and the appropriations budget last night were constant with that policy. Your votes recognize the needs that we have in this state for our highways, and your votes were open to the public in that we fund our roads through these user fees. Thank you, Madam President, and I would yield the rest of Senator Heidemann's time back. [LB323 LB305]

SENATOR SCHIMEK: Thank you, Senator Fischer. Senator Heidemann, you have three minutes. [LB323]

SENATOR HEIDEMANN: Thank you, Madam President. Is Senator Erdman available for a really quick question? I don't have much time. [LB323]

SENATOR SCHIMEK: Senator Erdman, would you yield to a question? [LB323]

SENATOR ERDMAN: Absolutely. [LB323]

SENATOR HEIDEMANN: Could you tell me how much cash reserve money we presently have in this biennium budget? [LB323]

SENATOR ERDMAN: Senator Heidemann, according to the statement attached to our sheet today dated May 7, it says \$423,934,519. [LB323]

SENATOR HEIDEMANN: How much have we transferred into the General Fund for General Fund use? Can you tell me that, Senator Erdman? [LB323]

SENATOR ERDMAN: One more time, Senator Heidemann. [LB323]

SENATOR HEIDEMANN: How much have we transferred by law already, out of the cash reserve into the General Fund that we can either use for spending or for tax reduction? Can you tell me that? [LB323]

SENATOR ERDMAN: It would appear, Senator, it's close to \$150 million. [LB323]

SENATOR HEIDEMANN: You are probably fairly close to correct. I will say--thank you, Senator Erdman--really quick, by actions that were before this year, we have transferred

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in a one-time action, it was \$50 million over the next two years, \$100 million in this biennium out of the cash reserve. I will tell you there were further actions taken that we transferred money into retirement because we had a retirement shortfall. That retirement shortfall didn't materialize. That was \$23 million that is left sitting in the General Fund that we are going to use for other purposes. We already have cash reserve money that we are using this biennium, to the point that that makes me nervous. We can't go any further. Senator Erdman wants to drag some money out to help with roads. Once you start dragging money out of the cash reserve, it's like drugs. You get addicted to that; you don't know how to say no. And I'm telling you right now, let's just treat Senator Erdman's AM1229 like drugs... [LB323]

SENATOR SCHIMEK: One minute. [LB323]

SENATOR HEIDEMANN: ...and just say no. [LB323]

SENATOR SCHIMEK: Thank you, Senator Heidemann. (Visitors introduced.) Moving on to Senator Mines. [LB323]

SENATOR MINES: Madam President, I call the question. [LB323]

SENATOR SCHIMEK: The question has been called. Do I see five hands? I see five hands. The question is, shall debate cease? All in favor vote aye; all opposed vote nay. Senator Mines, I'm sorry? [LB323]

SENATOR MINES: I'd like to call the house, Madam President. [LB323]

SENATOR SCHIMEK: Okay, thank you. There has been a request for a call of the house. All in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB323]

CLERK: 26 ayes, 0 nays, to place the house under call. [LB323]

SENATOR SCHIMEK: The house is under call. Will all senators please return to the Chamber and record your presence. The house is under call. Will unauthorized personnel please leave the floor. The house is under call. Senator Mines. [LB323]

SENATOR MINES: Madam President, I would accept call-ins. [LB323]

SENATOR SCHIMEK: Thank you. Senator Mines, we didn't really complete a vote. [LB323]

SENATOR MINES: Okay. [LB323]

SENATOR SCHIMEK: So what would be your preference? I stand corrected, Senator.

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We are going to take call-in votes. Senator Dierks...Senator McGill, you did check in. Senator Louden, Senator Preister, Senator Chambers, the house is under call. Would you please return to the Chamber. All are present and accounted for. Mr. Clerk. We are asking for call-in votes on calling the question. [LB323]

CLERK: Senator Erdman voting yes. Senator Chambers voting no. Senator Hudkins voting yes. Senator Dierks voting yes. Senator Engel voting yes. Senator Hansen voting yes. Senator Louden voting yes. [LB323]

SENATOR SCHIMEK: Record, Mr. Clerk. [LB323]

CLERK: 26 ayes, 2 nays, to cease debate. [LB323]

SENATOR SCHIMEK: Debate ceases. Call on Senator Mines. Senator Erdman to close. Senator Erdman. [LB323]

SENATOR ERDMAN: Madam President, that's the best compliment he had, but when this is over maybe I should have yielded my time to him, because he may do a better job. A couple brief observations before I recap what's in AM1229. Everything we do in this body regarding public policy is open to the public. Name me the last time you went to a gas station and it posted what the state gas tax was. That's not open to the public. If you want to go through the mental gymnastics of finding out what the gas tax is, you can figure out what it is. That part is open to the public, Senator Fischer. But the reality of this question is not whether or not this is an open process. People now know what the gas tax is because of our debate. Senator Chambers pointed that out earlier in the day yesterday. This is still open to the public. Senator Nelson, you are going to have to vote against LB323. Senator Nelson says that he believes that we need to have at least \$480 million in the Cash Reserve Fund. The only way you can do that under this budget is to vote against LB323 and all that is within it, because even the Appropriations Committee is lower than that number. It's even lower than the number Senator Heidemann gave us. So now that we've gotten past those barriers, here's the public policy decision for you to make: Is it appropriate for us to make a one-time contribution to this fund, given the fact that gas is at \$3 a gallon and likely will continue around that, and to save the citizens of the state of Nebraska the extra tax on gasoline and still meet the obligations of the state in regards to funding roads at the level that the Appropriations Committee would have us fund? The fund are available. We will already have collected these. This will not be a new tax. These are funds that are going to be collected by the state during the next two years. Senator Synowiecki makes the point that it's unfair to tax people that don't have cars. Those people don't stay home all day. They still use the roads. There is a connection. It is not the direct connection that Senator Fischer and others have argued for and I have supported. This is a unique circumstance, and we have a unique opportunity to save ourselves from putting a bill to the Governor that includes a gas tax increase, because I believe it's unnecessary, and

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we can accomplish the same goal in another way. If AM1229 is adopted, we will transfer \$19 million in four equal payments beginning in the second year of the biennium to the Highway Cash Fund. By doing that, we lower the need to raise the gas tax based on the current projections, and it will stay where it is, at 27.1 cents, again on current projections. These are unique times and this is a unique opportunity to save us that pain. Are there other needs for roads in this state that need to be addressed? They sure do. There sure are. Senator Fischer is going to be working over the interim with other interested parties to find if there are more appropriate funding mechanisms or if there is a better way to fund roads. They may come back with the exact proposal that we have, but what we will have done is bought ourself the time to do it thoroughly and thoughtfully without the reality of hanging a gas tax on the citizens of the state of Nebraska. So you have a second opportunity to vote for this budget without a gas tax increase in it. The difference is, is that this will fund the level of funding for road construction that the Appropriations Committee has recommended to us. I would ask for your support. [LB323]

SENATOR SCHIMEK: One minute. [LB323]

SENATOR ERDMAN: Thank you, Madam President. I would just ask for a machine vote. Thank you. [LB323]

SENATOR SCHIMEK: Thank you, Senator Erdman. You have heard the closing on AM1229. The question is, shall the amendment be adopted? All those in favor vote aye; all opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB323]

CLERK: (Record vote read, Legislative Journal page 1467.) 16 ayes, 24 nays, Madam President. [LB323]

SENATOR SCHIMEK: The amendment is not adopted. I raise the call. [LB323]

CLERK: I have nothing further on the bill, Madam President. [LB323]

SENATOR SCHIMEK: Senator McGill. [LB323]

SENATOR MCGILL: Madam President, I move LB323 to E&R for engrossing. [LB323]

SENATOR SCHIMEK: You have heard the motion. All in favor say aye. Oops, excuse me, there are lights on. Senator White, you are recognized to speak. Senator White waives. Anyone else wishing to vote on the motion or speak on the motion? Seeing none, all in favor say aye; all opposed say... All in favor say aye. All opposed? The bill is advanced. Thank you. Mr. Clerk. [LB323]

CLERK: LB88. Senator McGill, I have no amendments to the bill. [LB88]

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SENATOR SCHIMEK: Senator McGill. [LB88]

SENATOR MCGILL: Madam President, I move LB88 to E&R for engrossing. [LB88]

SENATOR SCHIMEK: You have heard the motion. All in favor vote aye; all opposed vote nay. All in favor say aye. All opposed say nay. The bill advances. Mr. Clerk. [LB88]

CLERK: LB339. Senator McGill, I have Enrollment and Review amendments, first of all. (ER8102, Legislative Journal Page 1389.) [LB339]

SENATOR SCHIMEK: Senator McGill. [LB339]

SENATOR MCGILL: Madam President, I move the E&R amendments. [LB339]

SENATOR SCHIMEK: You have heard the motion. All in favor of adopting the E&R amendments say aye. All opposed? The amendments are adopted. [LB339]

CLERK: Senator Cornett would move to amend, AM1262. (Legislative Journal page 1468.) [LB339]

SENATOR SCHIMEK: Senator Cornett, you are recognized on your amendment. [LB339]

SENATOR CORNETT: Thank you very much, Madam President and members of the body. LB339 with AM1262 places a two-year statute of limitations within the Miscellaneous Claims Act. By doing so, it was the committee's intent to override the general statute of limitations contained in 25-218. The language used to create the statute of limitations was from the Department of Administrative Services; however, it was brought to our attention that there is a need to further clarify our intent. Because our statute of limitations in LB339 allows for the exemption of expired warrants and claims under the Petroleum Remediation Act, some would argue that the general statute of limitations in 25-218 would still apply to those two types of claims we are trying to exempt. This was not our intention. What we are trying to accomplish is make sure that there are no time barriers to expired warrants and petroleum remediation claims. I'm offering an amendment to make it clear that there are no time barriers on agency write-offs, expired warrants, and claims brought under the Petroleum Remediation Act. As a committee, we felt these two types of claims in particular should be paid to Nebraska citizens and should not be barred just because of time restrictions. I would be happy to try and answer any questions you might have. Thank you. [LB339]

SENATOR SCHIMEK: Thank you, Senator Cornett. Senator Pirsch, your light is on. You are recognized to speak. [LB339]

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SENATOR PIRSCH: Thank you, Madam President. Are there other lights on, as well? [LB339]

SENATOR SCHIMEK: Not at this point, Senator Pirsch. [LB339]

SENATOR PIRSCH: Okay. Just a few questions then, if...and members of the body, thank you, Madam President. If Senator White would yield to a few questions. [LB339]

SENATOR SCHIMEK: Senator White, would you yield? [LB339]

SENATOR WHITE: I would. [LB339]

SENATOR PIRSCH: And Senator White, you're on the Business and Labor Committee, is that correct? [LB339]

SENATOR WHITE: That is correct. [LB339]

SENATOR PIRSCH: Okay, very good. And you're familiar with the committee amendment, then, I would assume, AM1262? [LB339]

SENATOR WHITE: Yes, I am. [LB339]

SENATOR PIRSCH: Very good. Then I'll ask you, under current law, a two-year statute of limitation applies for claims brought under the Petroleum Release Remedial Action Cash Fund, is that correct? [LB339]

SENATOR WHITE: Certainly some of the agencies have so interrupted it. I think there is an issue about that that's not fully resolved in the courts, but certainly that is one position. I think the Attorney General's Office takes that position, and others. [LB339]

SENATOR PIRSCH: Very good, and that was with respect to a recent Attorney General's Opinion, is that correct? [LB339]

SENATOR WHITE: And that is my understanding; yes, sir. [LB339]

SENATOR PIRSCH: Okay. With respect to that two-year statute of limitation, does that apply from the date of incident or the date of discovery of...? [LB339]

SENATOR WHITE: It's not known. That's part of the problem. And one of the big problems in this area is when you have a buried tank leaking, you can have a real problem not knowing, of course, when it started leaking, and even if you discover it, sometimes it's tough to understand where it's leaking from initially. [LB339]

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SENATOR PIRSCH: From a legalistic perspective though, as the courts would move to address a claim, would they not look at either the date of discovery or the date that it should have been reasonably discovered? [LB339]

SENATOR WHITE: Usually they will do that. It will usually be discovery or the date it should have been discovered as the date that triggers the running of the statute. [LB339]

SENATOR PIRSCH: Okay. And for a little background for the body, this particular law, the Petroleum Release Remedial Action Cash Fund, could you just explain very briefly what the purpose regarding the creation of this fund was? [LB339]

SENATOR WHITE: As I understand, the fund was created and it takes a portion of the gasoline tax and it places it into a fund. Generally speaking, federal law provides that people who provide the polluting substance, the gasoline, the oil, the diesel, whatever it is, would have some obligation to clean it up. But in some of these instances, the pollution has been there so long, entities that might have owned the gas station are gone, money may not be available. And this is a fund that exists for one real purpose and that is to provide money from a tax base on current sales of petroleum products to clean up what our toxic spills that threaten our groundwater and our soils. So the purpose of the fund is to act as a source of money to clean up when other responsible parties cannot be found. [LB339]

SENATOR PIRSCH: Okay. Could you comment, just in general, what a statute, the underlying purpose behind a statute of limitation, in general? [LB339]

SENATOR WHITE: In general though I would say it does not...I don't believe it applies to this situation. But in general, a statute of limitations is to help settle disputes. If I am hurt in an accident because of a car accident, and in this state I don't file suit within four years, the person driving the other vehicle, at some point after four years ought to have the right to sleep easy. In other words, knowing that the law...there is not going to be lawsuit. And if that's up to me individually and I decide not to pursue my rights, the statute of limitations makes perfect sense. [LB339]

SENATOR SCHIMEK: One minute. [LB339]

SENATOR WHITE: And so you know, Senator, I am up next I think, so we can continue. [LB339]

SENATOR PIRSCH: Okay. And that's fine. And given the interpretation of the Attorney General Opinion, if in fact damage occurs at any time in the past, say 50 years ago, and that claim then would thereby still be right as long as the claim is brought within two

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years of the actual discovery or should have been discovered? [LB339]

SENATOR WHITE: That's correct, but of course one of the problems you have with that situation is, you know, you don't know when it should have been discovered, often, and so what we're running into with the statute of limitations as applied to the petroleum cleanup fund is, one, we don't know necessarily when it was discovered or should have been discovered. We...for example, a tank could have been removed, they had found a hole in it and they might have removed it ten years ago but the oil is still in the ground, and people are gone now and so the oil remains in the ground. And the point... [LB339]

SENATOR SCHIMEK: Time. [LB339]

SENATOR PIRSCH: Thank you, Madam President. [LB339]

SENATOR SCHIMEK: Thank you, Senators Pirsch and White. (Visitor announced.) Thank you. Returning to debate on AM1262, Senator White, you are recognized. [LB339]

SENATOR WHITE: Would Senator Pirsch yield to a question? [LB339]

SENATOR SCHIMEK: Senator Pirsch. [LB339]

SENATOR PIRSCH: Yes, I would. [LB339]

SENATOR WHITE: Senator, we have a profound difference, though, from a normal lawsuit in this situation. I believe and I think the committee's belief was the fund exists to get oil out of the ground, out of our water, out of our soils. And when we can't find the responsible party and we don't know how, it doesn't make sense to, quote, bar a claim, because the oil goes nowhere and it threatens all of us. In one of the recent cases, the city of Norfolk lost the use of a well, and it was sought to use a statute of limitations to bar their ability to get money to help clean it up. That does not help us on a public policy basis because the oil remains and, of course, the wrongdoer might have been dead 75 years, 100 years ago. So in this situation the committee was of the opinion that what the fund exists for is not to settle lawsuits. The fund exists to get pollutants out of the ground. And barring people from making claims under the fund frustrates that principle and it puts us all at risk. We basically sit atop one big aquifer, and so pollution in any part ultimately has implications for all of us. [LB339]

SENATOR PIRSCH: Thank you very much. It's your time, I would just remind you, Senator. [LB339]

SENATOR WHITE: I would yield the rest of my time to Senator Pirsch. [LB339]

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SENATOR SCHIMEK: Senator Pirsch. [LB339]

SENATOR PIRSCH: Thank you very much. Actually if you wouldn't mind yielding for just a couple...few more questions. [LB339]

SENATOR WHITE: I would continue. [LB339]

SENATOR PIRSCH: You would cede, would you not, that in leaving an open-ended time to bring a claim again this fund, wouldn't it be difficult for the agency investigating the leak to determine what happened if 50 years, for example, had gone by? [LB339]

SENATOR WHITE: Flat out impossible in many situations. [LB339]

SENATOR PIRSCH: Okay. I guess we've talked about the law of unintended consequences. Is there any other harm that might befall in terms of should this statute of limitations be in effect at that time and should the...? Would it lead to...? Would totally abolishing the statute of limitations thereby, though unintended, lead as the end result into the tendencies for investigations or normal things that might be spurred by those suits, to thereby be put off? [LB339]

SENATOR WHITE: I don't think so for a number of reasons. One is I think most people, if they have a pollutant in their soil or near their soil threatening the value of their property or their health, are going to be motivated to clean it up in any event. And I think the presence of the fund would encourage them to move forward rather than discourage them, because they would know there may be a potential source of money. Second, nothing that we do here will affect the major pollution laws which are the federal laws which are, of course, untouched by what we have here. So any rights that one might have against previous owners of the property or who polluted it, are untouched because you would file them under federal laws, almost uniformly. [LB339]

SENATOR PIRSCH: Thank you. Would, however...actions that are currently expedited to meet the two-year statute of limitations, knowing that there is no particular rush to the occasion, might it be difficult then for investigators to later, say 50 years down the line, track down exactly what transpired decades and decades earlier in a way that would not have occurred? [LB339]

SENATOR SCHIMEK: One minute. [LB339]

SENATOR WHITE: I don't know, Senator. I guess I would say no and I would say to the extent that if did occur, the damage caused by that would be far less than blocking the availability of money that we have assembled for a purpose to get the pollution out of the soil. To me, you know, they say, keep your eye on the ball, and to me the ball is clearly this: We gathered this money from a portion of the gasoline tax. We put it in this

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fund and it was for one reason: We need to get this pollution out of our soil and our water. And blocking access to this money does not promote that, and I can't see how that helps anyone. [LB339]

SENATOR PIRSCH: Well, I certainly agree with you on that. We want to make sure that we're rid of pollution to the extent possible. Would this somehow lead to a greater cost or raise, potentially, taxes in the future? [LB339]

SENATOR WHITE: I don't think so. I mean, the money in the fund is set at a certain amount, and when there is money available, the projects are prioritized and they're paid for. You know, whether or not a future Legislature.. [LB339]

SENATOR SCHIMEK: Time. [LB339]

SENATOR PIRSCH: Thank you. [LB339]

SENATOR SCHIMEK: Thank you, Senators Pirsch and White. Senator Pirsch, your light is next. [LB339]

SENATOR PIRSCH: Madam President, members of the body, I think that the majority of the questions I had to ask, I've asked, but I will ask one other of, or maybe a couple others of Senator White if he would yield. [LB339]

SENATOR SCHIMEK: Senator White, would you yield? [LB339]

SENATOR WHITE: Oh, yes, ma'am. [LB339]

SENATOR PIRSCH: Could you describe the status of the fund right away, the Petroleum Release Remedial Action Cash Fund? [LB339]

SENATOR WHITE: No, I don't know how much cash is in it at the moment. I know that a major settlement was just reached, I believe with Norfolk, and so...and I think that was in the nature of \$400,000 to \$500,000, so I don't know what the balance is at this point in time. But I do understand that I believe they've isolated most of or they're aware of most of the spills that exist, or think they are, and they're moving towards cleaning them up. [LB339]

SENATOR PIRSCH: Has there been a general...I guess when it comes to the stability of the fund over time, is there a general downward trend in terms of revenue in the fund, or...? [LB339]

SENATOR WHITE: Well, again, I believe it's tied to gasoline taxes, so, you know, I understand that the balances may be dropping. [LB339]

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SENATOR PIRSCH: I see. Okay, that's all the questions I had. I would yield the balance of my time to Senator White, should he desire to use it. [LB339]

SENATOR SCHIMEK: Senator White, did you wish to use the time? [LB339]

SENATOR WHITE: No, I would decline, and perhaps Senator Cornett might wish it. [LB339]

SENATOR SCHIMEK: Senator Cornett, time has been yielded to you, about three and a half minutes. [LB339]

SENATOR CORNETT: Thank you very much, Madam President and members of the body. Senator Pirsch, just to let you know that there is right at \$6.9 million in the fund. There has been a slight downturn in that fund but it is, from what I understand, fairly stable. Thank you very much. [LB339]

SENATOR SCHIMEK: Thank you, Madam...or thank you, Senator. Senators Pirsch, White, and Cornett, thank you. Seeing no further lights, Senator Cornett, to close on your amendment. [LB339]

SENATOR CORNETT: Thank you very much, Madam President and members of the body. This is an important technical amendment. We had drafted the bill with the language from the Department of Administrative Services, and it did not address the entire intent that the committee had. I urge the body's support of the amendment and thank you very much. [LB339]

SENATOR SCHIMEK: Thank you, Senator Cornett. You've heard the closing on AM1262. The question is, shall the amendment be adopted? All those in favor vote aye; all opposed vote nay. Have you all voted who wish to vote? Senator Cornett, did you wish to be recognized? [LB339]

SENATOR CORNETT: (Inaudible.) [LB339]

SENATOR SCHIMEK: Thank you, Senator Cornett. Record, Mr. Clerk. [LB339]

CLERK: 27 ayes, 0 nays, on the advancement of the bill, Madam President, or on the adoption of the amendment, excuse me. [LB339]

SENATOR SCHIMEK: Thank you, Mr. Clerk. The amendment is adopted. Senator McGill for a motion. [LB339]

SENATOR MCGILL: Madam President, I move LB339 to E&R for engrossing. [LB339]

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SENATOR SCHIMEK: Thank you. You have heard the motion. All in favor say aye. All opposed say nay. The ayes have it and the bill does advance. Items for the record, Mr. Clerk. [LB339]

CLERK: Enrollment and Review reports LB324, LB324A, LB435, and LB610 as correctly engrossed. LR125, a new resolution by Senator Flood will be laid over. LR126, by Senator Adams, calls for an interim study, will be referred to the board. That's all that I had, Madam President. (Legislative Journal pages 1468-1470.) [LB324 LB324A LB435 LB610 LR125 LR126]

SENATOR SCHIMEK: Thank you. We now move to General File. The first bill up is LB342. Mr. Clerk, do we have any amendments? [LB342]

CLERK: LB342, Madam President, a bill by Senator Raikes. (Read title.) Introduced on January 11, referred to the Education Committee, the bill was advanced to General File. There are Education Committee amendments pending. (AM1079, Legislative Journal page 1257.) [LB342]

SENATOR SCHIMEK: Thank you. Senator Raikes, you are recognized to open on LB342. [LB342]

SENATOR RAIKES: Thank you, Madam President and members of the Legislature. This bill, LB342, is a bill that's been prioritized by Senator Engel. I appreciate his effort in that regard. It brings us back to an issue that we have spent time on, at least periodically over the years in the Legislature, and in fact is a very important one. It deals with a very important segment of our higher education system, community colleges. In fact, that I think is certainly if not among the most rapidly growing institutions in terms of enrollment. This particular bill deals with the funding formula that we use for community colleges and changes or updates in that formula particularly that we're going to propose here. So I would mention it first, that you're going to receive a handout that's got Nebraska community college areas on the front, and it's also got quite a bit of information behind that front page that I'm going to try to go over with you and explain in some detail. There are six community college areas in the state. The funding for community colleges is different than other public higher education institutions. There is both state funding and a levy authority, a property tax levy authority, for community colleges. The first page toward the bottom of that handout outlines what I think are not only the major characteristics of that funding mechanism, but also at the bottom a table that shows for each of the six community college areas information about the levy rate that we've had in '06 or we now have in '06-07, the maximum rate, and also something about unused property tax resources. I'm going to use this as a basis for the introduction of really the committee amendment, which deals with changes in this formula. The green copy of the bill, I should mention, did not have the formula change

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that is being proposed in the committee amendment. That, in fact, was an effort to once again change the community college-based funding. The table at the bottom, I think highlights the difficulties we have with the current formula and what I consider is an important need to consider changes. If you look at kind of the middle column on that table, it shows you right now that in '06-07 the community college levy rate, among the areas, varies drastically. The lowest rate is in the Metro area at 5.56 cents per \$100 valuation, whereas in Western is almost twice that much at 10.7. We have a situation now with the funding formula that for a service provided to taxpayers, a higher education service, the burden placed on people in one part of the state is much higher than it is in other parts of the state. That is one of the issues that I'm going to highlight a little later on and that we are trying to address. A little history on the current formula. It was developed in 1997 under LB269. The base operating revenue, which is a key feature of that current formula, was the revenue base established in 1997-98 and it is, in that sense, an arbitrary base which has simply been grown through the years by enrollment and a 2 percent growth factor. There is a premise in the funding partnership of a 40-40-20. Forty percent of the operating revenue come from property tax, 40 percent from state aid, and 20 percent from tuition and other resources. The Appropriations Committee is aware that there are two different programs to fund...to distribute appropriation aid for community colleges, Program 151 and Program 152. These programs do have an element of foundation aid for each community college area. There is some enrollment-based aid and there also is some equalization aid. But the net effect of the formula is that except in the circumstance of full funding, there is not equalization throughout the state in community college funding. For a little bit more about full funding, for 2006-07, the funding formula generates...or the state has appropriated about \$68.5 million in state aid, and full funding for the formula would require over \$88 million. The nearly \$20 million deficit in the amount of aid for each community college area may be made up through the levy. But the levy is not equalized, so depending upon the community college area, the amount of tax required to make up the shortfall will vary greatly, and that's why you saw the huge difference between Metro and Western, for example. To tell you one more thing, the estimated appropriation to fully fund the formula in the current year, 2007-08, is \$92 million. Currently, the appropriation suggested by the Appropriations Committee is \$72 million. The difficulties with the current formula I would say are most noticeable in two areas. One of them is equalization, the fact that there is a significantly different burden placed on property taxpayers in one part of the state versus another to provide the same basic service; namely, access to a community college education. The second difficulty is the base operating revenue has created difficulties, in that it seems constantly necessary to change the base because the arbitrary or...well, maybe not arbitrary, but the base established in 1997-98, with the growth factors, does not follow the revenue needs, enrollments, and so on, of the community college areas. What we've done in the committee amendment is proposed a change in this funding formula for community college areas which I think effectively addresses both of those issues. It is a conventional, in some sense, a conventional equalization formula. It follows very much

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the needs-minus-resources-equals-aid formula we have in certainly the K-12 funding formula and other funding formulas. As far as equalization in terms of making up any shortfall available or shortfall for a community college area levy authority, valuation per student is taken into account. So I'm going to dwell a little bit more, a little bit later on specific results. In this handout you've got, you've got some tables which show what results this model produces for the different community college areas. While I'm here though, I'll mention very quickly that there are two other related community college...or postsecondary education issues that are incorporated in this bill. One of them deals with the Minority Scholarship Program Act. [LB342]

SENATOR SCHIMEK: One minute. [LB342]

SENATOR RAIKES: The amendment would change the name of the Minority Scholarship Program Act to the Student Diversity Scholarship Program Act and would modify the mission to provide scholarships for students from diverse racial, ethnic, and cultural backgrounds rather than to provide scholarships to students from specific racial groups. This is an update of the purpose and language in that particular proposal. It also has...the bill has a provision in it relating to the Nebraska Scholarship Act, our need-based scholarship program. The amendment specifically allows for an increase in the maximum award from 25 percent to 50 percent of the tuition and mandatory fees for a full-time resident undergraduate student for the last completed award year at the University of Nebraska-Lincoln. [LB342]

SENATOR SCHIMEK: Time. [LB342]

SENATOR RAIKES: Thank you. [LB342]

SENATOR SCHIMEK: Thank you, Senator Raikes. As the Clerk stated, there are committee amendments. Senator Raikes, as Chair of the Education Committee, you are recognized to open on those amendments. [LB342]

SENATOR RAIKES: Thank you, Madam President and members. I had already begun on the committee amendment. I will continue. I had mentioned that one of the changes in addition to the funding formula for community colleges, there are two other higher education issues that are dealt with. One of them is the Minority Scholarship Program Act. The other one is the Nebraska Scholarship Act, our needs-based scholarship program. And this is amended to allow an award rather than...the maximum being 25 percent of the tuition and mandatory fees for a full-time UNL student. For this year that maximum is raised to 50 percent. This is in the vein of a transition...I guess I should say a continued transition. We, you may remember, had separate needs-based scholarship aid programs. We have merged them into a single one. It's been three or four years ago now, at least, and this is part of the transition that accommodates that new single program. Okay, if I could ask you to turn to the, I guess the last page on this handout,

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you will see some tables that describe community college funding under both the current scenario, the current formula, and under the one that is being proposed by this committee amendment. If you look at the first section on that page, we have the current formula in place with a funding level of \$72 million, about, that is about where the Appropriations Committee recommendation is. You see that by looking at that, the minimum levy rate, 5.3 cents; the maximum levy varies considerably, ranging from 6.82 cents to 11.38 cents; the average maximum rate, 7.41 for a levy rate. Scenario 2 is that same funding, state funding situation, except with the new formula. And I hope a couple of things jump out at you. First, the average property tax rate that would be expected is under the local effort rate. There is also a minimum and a maximum levy rate, and the model aid to each college area totalling \$72 million. The levy rate is equalized. At the funding level here which is certainly much less than what was full funding under the old formula, the levy rate...the maximum is approximately 7.48 for all the college areas; the average rate 6.5; the minimum, 5.2. Scenario 3 simply increases the amount of funding by the state to \$78 million, and you can see the results. The average rate drops from 6.5 down to 6.05; the maximum rate and the minimum rate also drop. Finally, on the next page is Scenario 4. There we have a funding rate of \$84 million, which would be \$12 million per year more than what...or \$12 million more than what the Appropriations Committee has recommended. With that rate, or with that funding level, the local effort rate is 5.6 cents; the maximum levy, 6.45; the minimum, 4.5. I think it's important to point out that this is an effort to follow along with something the community college areas have been working on and have not been successful in achieving, really at least for the last year and a half. They've worked on trying to revise the formula, come up with something that they were in agreement with and basically were unable to be successful. Given that as a start and their result, which was not agreed to, was the green copy introduced. We in our office and particularly Matt Blomstedt worked very hard on this, worked with the area presidents very closely over a long period of time, have come up with what I believe is a formula that not only do they agree with, but it's consistent with good state policy and is very much consistent with the notion of equalization that are an important objective for us at the state level is to make sure that the services provided across the state, state services, can be provided with approximately the same property tax burden, no matter where you are in the state. So I'll mention...well, I'll mention that there are also...there is one additional amendment that we'll turn to and I'll talk about that in just a second, but the essence of the proposal is in this committee amendment, and that proposal is to change the funding formula in a way that accommodates needs calculation, an equalization approach, and a formula that adjusts through time much more readily than the formula that is currently in place. Thank you, Madam President. [LB342]

SENATOR SCHIMEK: Thank you, Senator Raikes. Mr. Clerk, is there another amendment? [LB342]

CLERK: Madam President, Senator Raikes would move to amend the committee

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amendments with AM1256. (Legislative Journal page 1451.) [LB342]

SENATOR SCHIMEK: Senator Raikes, you are recognized to open on AM1256. [LB342]

SENATOR RAIKES: Thank you, Madam President, members of the Legislature. This amendment has some what I could think be accurately described as some more technical changes. We've got a change in the base growth factor to 2 percent instead of 3 percent. We have some other more technical changes like that. Perhaps the most significant part of this amendment is the average need adjustment concept which is, I think, discussed or pointed out earlier in your handout. In effect, what we're trying to do or what we did try to do, in coming up with funding amounts in this formula, is use the most recent or the status quo--the most recent funding results, as the base from which we move forward. As has been typical with community college funding for a number of years, that base funding or the funding amounts tend to get out of whack over time. As we approached it this year, it was no different. What we tried to do with...or what we did with this average need adjustment concept is take into account, as best we could, the extent to which that base funding had gotten out of line, bring it more nearly in line, and then move forward with a needs calculation which will be in effect, not only for this biennium, but on down the road. I'll mention quickly that this formula, I think, is very much the start...a move in the right direction. Is it a totally finished product? No, it isn't. I don't think a formula ever is. In this particular case, the needs calculation probably will need to be specified more completely as we move through time, so that we more accurately reflect the actual costs incurred by community college areas. But I will tell you that this is a formula that is consistent with state policy. It's one that we worked very hard to get the agreement of the community college areas, and I think, especially with the funding level that's prescribed here in the A bill, we do have the support of the community colleges in that effort. With that, I'll stop and try to answer any questions you might have. Thank you. [LB342]

SENATOR SCHIMEK: Thank you, Senator Raikes. You have heard the opening on the Raikes amendment to the committee amendment, and we will begin discussion with Senator Engel. You are recognized to speak. Senator Engel. [LB342]

SENATOR ENGEL: Madam President, members of the body, in 1999 when Western Nebraska Community College had funding difficulties, legislation was passed to increase the revenue base for Western. State dollars were appropriated at that time for this purpose. Legislation was introduced in 2003, 2004, and 2005 before it finally passed in 2005, to help Northeast Community College. Instead of a state appropriation, the legislation allowed the Board of Governors to raise local property taxes. The revenue generated by the additional levy authority was added to the base year revenue for purposes of the state aid formula. This legislation was necessary because when the funding formula for community colleges was revised in 1997, Northeast Community

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College had experienced a substantial increase in enrollment the previous year, but it had not yet adjusted its local property taxes to compensate, thereby resulting in an artificially low base rate. Now we can either keep this Band-Aid approach and continue to tweak the funding system every time that a community college area experiences funding problems, or we can change the system and make it more equitable. And LB342 is a comprehensive approach to changing the formula to distribute state aid to community colleges on a more equitable basis. I applaud the work that Senator Raikes and his staff have done on this bill. It's been a long time coming. A lot of work...I know there's been a lot of study the last year and a half--in fact, the last seven years. And his good faith efforts to try to attain approval from all the community colleges are commendable. In fact, this morning they all met, and all 12 board members voted unanimously to approve LB342. And with that, I think that is really a feat in itself, getting them all together, and I certainly hope you'll all support this particular measure. With that, I'd turn the rest of my time over to Senator Raikes, if he'd like it. [LB342]

SENATOR SCHIMEK: Thank you, Senator Engel. Senator Raikes, would you like the time that Senator Engel has just given you? [LB342]

SENATOR RAIKES: Thank you, Madam President and members. Thank you, Senator Engel. I again would thank Senator Engel for prioritizing this. I think this is an extremely important measure. It is important certainly for Northeast Community College, an area which includes his legislative district, but it's important as well for the other areas in the state. And with that, I'll yield Senator Engel's time back to Senator Engel. Thank you. [LB342]

SENATOR ENGEL: And I appreciate that, Senator Raikes. I forgot to mention something here. You all have a letter on your desk from Dave Newell, and...as far as not agreeing with anything that's going on here this morning, or this afternoon. And he is not representing the Metropolitan Community College Board of Governors on this particular issue, because they have all come to agreement this morning. So at this point in time, I believe, if this letter is still current, he's doing this on his own. So I want you...just wanted to give that to you, for your information. With that, I thank you very much and return the rest of my time. [LB342]

SENATOR SCHIMEK: Thank you, Senators Engel and Raikes. Senator Harms, you are recognized to speak. [LB342]

SENATOR HARMS: Thank you, Madam President and colleagues. I rise to support LB342 and its amendments. Before I give you my comments today, I'd like to clarify a couple things so that the body fully understands my thoughts about this particular legislation. I've had the fortunate opportunity to be involved in the community college system as a college president for 33 years, and so when I start to speak about this, I want you to understand that I will be objective and try not to be biased, and give you the

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facts as I see them. So I just want the record to be able to show that, that I have had the knowledge and the background in the system for a long time, and quite frankly, fully understand it. First of all, I'd like to commend Senator Raikes and his staff. I have had maybe the unfortunate opportunity of experiences in the community college system to be involved in at least 15 to 20 formula changes over 33 years. Not involved in this one, because I'm no longer associated with the community college system. And I will tell you that every one of those were painful, and no one is always happy about them, and there's a lot of give and take. And so I understand how difficult this is to get people to reach an agreement in regard to a change in the funding formula. But as times change, conditions in funding formulas have to change to meet the different needs that we have across the state of Nebraska, and Senator Raikes has done this. He's taken a formula that has been flawed for about 20 years, and he's corrected it in a very short period of time, and I commend him for that, and I support where we are with this particular change that has been needed. There are a couple of things I want to bring to your attention that are actually in this bill that I think have been needed for a long time. And one can be found on page 3, section 21, that deals with the Coordinating Commission being directly involved in collecting all the data for the community college system. Up to this time we've never really had a formal place where we could place all that data. It either went through the executive director, (inaudible) box office, or one of the other community colleges collected that data and submitted it. And now that that's been moved from that system, I have a much better feeling that the data that is going to be analyzed will be clearly identified, and if there are issues within that data, we'll clearly understand that, because it is being done by a neutral party. I'm not saying that there has been difficulties in that issue, but I've always had some concerns about that factor, and I appreciate the fact that Senator Raikes and his staff saw that. The other area that I think is extremely important, and that's on page 5, item 2, line 15. It brings in the Department of Revenue to certify the dollars. I've always had somewhat of a concern about certification of the money, making sure that the funding formula was working appropriately and properly, and that it was certified in the necessary form. And I think Senator Raikes, not only has he changed the funding formula and made it where it needs to be, and bringing equalization into it that is so badly needed, particularly the further west you go, the less number of people you have, the less valuation you have, and it's much more difficult for a community college or any part of education to fund itself, without some form of equalization. And so what happens, then, in rural America without that, you pay a higher property tax for the same type of education that you may be getting in an urban area. [LB342]

SENATOR SCHIMEK: One minute. [LB342]

SENATOR HARMS: But it's costing you more dollars. Thank you, Madam President. So I would just tell you that I think that we are moving in the right direction. I believe that this bill will have to come back in the near future to be fine-tuned, but I think it's moving in the right direction. I think it's appropriate, and I think for the first time in at least 30

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years, we finally are beginning to get a handle on the funding and the issues in the community college system, and I thank Senator Raikes and his staff for doing that. Thank you, Madam President. [LB342]

SENATOR SCHIMEK: Thank you, Senator Harms. Senator Avery is next in line, followed by Senators Heidemann, Kruse, and White. [LB342]

SENATOR AVERY: Thank you, Madam Chair. I am going to support this bill, but I do have a couple of points I want to make before I get there. The first one is, what is the proper role for a community college? They began back in the early 1900s as an extension of high schools, and slowly they morphed into an alternative and a supplement to four-year colleges. They have become today a gateway to the bachelor's degree for many young people who cannot afford places like UNL or Nebraska Wesleyan, because of high tuition. The high tuition might be, in part, our fault because of the way we fund the university. Community colleges now serve as low-cost platforms for students who might later pursue baccalaureate college degrees at universities. Community colleges, I think, are no longer only for training in the vocational trades. They now compete with baccalaureate institutions for tuition-paying students. And I was looking at a study the other day that showed that for every \$100 increase in tuition, there is somewhere between .5 and .9 percent reduction in enrollments at these institutions. Obviously, the University of Nebraska charges more. So the alternative of going to Southeast Community College and others is very attractive. We are discussing here today a funding formula that gives the community colleges an enormous advantage, and that's the second point I want to get to. They have an advantage compared to other institutions of higher learning. When the state of Nebraska fails to fully fund the community college needs, they can go to the property tax to make up the difference. When the state of Nebraska fails to fund the state colleges and the university, they cannot do that. The university system must plead with the Governor and with this body for its lifeblood. The community colleges don't have to do that. So my concern with the way we fund the community colleges today has to do with partly how far they've strayed from their original mission. Now they're offering two-track training--training in the vocations and the academic track. And by far, in many cases most of the students, at least nationwide, who attend community colleges today, choose the academic track over vocational training. And among these students, the vast majority choose liberal arts, the liberal arts curriculum, which competes directly with four-year colleges. Another development among community colleges is the trend toward building dormitories, creating athletic programs and other programs that normally are associated with four-year academic colleges. Maybe what needs to be done is to decouple community college funding from the property tax and put them in the same category as other state colleges and the university. And I say that because the mission of community colleges has changed, and since the mission has changed, perhaps it's time to reexamine their funding sources. [LB342]

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SENATOR SCHIMEK: One minute. [LB342]

SENATOR AVERY: Now I am not going to oppose the bill, as I said, but I do believe it is time to put on the record that we need to examine the way we fund community colleges. Maybe it's time for us to begin a reexamination of this, and perhaps that is for the future. But I wanted to at least make those points. Thank you, Madam Chair. [LB342]

SENATOR SCHIMEK: Thank you, Senator Avery. Senator Heidemann, you are next. [LB342]

SENATOR HEIDEMANN: Thank you, Madam Chair and fellow members. Senator Raikes, for a question or two. [LB342]

SENATOR SCHIMEK: Senator Raikes, would you yield to a question or two? [LB342]

SENATOR RAIKES: Yes. [LB342]

SENATOR HEIDEMANN: I'm just trying to look at your formula just a little bit and how you've set it up, and I was wondering, the minimum levy rate, how was that set? [LB342]

SENATOR RAIKES: It's 20...we calculated a local effort rate, which basically is the statewide artificial property tax rate, which generates the required funds just to support the needs of the institutions. The minimum levy rate is 20 percent below that; the maximum levy rate is 20 percent above that--excuse me, 15 percent above that. [LB342]

SENATOR HEIDEMANN: But it also is true that the minimum levy rate is also set by the estimated aid? [LB342]

SENATOR RAIKES: The minimum levy rate is set by the needs calculation less the resources, divided by the property valuation. [LB342]

SENATOR HEIDEMANN: But in reality, also, I mean, it is set by how much money that we appropriate for it, because it changes as... [LB342]

SENATOR RAIKES: Yes, you're exactly right. What this does is puts the Legislature, the Appropriations Committee, in the situation of, if you want to provide more funding for community colleges, the levy rate, property tax levy rate will go down. If you want to provide less funding, the property tax levy rate will go up, and it's the same impact across the state on levy rate. [LB342]

SENATOR HEIDEMANN: Why...theoretically, the more model aid that you would give them, the less minimum levy rate there would have to be. Would you really have to set a

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minimum levy rate? [LB342]

SENATOR RAIKES: In the original version, Senator, we didn't. That was a request brought to us by one of the community college areas. They wanted a minimum levy rate. [LB342]

SENATOR HEIDEMANN: Why? [LB342]

SENATOR RAIKES: Probably simply to put bounds on what is an acceptable levy. We do allow...in this sort of a formula, we allow a community college area, community college board, to decide what they want to do in terms of tuition charges, say, versus property tax levies. The minimum levy would put a minimum, so to speak, on how high you could have your tuition charges, and count...on the other hand, how low you could have your minimum levy rate. [LB342]

SENATOR HEIDEMANN: So unlike TEEOSA, where you just rely on property taxes or state aid, the tuition factor also comes into play. [LB342]

SENATOR RAIKES: That's right. You don't have any tuition receipts in K-12. You do in community colleges. [LB342]

SENATOR HEIDEMANN: And is there a minimum levy...if you don't meet a minimum levy rate, your penalty is what? [LB342]

SENATOR RAIKES: The levy...the minimum levy penalty mechanism is pretty much the same as it is in the K-12. Your aid is reduced in proportion to the amount your levy is below...in other words, the property tax receipts you would have gotten are subtracted from your area state aid. [LB342]

SENATOR HEIDEMANN: Dollar for dollar? [LB342]

SENATOR RAIKES: Yeah. [LB342]

SENATOR HEIDEMANN: But they probably can't get down to the minimum levy rate anyway. [LB342]

SENATOR RAIKES: Well, they have a great deal of flexibility, as I mentioned, in how they decide to fund their operations. [LB342]

SENATOR SCHIMEK: One minute. [LB342]

SENATOR RAIKES: As with any formula, as you know, this is a...well, not any formula, but in this particular one, there's a needs calculation which pegs the amount required to

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operate this community college. They then have flexibility in determining whether they want to use property taxes or tuition in order to get there. [LB342]

SENATOR HEIDEMANN: Can we afford to do this, Senator Raikes? [LB342]

SENATOR RAIKES: I think we can, Senator, and I think we should. This is...this accomplishes two important objectives. It provides a very important and growing postsecondary education service across the state, and it also achieves an important equalization objective across the state. The property tax reduction impact of this varies between areas. If you look at Metro, you could make the argument that, well, probably if this is funded at the \$84 million rate, property taxes... [LB342]

SENATOR SCHIMEK: Time. [LB342]

SENATOR HEIDEMANN: Thank you. [LB342]

SENATOR SCHIMEK: Thank you, Senators Heidemann and Raikes. Senator Kruse, you are recognized to speak. [LB342]

SENATOR KRUSE: Thank you, Madam President and colleagues. I stand in great appreciation to the Education Committee for the work that they have done on this. It has been long and tedious, for those of you who haven't been following it, and a grand salute to the community colleges of the state. This has been chaos for quite a while, with quite a bit of tension and competition. It has not been good. The competition hasn't been because they're distrusting each other but because they have such a huge task in doing what they do. And I also am most grateful for the work that they do in my district. It is the most significant work for the livelihood and the health of my community of any part of state government. I appreciate it. Now, I would ask you to take ahold of the pass out that I gave earlier with my initial, LK13, up in the right-hand corner, and I will get the attention of Senator Raikes at this point. I'm going to pass you the rest of my time on the Dave Newell letter. And rather than have a question back and forth, I will ask a question from that, and then Senator Raikes can use the rest of the time to respond. As you're looking for that and getting it into place, I would note, Senator Raikes, that you remind me a lot of Pogo, for anybody that's got a long memory. In the Pogo strip there was Turtle, and Turtle was very excited when they read to him the recipe for turtle soup, because he got so many mentions. I notice that you get so many mentions in the press in those various forms of turtle soup and also in this. I call the attention of the body to the next-to-the-last paragraph and the last sentence within it. Now I must say that Dave Newell, as former senator, on the board in Omaha, has a real passion for community colleges, and would have the concerns that Senator Avery has already summarized, so I won't get into that--should they be more focused on vocational trades. But he has the feeling that--and I have no way of evaluating this--that there's more attention here on levy limits and equalizing the levy than there is on the education and the long-range

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education of these students. So I yield the rest of my time, Mr. Chairman, to Senator Raikes for a response. [LB342]

SENATOR ERDMAN PRESIDING

SENATOR ERDMAN: Senator Raikes, you have 1 minute and 50 seconds. [LB342]

SENATOR RAIKES: Thank you, Senator Kruse. Mr. President, members of the Legislature, I had to borrow a copy of the letter. My copy is off getting framed, (laughter) so I didn't have it. I will tell you a couple things. I'll try to respond to your question. Earlier in the letter there are implications, I guess I should say, that there were shenanigans involving getting the bill in the Education Committee--I don't remember such. I...sometimes community college issues have, in fact, gone to Revenue Committee. Recently they have done so, because they primarily involved a property tax levying authority or a property tax lid. In this particular case,... [LB342]

SENATOR ERDMAN: One minute. [LB342]

SENATOR RAIKES: ...the decision was made to send it to the Education Committee, and I think that's very consistent with what we...the way we've procedurally handled community college issues. I will credit the author of the letter in talking about educational programs, particularly costly vocational programs, because those are ones that we count on the community college system to provide. They are very much considered in this proposal. We use in calculating needs REU units, which are vocationally weighted student hours in calculating the total needs. As I mentioned, I think, in the introduction, there is more work to do on this formula. There are parts of the needs specification that are not yet complete. [LB342]

SENATOR ERDMAN: Time. [LB342]

SENATOR RAIKES: Thank you. [LB342]

SENATOR ERDMAN: Thank you, Senator Raikes and Senator Kruse. Senator White, you are recognized to speak, followed by Senator Harms. [LB342]

SENATOR WHITE: Thank you, Mr. President. I'm very concerned about this bill on a number of levels. Would Senator Raikes be kind enough to yield to a few questions? [LB342]

SENATOR ERDMAN: Senator Raikes, would you yield to questions from Senator White? [LB342]

SENATOR RAIKES: I would. [LB342]

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SENATOR WHITE: Senator Raikes, is it accurate that for the first time the Legislature is being asked to take money received from income and sales tax and transfer it to the bank accounts of community colleges, in order to balance out equalized property tax burdens? Is that accurate? [LB342]

SENATOR RAIKES: I don't think it is, Senator. There...as I tried to make clear and maybe was not successful, there is an equalization component in the current formula. It's just one that does not fully play out, unless you have so-called full funding. But equalization has been a part of community college funding for at least the last ten years. [LB342]

SENATOR WHITE: And when community colleges were first founded, Senator, what was the expected source of revenue? How were they to be funded? Was it on property taxes, or were they initially funded with sales and income tax? [LB342]

SENATOR RAIKES: Ever since I've known anything about it, Senator, it's been both of those...well, property taxes, sales and income tax, or state aid, and also tuition--those three sources. [LB342]

SENATOR WHITE: And what is the relative percentage of property taxes versus sales and income tax support for the schools? [LB342]

SENATOR RAIKES: Well, the intent, if you will, in the current statute is 40/40/20, so that...if that answers. [LB342]

SENATOR WHITE: What was it before the current statute, or if the statute is not enacted? [LB342]

SENATOR RAIKES: That would take us before 1997, and I can't answer that for you, Senator. I'd be happy to try to dig something up. [LB342]

SENATOR WHITE: Now can you tell me, Senator Raikes, who are the winners and losers in this, in a fiscal matter? What districts are going to raise how much money, and where will it go? [LB342]

SENATOR RAIKES: Senator, I think probably the best indication of that is to look at the scenarios as they're played out in the last pages. If you had \$84 million of state funding, for example, you can look at the model aid for each area compared to the...I guess I don't actually have that. I was going to...well, maybe what I should do is offer to get you a handout. I guess I can tell you in summary that the model access to total resources compared to 2006-7 resources would be increased for each of the community colleges; probably the biggest dollar amount of increase would be in Metro. The smallest dollar

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amount would be in Western. [LB342]

SENATOR WHITE: Can you tell us how the dollars per student will come out? [LB342]

SENATOR RAIKES: I think I have something. I can, if you're prepared here... [LB342]

SENATOR WHITE: And perhaps you can provide that later, if you would, a handout. [LB342]

SENATOR RAIKES: Okay, all right. [LB342]

SENATOR WHITE: One of the other concerns I have, Senator, is this would be an ongoing obligation, correct? [LB342]

SENATOR RAIKES: It's certainly something that is adjustable by the Legislature every year, the... [LB342]

SENATOR WHITE: What would be the impact if, in the next biennium, we don't have money to do this? What would be the impact, for example, on the various community colleges,... [LB342]

SENATOR ERDMAN: One minute. [LB342]

SENATOR WHITE: ...and in my case, particularly Metropolitan Community College? Would this seriously disrupt their ability to raise money in order to carry out their mission, if we didn't fund them? [LB342]

SENATOR RAIKES: No, it wouldn't, Senator, because the essence of this formula is that needs are calculated for each community college area, and then that community college area is provided access to those needs, either through state aid or through property taxes. And of course they have the option, as they choose, of doing what they will, in terms of tuition rates, but they...to the extent state aid is reduced, the property tax levy authority would be increased. [LB342]

SENATOR RAIKES: Senator, can you please tell us what, if any, impact the reduction of valuation of ag land at 75...or 80 to 75, or 75 to 70, has had with the formula, and with regard to which district will get how much money? [LB342]

SENATOR RAIKES: Well, the valuation change just depends... [LB342]

SENATOR ERDMAN: Time. [LB342]

SENATOR RAIKES: Thank you. [LB342]

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SENATOR ERDMAN: Thank you, Senator White and Senator Raikes. Senator Harms, you're next to speak, followed by Senator Heidemann. [LB342]

SENATOR HARMS: Mr. President and colleagues, is Senator Avery here? Yes. Would you yield for a minute? [LB342]

SENATOR ERDMAN: Senator Avery, would you yield to questions from Senator Harms? [LB342]

SENATOR HARMS: Would you repeat for me, to make sure I understood you correctly when you were talking about the community colleges being in direct competition with four-year colleges and university...was that what you said? Did I misunderstand you? [LB342]

SENATOR AVERY: I said that that's a national trend, yes. [LB342]

SENATOR HARMS: Thank you very much. Well, let me clarify that for you in the state of Nebraska. Eighty percent of the student who are enrolled in a community college are in a vocational/technical program, and 20 percent of them are in academic transfer programs. They're aren't in competition in this state. And secondly, we need to understand that one of the fastest-growing trends nationally at one time for a community college was people coming into the institution with a bachelor's degree. And you know why? Because they didn't have a job. They didn't have a skill, and there's a certain percentage of students that come into our institutions in this state who have a bachelor's degree because they can't find a job and they need to have a new skill and training. That's how important community colleges are for us. I also want to go back to the statement that Senator Avery made in regard to the community colleges had changed their philosophy, and that's what has caused some of these thoughts about us...the community college being in competition. Senator Avery, it's just the opposite. Senator Warner in this chamber 30-some years ago crafted out the role and mission of higher education and community colleges, and I'm here to tell you I've been in the system, at least as a president, for 33 years and we've always had academic transfer, we've always had vocational/technical education. In fact, if you look at the history of a community college, when it started as a junior college, it was strictly transfer education. So we haven't changed, and I don't want people to misunderstand that. We have not changed. We're simply meeting a need that's appropriate and that's adequate for this state, and I would just tell you that I think that when you look at what is happening here in regard to this funding formula change, it is necessary for us to address this issue, if rural is going to be able to survive--rural America--and this state is going to be able to provide equal access to quality education, of what we have in urban America. And without that equalization factor, it doesn't work very well at all, and our students in rural America will not be able to get a quality education, will not be able to move forward the

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way that they should have. One of the fastest-growing trends in Western is training for business and industry. That's part of our mission; that's part of every community college mission. We had that discussion and...Senator Chambers and I did this morning. The community college is critical to the economic development of this state, and we need to do whatever it takes to keep them healthy. Students are enrolling in community colleges because they can stay at home. Students are married. We have students that are 50 years old, 60 years old, 70 years old, changing careers because they want to survive the future. That's what community colleges are about, and I hope as you look at this you don't get sidetracked on who loses and who gains. The important thing is, we're providing a service. We're giving young adults, we're giving older adults, the opportunity to get an education, stay at home, make it cost effective, and go to work. Do you realize that the greatest percentage of the students who are enrolled in community colleges stay in their area when they graduate and go to work? They don't go off. They don't have the brain drain... [LB342]

SENATOR ERDMAN: One minute. [LB342]

SENATOR HARMS: ...that we've been talking about. Thank you, Mr. President. [LB342]

SENATOR ERDMAN: Senator Harms, you have one minute. You can continue. That was the one-minute warning. [LB342]

SENATOR HARMS: Oh. Well, I told you before and you laughed at me. I said I have trouble hearing. Well, it's really true. So my point here is that I would just like to ask us not to get sidetracked. You know, even when we're dealing with the public schools, sometimes we get set aside and we forget about the students. This is about people. This is about helping people survive and giving them skills for a job that's cost effective. We're not in competition with anyone. So I would just ask you, and I would urge you to look at this appropriately and understand what's at risk here. We need to fund them appropriately, and we need to give them the opportunity to go ahead and grow, because they will continue to grow. And if colleges and universities are concerned with it, we have a statewide articulation agreement that all community colleges and four-year colleges and private colleges signed. [LB342]

SENATOR ERDMAN: Time. [LB342]

SENATOR HARMS: There should...thank you, Mr. President. [LB342]

SENATOR ERDMAN: Thank you, Senator Harms. Senators wishing to speak are Senator Heidemann, Rogert, Kruse, and White. Senator Heidemann, you're next to speak, followed by Senator Rogert. [LB342]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members. Would Senator

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Raikes be available for a question or two? [LB342]

SENATOR ERDMAN: Senator Raikes, would you yield to a question? [LB342]

SENATOR RAIKES: Yes. [LB342]

SENATOR HEIDEMANN: At what rate are we planning...and I should have...I guess I should have looked at the amendment a little bit more, but what rate are we planning to fund this at? Because you provided four different scenarios, and I'm questioning why the different scenarios versus about where you plan to fund this at. [LB342]

SENATOR RAIKES: The A bill calls for the \$84 million level, the last level. That would make it so that every community college area, in terms of model aid, would receive as much or more, I believe, than what they had gotten under the current formula this past year. [LB342]

SENATOR HEIDEMANN: Held harmless? [LB342]

SENATOR RAIKES: Yes. [LB342]

SENATOR HEIDEMANN: Okay. [LB342]

SENATOR RAIKES: Now keep in mind that again, there's two sides to that. There's more state aid, but there's less property tax authority as there's more state aid. That's the way this formula works. [LB342]

SENATOR HEIDEMANN: And the way it should work. [LB342]

SENATOR RAIKES: Right. [LB342]

SENATOR HEIDEMANN: I guess I'm going to ask one quick question, and I'm not going to beat on this very much. I hope that people look into these numbers and somewhat understand them, because I think that's important. I had asked you before if we can do this, and I don't think you quite understood what I was trying to get at. Can this fit in the budget? That was the question that I was trying to get. [LB342]

SENATOR RAIKES: I understand, Senator, and keep in mind now, that in our last set of discussions on the revenue bill, we kept the tax cut package at a place where we could provide approximately \$10 to \$12 million a year additional funding for community colleges, so I would point that out. [LB342]

SENATOR HEIDEMANN: So it's \$12 million each year, 24 over 2; is that correct?  
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SENATOR RAIKES: Right. [LB342]

SENATOR HEIDEMANN: Go to the status sheet and look at line 43. [LB342]

SENATOR RAIKES: Okay. [LB342]

SENATOR HEIDEMANN: And the first box says how much? I'm trying to understand this, too. I...and if it's 24 over 2--this bill is not on Select File, it's still on General File--it's not accounted for in that box yet; is that true, Senator? [LB342]

SENATOR RAIKES: We've got...yeah. And we've got the revenue bill--I'm looking on the back side--at 207 and 216, I believe. So that's accounted for in there. Yeah, that is more than what would be provided if we passed everything else on Select and Final. [LB342]

SENATOR HEIDEMANN: Is this more important than LB456 to you? [LB342 LB456]

SENATOR RAIKES: LB456 is... [LB342 LB456]

SENATOR HEIDEMANN: Is the banking bill, \$7 million over two years? [LB342]

SENATOR RAIKES: Well, I would say this: I do think this is very important; it's clearly a state function to provide public education, community college opportunities to students. Funding in this particular...or using this particular model is, in effect, a trade-off between... [LB342]

SENATOR ERDMAN: One minute. [LB342]

SENATOR RAIKES: ...state funding and property tax funding. So this, in a sense, is much the same as providing additional funds to the Property Tax Relief Fund that we did in LB367. This has the additional component that we're talking about, equalization in here, as well. [LB342 LB367]

SENATOR HEIDEMANN: But the whole point of it being, does it fit--\$24 million--does it fit? [LB342]

SENATOR RAIKES: I think it can be made to fit, would be the answer. [LB342]

SENATOR HEIDEMANN: Which means that we can't do everything that we have on Select File right now; is that correct? [LB342]

SENATOR RAIKES: I would agree. I would agree. [LB342]

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SENATOR HEIDEMANN: That's all I'm pointing out. [LB342]

SENATOR RAIKES: Yeah. I would agree. [LB342]

SENATOR HEIDEMANN: I appreciate all the hard work that Senator Raikes, that Matt Blomstedt has put into this. This needed to be done years ago and it really did, so I actually support this bill. What I've been trying to get a point across in the last five minutes is that we can't do everything that we have on Select File. I'm going to support this bill, but... [LB342]

SENATOR ERDMAN: Time. [LB342]

SENATOR HEIDEMANN: Thank you. [LB342]

SENATOR ERDMAN: Thank you, Senator Heidemann. Senator Rogert, you're recognized to speak, followed by Senator Kruse. [LB342]

SENATOR ROGERT: Thank you, Mr. President. I want everybody to know that I support the funding of community colleges, and I think that they provide a valuable service to the state of Nebraska and to our transitional students and our nontraditional students and those who are going into vocations. I wonder, could I ask Senator Raikes a few questions? [LB342]

SENATOR ERDMAN: Senator Raikes, would you yield to questions from Senator Rogert? [LB342]

SENATOR RAIKES: Yes. [LB342]

SENATOR ROGERT: Senator Raikes, could we have a little dialogue? Can you help talk me through a couple things, please? [LB342]

SENATOR RAIKES: I would enjoy such. [LB342]

SENATOR ROGERT: Okay. I'm looking at the handout you handed out, the three...two-page deal here, just a little bit ago, and on the front, at the bottom, you've got a table. [LB342]

SENATOR RAIKES: Yeah. [LB342]

SENATOR ROGERT: And it talks about levy rates, maximum rates. Northeast Community College, which serves most of my district--not all of it, but most of it--is the only one of the community colleges that was levying over their maximum rate; is that

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correct? [LB342]

SENATOR RAIKES: Right. [LB342]

SENATOR ROBERT: And we were still...so we were short about \$600,000 the last couple years; is that right? [LB342]

SENATOR RAIKES: I think what that is an effort to show, Senator, is that that extra levy authority that was granted Northeast, I believe two years ago, generated about \$600,000 for them. [LB342]

SENATOR ROBERT: Okay, okay. Then I've got some information here that was sent to me by some of the officials up there. They're...under the uncapped FTE scenario we've got right now, we're showing them getting a...just under a half a percent of an increase--a change over last year in the FTE, which shows it to be the smallest of those that were increased. [LB342]

SENATOR RAIKES: You're talking about student growth? [LB342]

SENATOR ROBERT: Yeah, yeah. You've got... [LB342]

SENATOR RAIKES: Okay. I don't know that I have that information, but... [LB342]

SENATOR ROBERT: No, you may not. [LB342]

SENATOR RAIKES: Okay. [LB342]

SENATOR ROBERT: Senator White was asking you about aid per FTE. [LB342]

SENATOR RAIKES: Correct. [LB342]

SENATOR ROBERT: I have those numbers here, and under the scenario four, I've got Metro at about \$4,800, I've got Northeast at \$5,700, and I've got Western at \$8,800, which is 53 percent more per FTE in financial aid than it is at Northeast. [LB342]

SENATOR RAIKES: Well, what I have, Senator, and we may need to resolve the...I have aid plus property taxes per FTE. [LB342]

SENATOR ROBERT: Yeah. [LB342]

SENATOR RAIKES: So we're including the property tax resource plus... [LB342]

SENATOR ROBERT: Yes. [LB342]

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SENATOR RAIKES: ...the aid, and I show, for example, Metro has \$5,300... [LB342]

SENATOR ROBERT: Okay. [LB342]

SENATOR RAIKES: ...under the current formula. Under the proposed formula they would have \$5,400, and you compare that, for example--Southeast has \$4,500, about \$1,000 less per student under the current formula, and they would continue to have about \$1,000 less per student under the proposed formula. [LB342]

SENATOR ROBERT: Okay. [LB342]

SENATOR RAIKES: Western has \$8,800 per student under the current formula; they would be dropped down to about \$8,355 under the proposed formula. [LB342]

SENATOR ROBERT: Okay, do you have Northeast there, as well? [LB342]

SENATOR RAIKES: I do. Northeast I show at moving from \$5,500 to \$6,149. So they are actually...they and Mid Plains are the two community college areas that would experience the greatest increase in funding per FTE. [LB342]

SENATOR ROBERT: Okay. So we're still showing \$6,100 versus \$8,400 per student at Western. Can you maybe illustrate a little more why it costs that much more to educate a student out west? [LB342]

SENATOR RAIKES: Well, if you'd like, you know,... [LB342]

SENATOR ERDMAN: One minute. [LB342]

SENATOR RAIKES: ...to highlight that contrast, which is a reasonable thing to do, compare Southeast with Metro. [LB342]

SENATOR ROBERT: Sure. [LB342]

SENATOR RAIKES: Why would Southeast get by spending \$900 per student less than Metro? Well, it's got to do with probably a number of characteristics of their service area, perhaps the number of campuses, the number of buildings, and so on. In the case of Western, it's got to do with the sparsity. This gets to what I was saying before: We're beginning down the path here of calculating a needs...doing a needs calculation for each area. That needs calculation will enable us as we move along with it and sophisticate it, to take into account those characteristics of a campus--or of a community college area, I should say--that reflect the amount of cost incurred by that campus. I think that's... [LB342]

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SENATOR ERDMAN: Time. [LB342]

SENATOR RAIKES: Thank you. [LB342]

SENATOR ROBERT: Thank you, Mr. President. [LB342]

SENATOR ERDMAN: Thank you, Senator Rogert and Senator Raikes. Senator Kruse, you're recognized to speak on the Raikes amendment, followed by Senator White. [LB342]

SENATOR KRUSE: Thank you, Mr. President and colleagues. I would like to call Senator Raikes back to the microphone, if I might. [LB342]

SENATOR ERDMAN: Senator Raikes, would you yield to questions from Senator Kruse? [LB342]

SENATOR RAIKES: Yes. [LB342]

SENATOR KRUSE: I still like to refer to him as Turtle, and this is surely good turtle stew. But to continue the conversation which we had, which was so rudely interrupted by the president earlier, but to ask my own question and to move on from there, Senator Raikes, as you were into responding to the nature and the philosophy of education within the community colleges. That is my question. Strategic planning, looking down the road five years from now, what should be the nature of...what's the focus of education within community colleges, and how would that be contrasted to what the state colleges might be doing? [LB342]

SENATOR RAIKES: Well, I think, Senator, it's a good question, and I think certainly the mission statements will be different, and should be, between community colleges and state colleges. The focus on training for immediate employment, vocational training, certainly will be heavier in community colleges, as it should be, than it would be in state colleges. I would say probably that it has been the practice, and a reasonable one, that the Legislature not try to direct too closely what programs, what opportunities community colleges can respond to. The whole idea of local control is that you allow people that are there every day to adjust on the ground to do those kinds of things they need to do to effectively address the higher education needs, postsecondary. And certainly that would be the case with community colleges. [LB342]

SENATOR KRUSE: Would that local control, local decision making, have any comment to make about or reflect on property tax and that base? Do you see community colleges continuing to use the property tax base, in contrast to our other institutions? [LB342]

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SENATOR RAIKES: I do, Senator. I probably am not...certainly we had a proposal this year by Senator Fischer, as I remember, to eliminate community colleges' access to the property tax base. I think it is something that I'm comfortable to stick with. I do think, though, that the access to the property tax base, as evidenced by this proposal, should be equalized, that the burden placed on taxpayers to support community colleges should be the same across the state, or as nearly so as possible. Yet, I am quite willing to allow community colleges the opportunity to decide between property tax rates and tuition rates in their own community college areas. [LB342]

SENATOR KRUSE: Thank you. Mr. President, I am grateful for the great amount of work and reflection that's gone into these kinds of answers, and not only from the Education Committee but from the community colleges. Thank you. [LB342]

SENATOR ERDMAN: Thank you, Senator Kruse and Senator Raikes. Senator White, you're recognized to speak on the Raikes amendment, followed by Senator Loudon. [LB342]

SENATOR WHITE: Thank you, Mr. President. Senator Raikes, would you yield to a question or two? [LB342]

SENATOR ERDMAN: Senator Raikes, would you yield? [LB342]

SENATOR RAIKES: Yes. [LB342]

SENATOR WHITE: Senator Raikes, when we fund the university system, the chancellor and the other high officers of the university are available to come and testify before our committees; correct? [LB342]

SENATOR RAIKES: Yes. [LB342]

SENATOR WHITE: And we also have the opportunity to review their budgets, correct? [LB342]

SENATOR RAIKES: Yes. [LB342]

SENATOR WHITE: And we review their spending priorities; is that correct? [LB342]

SENATOR RAIKES: Yes, and particularly those that are funded by the state, of course. I mean, there's a lot of other funds that come to the university system, as you know, probably better than I. [LB342]

SENATOR WHITE: But we have the opportunity to even review those expenditures, do we not? [LB342]

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SENATOR RAIKES: I...as far as I know, Senator. I can't give you complete information on that. [LB342]

SENATOR WHITE: But with regard to the community colleges, they do not come to us to justify their budgets, do they? [LB342]

SENATOR RAIKES: That hasn't been a practice in the past. I would say it's...if I may, a couple of things. One of the things we're proposing in here is that we have the information and the formula calculations done in the Department of Revenue, which, rather than the way it's been done now, which is a much less formal procedure. The other thing I would mention to you is that the mechanism that has been used and being proposed, for that matter, for community colleges probably more nearly parallels K-12 school systems than it does the university or state colleges. [LB342]

SENATOR WHITE: Let's talk about, though, just specifically on point, no president or any officer or board member of the Metropolitan...any of the community colleges, have come to us and justified their budget; isn't that true--testified in front of this body? [LB342]

SENATOR RAIKES: At least they haven't come to me, and I, you know, I'm not on the Appropriations Committee, as you know, so I can't speak for them, but as far as I know, you're correct. [LB342]

SENATOR WHITE: All right, and they set their budgets without reference to any discipline from us, and yet you're asking us to fund the spending decisions they make, without supervision from this body; isn't that true? [LB342]

SENATOR RAIKES: Actually not. We are calculating, under this formula, a needs amount for that, much the same as we calculate a needs for a K-12 school. [LB342]

SENATOR WHITE: Well, let's talk about that for a second. For example, Metropolitan Community College is building a dormitory and is thinking about starting a football team. Do you support those two programs as part of a community college? [LB342]

SENATOR RAIKES: There is a capital construction levy that they can use for buildings. What they're doing in terms of operating a dormitory I don't know, and I don't know about the funding for their athletic teams. [LB342]

SENATOR WHITE: Well, one of the concerns that I have, and it's an ongoing concern, is that we are responsible to the voters for the money that we spend. Once again we find ourselves shoving very large amounts of money into budgets that we don't control. And if I understand what has occurred in the past, for example, the community colleges

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in other parts of the state may have chosen to develop very expensive programs that serve very few students, and as a result, their property tax levies could be quite high, and they would enjoy a disproportionate subsidy from the state. In other words, by making spending decisions free from any of our oversight, whether they're good or bad, they've managed to leverage that into additional state funds. Is that, in fact, the proper way to watch out for the expenditures of public money and control our spending? [LB342]

SENATOR ERDMAN: One minute. [LB342]

SENATOR WHITE: I do understand, Senator Raikes, and I want to thank you and your committee for your courtesy, and I note that you say there is an obligation on the part of the state for education. There is. But the constitutional obligation we are talking about for an appropriate education ends at K-12. Certainly we have an obligation and I support public education through the university system and through community colleges. But I also recognize that in shouldering that obligation, we have another obligation to the taxpayers to make sure money we are gathering from them is spent appropriately, and I'm very concerned that this type of spending does not allow us to exercise the oversight we must do to discharge that obligation. Thank you, Mr. President. [LB342]

SENATOR ERDMAN: Thank you, Senator White and Senator Raikes. Senator Louden, you're next to speak on the Raikes amendment, followed by Senator Harms. [LB342]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I'd like to ask Senator Raikes a question, if he would yield, please. [LB342]

SENATOR ERDMAN: Senator Raikes, would you yield to a question from Senator Louden? [LB342]

SENATOR RAIKES: Yes. [LB342]

SENATOR LOUDEN: As the discussion was going there, the community colleges don't work with the Legislature on their budget or anything like that. Well, neither do the high schools or our K-12 schools, do they, on our state aid to education? And am I correct in assuming that the way this community college funding is working is about similar to the state aid to education? [LB342]

SENATOR RAIKES: It does have its similarities, Senator, and I will also tell you that I was mistaken. I'm reliably informed that the community colleges do come before the Appropriations Committee and are subject to questioning about their budgets. And also the Postsecondary Coordinating Commission has authority on oversight of community college budgets. [LB342]

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SENATOR LOUDEN: Okay, thank you, Senator Raikes. As I look at this, I think several years ago I think Terry Carpenter was in here when community colleges were first started, and I remember reading at the time that he was wanting the state to fund the community colleges, and they wouldn't pay for it. But at that time they did set it up. I think they were supposed to have a maximum levy of six cents, and then the state was supposed to cover some of the costs above that. Over the years that hasn't happened, and of course the valuation has changed from one community college to the other. For instance, when you're talking about the Metro area, the Omaha area, you got \$41 billion valuation, but yet when you're talking about the Western Community College you're talking about a little over \$6 billion valuation. So therein lies part of the problem, and Senator Raikes, in my understanding is, has come up with a formula so that you will equalize that between these rich districts and the districts that don't have the valuation for their property tax. The Southeast Community College is \$28 billion valuation, whereas your Mid Plains has a little over \$7 billion--about \$7.5 billion--valuation. So there's where the formula comes in, and there's where I think if you actually wanted to do something about property tax relief, this is where we'll do it. Sure, it won't be in the Omaha area, because they have such a high valuation, they don't have that high of a levy to support the community college. So I think the formula, the funding formula that Senator Raikes and committee has come up with, I certainly support. Something has to be done for supporting our community colleges in our rural areas, because we do not have the industrial and the commercial valuations out there that you do in your Omaha and your Lincoln and your metropolitan areas. There's where most of your valuation comes in, is on your commercial and industrial valuations. So we have to do something to equalize it amongst the haves and the have-nots, and this looks like to me the easiest way to do it. The community...and it is a very good method that they have set up here with the funding formula. I think we need to work this thing, advance this bill. I see nothing that I would be concerned about, because it would certainly make a difference on property tax in the western end of Nebraska; in fact, probably the western two-thirds. When you take the Western Community College and Mid Plains, why, you've already taken nearly half of Nebraska. The metro area or the central are valued about \$21 billion, and they've usually done quite well. They've always been in there about at their levy of...the six- or seven-cent levy. But as you get farther west and more into the rural areas, your levy has been quite high. So I certainly think that what Senator Raikes and his staff have accomplished here is well worth it. Thank you, Mr. President. [LB342]

SENATOR ERDMAN: Thank you, Senator Louden. Senator Harms, you're recognized to speak on the Raikes amendment. [LB342]

SENATOR HARMS: Thank you very much, Mr. President and colleagues. Senator Raikes kind of, I think, cleared up the issue that I wanted to bring forward, that Senator White was talking about in regard to, is there any check-and-balance system? Yes, there is. And I'd have to also say to Senator White that, do we bring all the public

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schools in here and ask them about each of their budgets, because they have a great amount of state aid? No, we don't. That's local control, and I don't think we should do it with the community colleges. There is a check-and-balance system. I was a part of that check-and-balance system this year when it came before the Appropriations Committee, and there was really good questions asked. That's where we get our input; that's where we can find out what's taking place. And the other side of it is, the Coordinating Commission has the power to review our funding, and they also make recommendations to this Legislature on whether or not we should fund these community colleges at this level or appropriately. So there is check and balances here, and I think we should not lose sight of that. We've even put more in this new bill, because we bring the Revenue Committee in, which is another check and balance, which is going to certify the revenue, and we also ask the Coordinating Commission to collect the data now. So we have expanded that tremendously. The community colleges have not gone uncontrolled. They have not gone to a point where they're spending wildly. That's foolish. It's not, they haven't, and they won't. They are locally controlled. I'm here to tell you, those board members take their role seriously. They're elected for those positions, they run for those positions, and they're not going to spend money that's unnecessary. And to me, that's the best check-and-balance system right there, is local control. So Mr. President, thank you. I just wanted to clarify that. [LB342]

SENATOR ERDMAN: Thank you, Senator Harms, and that was your third time. Senator Raikes, there are no lights on. You're recognized to close on your amendment. [LB342]

SENATOR RAIKES: Thank you, Mr. President, members. I appreciated the discussion. I think we've provided some insight on what the proposal is here, at least I hope so. This is somewhat of a technical amendment, one also that gets us off to, I think, an appropriate start in terms of the needs calculation. I urge your support. Thank you. [LB342]

SENATOR ERDMAN: Thank you, Senator Raikes. Members, you've heard the closing on AM1256. All those in favor of its adoption vote aye; all those opposed vote nay. Have all members voted who wish to? Senator Raikes, for what purpose do you rise? [LB342]

SENATOR RAIKES: Mr. President, I would ask for a call of the house, please. [LB342]

SENATOR ERDMAN: Members, the question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB342]

CLERK: 19 ayes, 0 nays, to place the house under call. [LB342]

SENATOR ERDMAN: The house is under call. Would all unauthorized guests please leave the floor. Unexcused senators please report to the Chamber. The house is under call. Senator Friend, please check in. Senator Engel, please check in. Senator Ashford,

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please check in. Senator Flood, the house is under call. Senator Schimek, Senator Preister, the house is under call. Senator Raikes, how do you wish to proceed, once all members have been located? [LB342]

SENATOR RAIKES: Board vote, please. [LB342]

SENATOR ERDMAN: Board vote has begun. Would you accept call-ins? [LB342]

SENATOR RAIKES: Yes. [LB342]

SENATOR ERDMAN: Call-in votes have been requested, or authorized, excuse me. [LB342]

CLERK: Senator Engel voting yes. Senator Heidemann voting yes. Senator Kopplin voting yes. Senator Pankonin voting yes. Senator Pahls voting yes. Senator Wightman voting yes. Senator Christensen voting yes. Senator Avery voting yes. Senator Cornett voting yes. Senator Johnson voting yes. Senator Hansen voting yes. [LB342]

SENATOR ERDMAN: Record please, Mr. Clerk. [LB342]

CLERK: 27 ayes, 0 nays, Mr. President, to adopt Senator Raikes's amendment. [LB342]

SENATOR ERDMAN: The amendment is adopted. The call is raised. We're back to the discussion of the Education Committee amendments, as amended. Senator Raikes, there are no lights on. You're recognized to close on the Education Committee amendments. [LB342]

SENATOR RAIKES: Thank you, Mr. President. This is the amendment that brings in, if you will, the equalized funding formula as a needs calculation, a research calculation, equalized state aid. This is, I think, the essence of the work here, and one that I believe moves us forward, in terms of state funding policy toward community colleges. I urge your support. Thank you. [LB342]

SENATOR ERDMAN: Members, you've heard the closing on the Education Committee amendments, AM1079, to LB342. All those in favor vote aye; all those opposed vote nay. Have all members voted who wish to? Record please, Mr. Clerk. [LB342]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB342]

SENATOR ERDMAN: The committee amendments are adopted. [LB342]

CLERK: I have nothing further on the bill, Mr. President. [LB342]

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SENATOR ERDMAN: We will now proceed to discussion on LB342, as amended. Senator Mines, you're recognized to speak. [LB342]

SENATOR MINES: Thank you, Mr. President, colleagues. Could I ask Senator Raikes a few questions, Mr. President? [LB342]

SENATOR ERDMAN: Senator Raikes, would you yield to questions from Senator Mines? [LB342]

SENATOR RAIKES: Yes. [LB342]

SENATOR MINES: Senator Raikes, again I want to thank you and your committee for the work you've done on this, but I want to bring this down to a very base level. I live, as Senator Louden would refer to, I live in that rich district, that Metro Community College district. We got plenty of cash, we stash it in those big, tall buildings. (Laughter) I need to know, Senator, with your new, new formula, what will be the levy rate in Metro Community College territory? [LB342]

SENATOR RAIKES: And I can give you the answer, Senator, I think, for each year this formula would be in effect would be, it depends on what level of state funding goes into community colleges. And generally speaking, the higher the level of state funding, the lower the property tax levy, and vice versa, of course. [LB342]

SENATOR MINES: I understand. Let me just bring it down to base level. [LB342]

SENATOR RAIKES: Okay. [LB342]

SENATOR MINES: Right now, property tax levy rate for Metro is 5.5 cents, 5.56. Based on that formula and based on the new formula, can you predict what that rate might be? [LB342]

SENATOR RAIKES: I can't predict exactly, for this reason: I can tell you if, depending on the funding formula, if we'd be most optimistic to start with, go to the last page, scenario four, the lowest rate that Metro could charge under that scenario would be 4.5 cents. [LB342]

SENATOR MINES: Right. [LB342]

SENATOR RAIKES: The highest rate would be 6.45. The local effort rate, which is sort of a middle number, would be 5.6. Could Metro charge less than the middle rate, more toward the lower rate or more toward the higher rate? They could. That would be a board decision on the amount of spending and also a decision about how much they

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want to collect from tuition, as compared to property taxes. [LB342]

SENATOR MINES: That's a fair answer. My concern, Senator, is again, I don't work with this every day--very few in this body do. It feels like property taxes will be increased in Metro. That's the way it feels. I'm not sure what the formula is going to be, but it feels as though, because we're that rich district, we're going to pay a higher--just for equalization purposes--we'll pay a higher property tax rate. Whether that's true or not, I don't know, but it certainly feels like the train is rolling that way, and I have a concern for that. It bothers me. Equalization for equalization's fact I guess is a good thing. But you know, here we come back again. We're flush with cash; we raised our tax on gasoline, and now I'm feeling there's going to be a property tax increase in the Metro College area, and I've got to go home and tell people that. You've been very, very accommodating. Thank you, Senator Raikes. Thank you, Mr. President. [LB342]

SENATOR ERDMAN: Thank you, Senator Mines. Senator Raikes, there are no lights on. You're recognized to close on the advancement of LB342. [LB342]

SENATOR RAIKES: Thank you, Mr. President, members. This does give me a chance, at the outset, to respond to what Senator Mines commented on at the end. Currently, as he mentioned, the levy rate at Metro is 5.56. The maximum they could levy is 6.71. They choose not to do that. They are a locally elected board that has to face voters. They are doing the best they can to keep costs under control and to keep property tax levies under control. This formula would not inhibit their ability to do that very same thing. So I think that's very important to keep in mind. This is a mechanism for distributing state aid to community colleges in an equalized fashion. It presents a trade-off to the Legislature, to the Appropriations Committee process and the Legislature. Do you want more state aid and thereby lower property tax levies? Or do you want it the other way, or do you want it some place in-between? That, I think, is the appropriate procedure for us to adopt. Senator White and maybe some others expressed concerns about spending out of control or not being subject to proper scrutiny. A couple of points: One, the one I've just made. There are locally elected community college boards that are there to provide that oversight, and I would argue to you that they have done that and done that very well. The second thing is, this formula has a needs calculation. That is the way that, at the state level, you say how much it takes to operate a community college area. That is where you do the scrutiny. The state aid is based on that calculation. There are the components, the factors in the needs calculation. There also is the growth element. So there is ample opportunity, I would argue, for there to be control on spending by community colleges, or at least spending that is compensated by state aid, and there also is obviously a way to control property tax levies through infusion of state aid to satisfy a portion, however big, of that needs calculation. So with that, I believe again, this moves us in the right direction. I urge your support. Thank you. [LB342]

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SENATOR ERDMAN: Thank you, Senator Raikes. Members, you've heard the closing on the motion to advance LB342 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all members voted who wish to? Record please, Mr. Clerk. [LB342]

CLERK: 27 ayes, 0 nays, Mr. President, on the advancement of LB342. [LB342]

SENATOR ERDMAN: LB342 does advance. Mr. Clerk, next item on the agenda. [LB342]

CLERK: LB342A by Senator Raikes. (Read title.) [LB342A]

SENATOR ERDMAN: Senator Raikes, you're recognized to open on LB342A. [LB342A]

SENATOR RAIKES: Thank you, Mr. President, members of the Legislature. This is the accompanying A bill. As I hope I've made at least somewhat clear to you, this is the appropriation by the state to the community college areas to fund this formula. The A bill itself calls for \$12 million additional each year. That would be comparable to the scenario four in the handout you have. I would argue to you that this is both a form of equalization and a form of property tax relief. So with that, I urge your support for the A bill. Thank you. [LB342A]

SENATOR ERDMAN: Members, you've heard the opening on LB342A. Senator White, you're recognized to speak. [LB342A]

SENATOR WHITE: Thank you, Mr. President. I won't further burden people with a lot of comments. I was corrected on another factor. I was advised by one of the lobbyists for Metropolitan Community College it was a basketball team they are looking at, not a football team. Iowa Western Community College is looking at a football team. So I got the shape of my balls mixed up. (Laughter) Pardon me, Mr. President. [LB342A]

SENATOR ERDMAN: Senator Raikes, there are no lights on. You're recognized to close on LB342A. [LB342A]

SENATOR RAIKES: Thank you, Senator White, for allowing me to follow that. Thank you, Mr. President and members. This is an important bill for certainly community colleges, and I think for property taxpayers, as well as for the Legislature. I again urge your support. Thank you. [LB342A]

SENATOR ERDMAN: Members, you've heard the closing on the advancement of LB342A to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all members voted who wish to? Have all members voted who wish to? Record please, Mr. Clerk. [LB342A]

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CLERK: 26 ayes, 1 nay, Mr. President, on the advancement of LB342A. [LB342A]

SENATOR ERDMAN: LB342A does advance. Mr. Clerk, next item on the agenda. [LB342A]

CLERK: LB542, Mr. President, a bill by Senator Synowiecki. (Read title.) Introduced on January 17, referred to the Appropriations Committee. The bill was advanced to General File. There are Appropriations Committee amendments pending. (AM1082, Legislative Journal page 1264.) [LB342A]

SENATOR ERDMAN: Thank you, Mr. Clerk. Senator Synowiecki, as principal introducer of LB542, you're recognized to open. [LB342A]

SENATOR SYNOWIECKI: Thank you, Senator Erdman, members of the Legislature. LB542 in the green copy version actually attempts to do what Senator Mines's amendment was this morning. It sought, the green copy sought the closure of the children services at the Hastings Regional Center and would have transferred funding to establish an integrated system of behavioral health services for children with serious emotional disorders and their families. The integrated system, under the green copy, would have been based upon the following principles: that services are family-driven; culturally and racially responsive and youth-guided; that services are community-based with the decision-making responsibility at the community level; and services are comprehensive, addressing the child's physical, educational, social, mental, and emotional needs; and services are provided in the least restrictive setting, consistent with effective services, and as close to the child's home as appropriate. At the outset, I should note that a committee amendment will follow, which the committee amendment represents the initial stages of an ongoing dialogue that I have engaged in with Senator Burling. Following the committee amendment is AM1202, which I believe represents an agreement with Senator Burling relative to the bill, relative to LB542. So Senator Langemeier, I think I'll stop there and let the introduction of the committee amendment go forward. [LB542]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. As the Clerk has stated, there are committee amendments offered by the Appropriations Committee. Senator Heidemann, as Chair of that committee, you are recognized to open on the committee amendments. [LB542]

SENATOR HEIDEMANN: Thank you, Mr. President and members of the body. I am going to defer opening on the committee amendments to Senator Synowiecki and let him open on it, if that's all right with him. [LB542]

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SENATOR LANGEMEIER: Senator Synowiecki, you are recognized. [LB542]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. Thank you, Senator Heidemann. I actually won't spend a whole lot of time on the committee amendments, as there's an amendment that will be following that I hope to have the legislative body vote on. And that is the amendment that I've been working with Senator Burling on. And me and him have been to more meetings than I want to mention with the department and with providers and so forth. And that amendment is the one I ultimately will take up. But let me attempt to lay out for members the primary concern of mine relative to children's behavioral healthcare. And I'm speaking particularly once these children are referred to the Kearney Youth Development Center, which are boys. The juveniles are discharged directly from the Kearney Youth Development Center to the Hastings Regional Center if a behavioral health evaluation finds a clinical need for residential level of care. Under the current Department of Health and Human Services protocol, the Hastings referral occurs without affording the juvenile or his or her family any choice relative to the treatment venue. Youngsters are automatically enrolled into the Hastings Regional Center without any consideration to individual case planning and the private provider juvenile care network that is available in some of our communities. Community-based treatment providers, in many instances, would be able to offer these youngsters quality residential care within closer proximity to their family and other support systems. Members, let me attempt to explain to you, and I want to do this with a review of our current statutory language, and why I think this juvenile transfer of children from the Kearney Youth Development and Rehabilitation Center to the Hastings Center occurs in direct contrast to the statutory guidance the department ought to be operating under. And I'm going to refer to section...the current language under Section 43-402. And it's relative to the legislative intent on the juvenile justice system and its goals, that's the heading of the statute reference. It states "It is the intent of the Legislature that the juvenile justice system provide individualized accountability and individualized treatment for juveniles in a manner consistent with public safety to those juveniles who violate the law. The juvenile justice system shall also promote prevention efforts which are community based and involve all sectors of the community. Prevention efforts shall be provided through the support of programs and services designed to meet the needs of those juveniles who are identified as being" high risk "of violating the law and those whose behavior is such that they endanger themselves or others. The goal of the juvenile justice system shall be to provide a range of programs and services which: (1) Retain and support juveniles within their homes whenever possible and appropriate; (2) Provide the least restrictive and most appropriate setting for juveniles while adequately protecting them and the community; (3) Are community based and are provided in as close proximity to the juvenile's community as possible..." (7) of Section 43-402, "Base treatment planning and service provision upon an individual evaluation of the juvenile's needs recognizing the importance of meeting the educational needs of the juvenile in the juvenile justice system; (8) Are family focused and include the juvenile's family in

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assessment, case planning, treatment, and service provision as appropriate and emphasize parental involvement and accountability in the rehabilitation of their children..." (10) of 43-402, "Provide integrated service delivery through appropriate linkages to other human service agencies; and (11) Promote the development and implementation of community-based programs designed to prevent unlawful behavior and to effectively minimize the depth and duration of the juvenile's involvement in the juvenile justice system." I might also add that there was reference this morning to LB1083. LB1083 is codified in law in Section 71-801 to 71-818. As was mentioned this morning, the Behavioral Health Reform Act sought to deinstitutionalize individuals in our communities and return them to home-based, community-based care for mental health and substance abuse. Nowhere, nowhere in this codification between 71-801 and 71-818 does it delineate between youth and adults. And I have been informed by essentially the author of that bill, LB1083, that it was to include within its scope juveniles within our communities. In not one instance, members, in any of these statutes that pertain to our juvenile justice system are children that are sent to the Kearney Youth Rehabilitation and Treatment Center exempted. All those provisions under 43-402 that spoke as the cornerstone of the goals of the juvenile justice system that it be a community-based driven system, all of them goals, none of them exempted kids that are sent to Kearney. Through all phases of the juvenile justice system, we ought to maintain the fidelity of the statutes that guide the system. The treatment venue assigned to youngsters that are discharged from the Kearney Youth Development Center and the Geneva Center should be a result of individual case planning and ought to always keep the best interests of the child as the paramount priority. You cannot convince me, members, and I don't think you can convince any reasonable individual--and I think Senator Burling would agree--that there's no way that each and every circumstance that a child that is discharged from the Kearney Youth Development Center, that the Hastings Regional Center is the most appropriate treatment venue for every child universally discharged from Kearney. Well, that's the current protocol. And I think the current protocol disregards and neglects the current statutes that are supposed to be guiding our system. I think I'll stop there and let the next amendment be introduced. [LB542]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Mr. Clerk, for a motion. [LB542]

CLERK: Senator Synowiecki would move to amend the committee amendments with AM1202, Mr. President. (Legislative Journal page 1424.) [LB542]

SENATOR LANGEMEIER: Thank you. Senator Synowiecki, you are recognized to open on AM1202. [LB542]

SENATOR SYNOWIECKI: Senator Langemeier, thank you. This amendment essentially replaces the committee amendment. And in AM1202, there are two main components

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that I wish to explain. The first is regarding the evaluation and treatment process when an individual child enters the custody into the Kearney and Geneva Youth Rehabilitation and Treatment Center. AM1202 stipulates that a process is to be followed. A treatment plan is to be developed within 14 days after admission, and this is current protocol within the system, the community-based system. And if a youth is committed to Kearney or Geneva and they are assessed as needing inpatient or subacute substance abuse or mental health residential treatment, the juvenile shall be transferred to a program or facility where such treatment needs may be met. As is currently done, they automatically go to Hastings. The assessment process shall include involvement of both private and public sector behavioral health providers. The selection of the treatment venue for each juvenile shall include individualized case planning and incorporate the goals of the juvenile justice system as currently reflected in statute and as I went over. Juveniles committed to either Kearney or Geneva who are transferred to alternative settings for treatment remain committed to the Department of Health and Human Services and the Office of Juvenile Services until paroled or discharged from custody. I'd like to note right here, and Senator Burling can affirm this, that the Department of Health and Human Services has informed both myself and Senator Burling that they will begin doing the process that is laid out within the amendment effective June 1, 2007. And I think they're moving towards that assessment process due to a realization that perhaps, perhaps--and only time will tell, only time will tell--that some of these kids at Kearney can be more appropriately served in the community, perhaps, and only time will tell if they are assessed appropriately for community-based care. Members, the other component of AM1202 is the formulation of the Children's Behavioral Health Task Force. The task force will consist of various members. It would be the Chair of the Health and Human Services Committee of the Legislature or designee, the Chair of the Appropriations Committee, the Chair of the Behavioral Health Oversight Commission, two providers of community-based care, one regional administrator, two representatives of organizations advocating on behalf of consumers of treatment or their families, one juvenile court judge, two representatives from Health and Human Services, and the administrator of the Office of Juvenile Services. The task force shall prepare a plan for children's behavioral health and submit the plan to the Governor and the Health and Human Services Committee of the Legislature by December 4, 2007. The report will include plans for the development of a statewide system of care to provide appropriate educational, mental health, substance abuse, and support services to children and their families. The system of care should serve both adjudicated and nonadjudicated juveniles with mental health or substance abuse issues, plans for the development of community-based inpatient and substance abuse and mental health behavioral health services and allocation of such funding for such services to the community, and strategies for effectively serving juveniles assessed in need of substance abuse or mental healthcare upon release from Kearney or Geneva, and plans for the development of community-based substance abuse and mental health behavioral health treatment service of children. It shall include measurable benchmarks and time lines for the development of a more comprehensive and integrated system of substance abuse

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and behavioral healthcare for children and identification of necessary and appropriate statutory changes for consideration by the Legislature. And it also shall include the development of a plan for a data and information system for all children receiving substance abuse and behavioral health services. Senator Howard spoke this morning of a need for sufficient planning. And while the green copy of the bill simply sought, and I thought perhaps we had enough statutory authority, sought to close the children's services at the Hastings Regional Center and redirect that funding to the community, the inclusion now of a behavioral health task force, it is hoped, will supply us with that sufficient level of planning so that we can deliver relevant services to kids, so that we can deliver them in a timely manner, and so that we can get the outcomes that we need so that we can discontinue this. As I've seen in my years as a probation officer, kids coming through the system, then as adults they recycle and recycle and recycle through our systems. It's best that we get our resources more prudently and directly to the juveniles at the earliest possible prevention points, get them the relevant services that they need, get the outcomes that are needed so that we don't have this system of continuing to institutionalize kids, then as they're adults, so that we can break that cycle. And that's what we're seeking eventually with LB542. Thank you, Senator Langemeier. [LB542]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. We have now heard the opening on LB542, the committee amendment, AM1082, and the amendment, AM1202, to the committee amendment. Now the floor is open for discussion. Wishing to speak, we have Howard, Burling, and Synowiecki. Senator Howard, you're recognized. [LB542]

SENATOR HOWARD: Thank you, Mr. President and members. Yes, Senator Howard did speak this morning on the need to do planning and again plans to speak on that topic. I urge your caution in rushing to close the doors of the regional facilities before you develop effective planning for community services. Earlier this session I introduced a bill regarding group homes, LB90. The bill was not advanced but there was some important discussion at the hearing. There were providers who testified at the hearing who indicated that they are challenged to meet the needs of some of those individuals who have been released from regional facilities through LB1083. One person testified that they have people in their facility that need a higher level of care than they have the capacity to provide. That's an accident waiting to happen and it's not fair to the individual, the provider, or the community. I'm not saying that transitioning people into the community-based services is a bad thing. I believe community-based services can and do work. But the key is to plan first and then close down the facilities. That may mean that if this is a priority for the Legislature, that we have to fund the regional facilities through the planning process. Hopefully that will motivate us to plan in a timelier manner than we have done in the past. We have adults that have been put into community care because of regional center closings. And yet, according to the Behavioral Health Advisory Committee, we still don't have a comprehensive plan for community-based services provision. And this is more than three years after we started

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sending people back into the community. To put this in the simplest of terms, you would not leave your home and drive for days before you decided where you were going on vacation. You would plan first so that you know that you are headed in the right direction when you start down the road. Thank you. [LB542 LB90]

SENATOR LANGEMEIER: Thank you, Senator Howard. Senator Burling, you are recognized. [LB542]

SENATOR BURLING: Thank you much, Mr. President and members of the body. I stand in support of AM1202, and I want to thank Senator Synowiecki for his willingness to work with me and other opponents of the original LB542. And that compromise has resulted in, or is given to us in AM1202. I've been involved in this discussion because I'm aware of the programs that are presented at HRC. I've been out there and visited with the boys that are going through the treatment center out there and the staff, and so that's why I was interested in this piece of legislation. And as Senator Synowiecki has already said, we had many, many meetings with all the players in this situation. And I've had colleagues ask me what really is going on at the Hastings...former Hastings Regional Center campus there. And so I might take a few minutes here just to kind of share how we got to where we are now out there at that facility. I could go back about 60 years and talk about Ingleside, Nebraska, when it was a working farm. But maybe you aren't interested in that so I'll fast-forward up real quickly to the 1990s when the people out at the Hastings Regional Center instigated or started the first significant community-based service program in the state, as far as mentally ill was concerned. They started moving people from the facilities there out into the community, into their own homes, into their own apartments. And then they developed a team of about a dozen professional caregivers and they would visit these patients in their homes in the community, daily if necessary, or weekly or however often they thought necessary. They had 70 people, 70 patients that they served in this way and they were called the ACT team--that's an acronym--and that started in the nineties. That made a building or two available, by moving those people out, so there was an empty building at the Hastings Regional Center. And about this same time, if you recall, drug use was on the increase. The YRTC in Kearney was experiencing overcrowdedness. They had young men out there that needed substance abuse treatment and they had no facilities and no way to treat them. And so the decision was made that we have an empty building in Hastings, let's move the young men over there and provide education and treatment for them over there. And I think that was a prerogative of the HHS to make that decision. And it would appear that that was a good decision at the time. A few years after that, LB1083 was passed. The ACT team situation in Hastings and the boys from Kearney was several years before LB1083. The author of LB1083 indicated to me that the purpose of that bill was adult behavioral health reform. And when you have adult behavioral health reform, why, you have kind of a trickle-down effect into the adolescent behavioral health programs in the state. And so Health and Human Services determined at that time, in order to move the adult patients out of Hastings Regional Center to LRC,... [LB542]

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SENATOR LANGEMEIER: One minute. [LB542]

SENATOR BURLING: ...there wasn't room at LRC. And so they decided to take adolescents from LRC to HRC to make room for the adults to be moved from HRC to LRC, and that seemed at the time to be a prudent decision. And the HRC utilized the facilities that were available out there for adolescents at that time. So that's how HRC became a significant player in the adolescent behavioral health services. Nonprofit providers are also a very important part of the services we perform. But right now, Hastings Regional Center plays an important part. It's because it's the only state owned and operated facility that serves as kind of a cushion facility, emergency facility, or whatever term you want to use. And I shared with you this morning my pledge to get the proper people together to discuss... [LB542]

SENATOR LANGEMEIER: Time. [LB542]

SENATOR BURLING: ...better management of the state-owned excess property and I will do that. Thank you very much. [LB542]

SENATOR LANGEMEIER: Thank you, Senator Burling. Senator Gay, you're recognized, followed by Johnson. [LB542]

SENATOR GAY: Thank you, Mr. President. I'd like to speak on this issue a little bit with Senator Synowiecki, if he would yield to a few questions. [LB542]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB542]

SENATOR SYNOWIECKI: Yes. [LB542]

SENATOR GAY: Senator, you're putting this together, when you were looking at this did you, are you looking for any provisions when this treatment would occur? Let's say you have the study, treatment is needed, and community-based, but you can't find it in your community in particular or even in your region. Or they say, well, they need a special service. Douglas County, we remember when they went through this and they were shipping mental health cases all around--this was years ago--but they're shipping them to different states at a huge price. Would there be something in there or is this something we should watch for to make sure these services are provided in Nebraska by Nebraska providers? [LB542]

SENATOR SYNOWIECKI: Great question, Senator Gay. The last time--I don't have the numbers, I don't think, right in front of me--but the last time I checked, we had something like 60-something kids that are outside the state. Now I should probably warn you that if you're in Scottsbluff, Nebraska, and there's a facility in Colorado... [LB542]

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SENATOR GAY: Right. [LB542]

SENATOR SYNOWIECKI: ...that's community-based. They're physically closer to their community in Scottsbluff than they would be in any facility in the state of Nebraska relative to residential level of treatment. And you're kind of hitting on, you're kind of pushing the button as exactly where I was coming from on the green copy. And you know, Senator Burling doesn't have any control of this. But we spend in excess of \$4 million a year state money for the provision of treatment for 50 beds. And the community-based providers and other folks were informing me that we have a lot of communities in the state of Nebraska. There's a lot of places where we are profoundly deficient in treatment systems for juveniles and that that money that is centralized in an institutionalized care at an old psychiatric hospital, if that would be spread out, that these kids could be better served closer to home community. And I don't mean to take all your time... [LB542]

SENATOR GAY: No, that's all right. [LB542]

SENATOR SYNOWIECKI: ...but it's not...and I agree. I'm sophisticated enough, Senator Gay, to know that there are instances where juveniles can't be treated within their home community, that the family support isn't there, where they have no strong support systems that are healthy within an area and they need to kind of get away from their bad influences, if you will. But contrary to that, I think there's instances where we send a youngster to Kearney. And let's take South Sioux City, for example. You know, there's a scenario, I think, where there might be a very healthy role model--maybe an aunt, maybe an uncle--who's willing to invest in the future of that child. And they're at the Kearney and they're assessed to needing a residential level of care, and we send that child to Hastings. You know, why don't they go to the Boys and Girls Home in South Sioux City, Nebraska, where they've got that aunt or that uncle that can be a significant, significant role model for them? It could turn the kid's life around. But instead, we send them to this centralized institutional kind of looking place in Hastings and absent of any of those family support systems that might be available to them, pursuant to that assessment evaluation that might be identified. [LB542]

SENATOR GAY: Okay. And that's fine on the time. I hit my light again. And you actually were leading into my next question in answering that because part of this, if you do an integrated system of care, I wanted you to describe what you're talking about. I think that's a perfect description of different cases. The point I was going to make, too, and you know this, this is a good discussion to have, I think, but not all these programs can cover every case. And that's a good example where maybe you could find something with an... [LB542]

SENATOR LANGEMEIER: One minute. [LB542]

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SENATOR GAY: ...ankle bracelet or something like this and somebody could check on them again. I'm not that familiar, of course, with how these...how the systems work in greater Nebraska. I know in the metropolitan areas, we have these comprehensive services and they're working very well, and probably we need more of them. But as we look at this, though, and you look at the amount of kids that are going in, getting into trouble, it's usually substance abuse or mental health issues. And I'm just guessing this number, but I'd say it's 80 percent. I don't know what the correct facts are. And then I like your idea, too, where you have the family portion covered in there to draw them into the equation, too. So that has been something where I think it is very successful if you're going to get the family involved. Because many times, you know, the kids are doing whatever they want because there's no family supervision there. And the judges can bring them in and talk about, hey, here's why your kid has been doing this. So I think that's a great provision, too. [LB542]

SENATOR LANGEMEIER: Time. [LB542]

SENATOR GAY: Thank you, Mr. President. [LB542]

SENATOR LANGEMEIER: Thank you, Senator Gay. Senator Johnson, followed by Senator Wallman. Senator Johnson, you are recognized. [LB542]

SENATOR JOHNSON: Thank you, Mr. President, members of the body. I just wanted to rise in support of this measure. One of the things that I clearly remember when Governor Johanns announced this, that Senator Byars and Senator Jensen immediately said to the Governor, Governor, we're all behind you but we must not just take the old system apart. We must reconstruct a new system. And now we are in the position where we are finding that with the change of times, that the Norfolk facility, for instance, has now become the home for our sex offenders and so on. And this wasn't counted on at all. So as we proceed along this journey, I think that we must constantly redo studies like this. I think one of the things, Senator Synowiecki, that we might do between General and Select File is to see how this blends in with the other studies that are going on and so on, so that we don't have any overlap and do have a coordinated study. So we might think about that. But in general, I think this is needed and would ask everybody to support it. [LB542]

SENATOR LANGEMEIER: Thank you, Senator Johnson. Senator Wallman, you are recognized, followed by Senator Gay. [LB542]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I am very apprehensive about this bill also, as Senator Howard is. Most of our state-run institutions, they take care of some children that the families don't want to take care of. I was with the Chief Justice in a courtroom. Part of the problem was the family. And that's

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a big problem. So are you going to have family support? You know, like Omaha has some excellent institutions. They have family support, they have Thanksgiving things and Christmas things. Some parents come, some don't, and that's the way it is. But if we're going to shift these individuals around, whether they be youth or troubled youth or mentally ill, this is a tough situation, folks. We have a couple of these in my school district and usually if they're troubled youth, the school district, the school counselors, the school nurses, they take care of these children and you're dumping them on the local taxpayer. You can talk all about community-based care you want to. Some of these children just can't hack it. And these people that take care of these children, some of them are very well-meaning. They take the monies, state money, whatever you fund it, children's homes, church homes. I got to love what they're trying to do. But I just don't know where I'm at on this. It's a very, you know, scary place to go, I guess. But I appreciate Senator Synowiecki trying to do something to save money. We all like to save money. And thank you, Mr. President. [LB542]

SENATOR LANGEMEIER: Thank you, Senator Wallman. Senator Gay, you are recognized. [LB542]

SENATOR GAY: Thank you, Mr. President. I'd like to...if Senator Synowiecki would yield to a few more questions. [LB542]

SENATOR LANGEMEIER: Senator Synowiecki, will you yield? [LB542]

SENATOR SYNOWIECKI: Yes. [LB542]

SENATOR GAY: Senator, I'm looking at the, on the computer, the fiscal note. If you'd pull that up one minute, I've got a question about the...Senator Wallman is correct, these are expensive programs if you're going to do them. The end result though, if you can get kids out of this cycle or whatever and get them off the cycle of ending up in jail or not continuing an education, whatever it is, is very helpful and I think in the long run will save you some money. The question I had, Senator, if I'm reading this right, what do you estimate...if we do this study and we get it, what's the estimated cost if we would have a statewide program? Was that in there in the note, or is this \$10 million, is that not... [LB542]

SENATOR SYNOWIECKI: The \$10 million, I believe, that's referenced in the fiscal note, is what is spent at the Hastings Regional Center for these three children's services that are there. In response to Senator Wallman and Senator Howard, this bill doesn't close anything. It sets up an assessment and evaluation process and it commissions a study group, a task force to do the planning, should we decide to go in this direction. The fiscal note, Senator Gay, speaks to the cost, I believe, of the programs at Hastings. [LB542]

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SENATOR GAY: So some of those...would some of that cost though, if you could get kids out of that, what I would say, institutionalized setting into more community-based, less intensive...I mean, some can do that, some can't. [LB542]

SENATOR SYNOWIECKI: Right. [LB542]

SENATOR GAY: Some, as Senator Wallman said, are just...they're just tough. It's going to be hard to deal with. But that would be some savings there and I would say long term if you're looking at this study, what you're going to do, this task force will decide. I think we would be remiss, though, if we didn't discuss some of the cost that could be coming forward when they bring this program, because it could be very expensive. And that's a decision we'll have to make after we receive the report. But would you...you got any comment on that, on cost estimates? Was any of that thrown around when you had a discussion? [LB542]

SENATOR SYNOWIECKI: Well, let me...just today, a draft report was released on Nebraska juveniles correctional facilities. It's the master plan update and was done by Chinn Planning. [LB542]

SENATOR GAY: Karen Chinn, yeah. [LB542]

SENATOR SYNOWIECKI: And the per day per rate for the Kearney Youth Development Center is \$142 a day. The Hastings Regional Center is \$458 a day. And Geneva is \$151 a day. And in the report, well, I don't have them readily available. Per diem rates for services vary. However, the community-based services have the lowest rates. [LB542]

SENATOR GAY: Yeah, I... [LB542]

SENATOR SYNOWIECKI: And I understand, Senator Gay, and I kind of spoke to this before. You know, some kids are awfully tough, but I don't want to give up on them. I don't want to institutionalize them because you know, Senator, you've been in the community a long time. You've been an elected representative in your home community. You know what happens once you give up on kids and you institutionalize them, that carries over into their adult life. [LB542]

SENATOR GAY: Yeah, and I agree. I'm supportive of the concept. I just...I think this is a good discussion we have to have. I would say that money, it's as low as \$25 a day on some of these. If you have a day reporting center, let's say you can only do this probably if you have the population to deserve it. But let's say some of these communities, if it could be a regional...and now with these...I don't know how much we're going to monitor the kids. But you know, with the ankle bracelets and some of these other things, you can know exactly where they're at, have them check in once a

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week. There's a lot of different options here, much cheaper than what we have. And I think a lot of times it just takes somebody to kind of follow up and be persistent with these things. And when it comes to the... [LB542]

SENATOR LANGEMEIER: One minute. [LB542]

SENATOR GAY: ...mental health issues, I'm not that familiar with that. But when substance abuse and all those other issues we're looking at, these are very good ways to do it. So I commend you on this and I support the amendment. And I'd yield any time left to Senator Synowiecki. [LB542]

SENATOR LANGEMEIER: Forty seconds. Senator Synowiecki, you are recognized on your time. There are other lights on. [LB542]

SENATOR SYNOWIECKI: Okay. Senator Gay, obviously being a former county commissioner, is well-advised and tuned into these issues. And he's absolutely correct. A lot of the kids in the juvenile justice system are served in a nonresidential setting. What LB542 attempts to address for the most part is those kids that meet that level of criteria of care where they're needing a residential level of care and above. And Senator Gay is absolutely correct. You know, there's a lot of kids that don't need that level of care. And we should always, and Senator Gay knows this, we should always treat these kids in the least restrictive environment as we possibly can while still upholding public safety. And I think those are basic tenets that we always need to attend to and that treating these kids in the least restrictive environment is upholding what is in the best interest of each individual youngster. What this bill does is, for the most part, provides for an assessment process to determine whether or not a child is appropriate for a community-based setting of care. This bill, as it's currently written, Senator Howard and Senator Wallman, doesn't close anything. It doesn't diminish any services whatsoever. It does two things: It provides for an assessment process whereby a youngster is assessed for the appropriateness to participate in substance abuse and mental healthcare in a community-based setting. The second thing it does is sets up the task force whereby we study children's behavioral health, and we look at current statutes that guide the system and look at the things that I mentioned in my opening. That's the two things this bill does. The original green copy version is pretty much done away with after consultation and deliberations with Senator Burling. And let me tell you, he's a tough negotiator and we're down to a task force and an assessment process where the community-based provider network can deliberate and process through this assessment process along with the public behavioral health providers. And again, the bottom line is, the bottom line is that we do what's in the best interest of kids, that we treat them in the most appropriate venue possible, and that we carry as a paramount interest in all this what is in the best interests of the kid, of the youngster. And I'll...let me tell you that if a youngster that's going through our juvenile justice process has family influence that is positive and healthy, we ought to attach that youngster to that environment and treat

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them in the least restrictive with family-oriented perspective as we most possibly can. We ought not, we ought not automatically send youngsters to any regional center, any treatment venue knee-jerkly, knee-jerkly without due consideration to what is truly in the best interest of that child. Thank you. [LB542]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. Senator Burling, you're recognized. [LB542]

SENATOR BURLING: Thank you, Mr. President, members of the body. I just want to say that I agree, you know, with what Senator Synowiecki has said. We're interested in what's best for the adolescent, for the juvenile, wherever they can get the best care. That's what we all want. But I did want to just share a little bit about the fact that I not only am aware of what's going on in Hastings, I've had personal experience with immediate family members who have had addiction and gone through treatment. And my wife and I have been through family treatment with our family members, so we also have seen that side of it. And I've been out to Hastings and visited with these young men that are going through treatment and have talked to them, and so many of them have said that they don't have anybody that cares. They don't know where they're going to go when they get out of there because they don't have any family. That's not all of them but some of them. They either don't have any family to go, they don't know where they're going to go when they get out of there, or they don't have family that cares. And they're afraid to go back to their community where they came from because that's where their old buddies are. That's where they got in trouble committing crimes in the first place. They don't want to go back there. And so they face a lot of different issues. And I've had them tell me that Hastings is the first place they've been where they've really felt like somebody cared about them and has taken an interest in them and listened to their problems. And so there are good reports coming out of the program there at Hastings. I just wanted to share that with the body. And thank you for your time. [LB542]

SENATOR LANGEMEIER: Thank you, Senator Burling. Senator Louden, you are recognized. [LB542]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. Would Senator Synowiecki yield for questions, please? [LB542]

SENATOR LANGEMEIER: Senator Synowiecki, would you yield to a question? [LB542]

SENATOR SYNOWIECKI: Yes. [LB542]

SENATOR LOUDEN: I don't have a copy...on your appropriations, I guess, is that different than your fiscal note, \$54 million on your fiscal note? [LB542]

SENATOR SYNOWIECKI: Oh yeah, it's... [LB542]

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SENATOR LOUDEN: Okay. [LB542]

SENATOR SYNOWIECKI: The fiscal note, Senator Louden, I think speaks to the introduced version, I believe. And so, no, fiscal note will be edited, I think, pursuant to what's adopted on General File. [LB542]

SENATOR LOUDEN: Okay. Now by doing this, as I look this over, does that mean you advocate closing the Hastings Regional Center? Is that what you plan on doing? [LB542]

SENATOR SYNOWIECKI: No. [LB542]

SENATOR LOUDEN: Okay. [LB542]

SENATOR SYNOWIECKI: The green copy of the bill sought to do that. The Appropriations Committee kind of scaled that back and it was an appropriations bill in terms of appropriations in a fund. This amendment that I've worked on with Senator Burling does essentially two things. It sets up an evaluation and assessment process for youngsters that are sent to the Kearney Youth Development Center and the Geneva Youth Development Center, whereby those kids will be appropriately assessed to see if they're appropriate for community-based placement or a placement by a public provider, such as Kearney. And... [LB542]

SENATOR LOUDEN: Now what about age groups, when you talk about children? I mean, that's usually, according to law, that takes anybody from, what, 0 to 18 or something like that. [LB542]

SENATOR SYNOWIECKI: Yeah, I think we're talking...in the state of Nebraska I think we're talking 19. Senator Burling might be a resource for that question. [LB542]

SENATOR LOUDEN: But are you...you're talking about still using that facility for older children, or are you using it for those that are convicted of some sex offense or something like that? You know, what do you intend to do with the Hastings facility, I guess? [LB542]

SENATOR SYNOWIECKI: Senator Louden, what I intend to do with it, it will be kind of handed off to the task force, the members of which I mentioned, that will work to study the issue. And they will come back...they are to come back in December of '07 with some findings and perhaps some recommendations, perhaps some legislative findings. I have no...the bill in its current form under AM1202 doesn't speak to that. [LB542]

SENATOR LOUDEN: Okay, then that isn't part of the plan to close that facility

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completely out down there but still use it for something else or use it for part of the program. You want to just do some kind of community-based for certain, I would say, people that were probably not that...in dire need of mental health or something like that. Is that what the plan is with your community-based work, with your amendment here? [LB542]

SENATOR SYNOWIECKI: Yeah, the plan, Senator Louden, is to develop an integrated system of behavioral healthcare for kids. As Senator Johnson indicated, we've kind of gone through this with the adult system. Now, as Senator Johnson indicated, the time is probably proper to commence to study what we can do with the children's behavioral health system. Hastings is certainly a part of that. We expend in excess of \$4 million a year in treating kids at the Hastings Regional Center, and I'm sure some of what the task force will look at, Senator Louden, is the role that Hastings ought to play in that integrated system of behavioral healthcare for kids. [LB542]

SENATOR LANGEMEIER: One minute. [LB542]

SENATOR LOUDEN: Right, because that's how we got our Panhandle area health out there in western Nebraska. They quit sending people down to Hastings, the adults, and they did some more community-based work out there. And this is a program you're trying to start for juveniles, is my understanding, and still leave that facility in place in case it's needed for other people. [LB542]

SENATOR SYNOWIECKI: It's my intent to develop an integrated system for children's behavioral health and the task force are assigned parameters to study. And it includes a look at residential services and that sort of thing. [LB542]

SENATOR LOUDEN: Okay, thank you, Senator Synowiecki. Thank you, Mr. President. [LB542]

SENATOR LANGEMEIER: Thank you, Senator Louden. There are no lights on. Senator Synowiecki, you are recognized to close on AM1202. [LB542]

SENATOR SYNOWIECKI: Thank you, Senator Langemeier. I think I'll just recap that the amendment that you're voting on right now will replace the Appropriations Committee amendment. And I would like to advise you that this amendment has been worked on in consultation with Senator Burling. I worked in good faith, he worked in good faith to develop something that I think is responsive, I think it's substantive. I think we're going to do things a different way. We've had numerous meetings, both of us there together and apart, more meetings than I want to admit on this bill. But this is substantive in that we're going to implement a new evaluation and assessment process for kids that go through the Kearney experience. And we're going to bring on this task force to study children's behavioral healthcare in the state of Nebraska and to see if we can give better

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outcomes and to see if we can treat kids that, as a paramount interest, hold what is in the best interest of the youngster at the highest end of our priority, and that it's family-oriented and that it's individualized case planning. And that's what we're seeking here, and I'd appreciate your support of the amendment. Thank you. [LB542]

SENATOR LANGEMEIER: Thank you, Senator Synowiecki. You have heard the closing on AM1202. The question is, shall AM1202 be adopted to the committee amendments? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB542]

CLERK: 29 ayes, 0 nays, Mr. President, on the adoption of the amendment to the committee amendments. [LB542]

SENATOR LANGEMEIER: AM1202 is adopted. Returning now to the committee amendments, there are no lights on. Senator Heidemann, you are recognized to close on the Appropriations Committee amendments. Senator Heidemann waives closing. The question before the body is, shall AM1082, the committee amendments to LB542, be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB542]

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB542]

SENATOR LANGEMEIER: AM1082 is adopted. [LB542]

CLERK: I have nothing further on the bill, Mr. President. [LB542]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Synowiecki, you are recognized to close on LB542. He waives closing. The question before the body is, shall LB542 advance to E&R Initial? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB542]

CLERK: 33 ayes, 0 nays, Mr. President, on the advancement of LB542. [LB542]

SENATOR LANGEMEIER: LB542 does advance. Mr. Clerk, LB482. [LB542 LB482]

CLERK: Mr. President, LB482 is a bill offered by Senator Johnson. (Read title of LB482.) The bill was introduced on January 17, at that time referred to the Health and Human Services Committee for public hearing. The bill was advanced to General File. There are committee amendments, Mr. President. (AM932, Legislative Journal page 1163.) [LB482]

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

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to open on LB482. [LB482]

SENATOR JOHNSON: Mr. President and members of the body, I understand it was a beautiful day outside today, by the way, so good evening to everyone. LB482 relates to the treatment of autism. The committee amendment becomes the bill but it retains many provisions of the original bill. Before we talk about the bill itself, what I'd like to do is to spend a few minutes talking about autism. One of the things that you might find handy is that we did, or are in the process of giving you a handout that you can refer to during the course of the discussion or later, as the case may be. First of all, let me tell you just a bit about autism. It's known as ASD, or autism spectrum disorder. It's a neurologic condition that greatly impairs a child's ability to communicate verbally. But it does far more than this. It causes significant problems in their social relations with others and severe behavioral problems, such as aggression towards others, but also self-aggression or self-injury behavior. It can and usually does have a profound effect on this child's life. But it has a tremendously profound influence, not only on the person with autism, but brothers and sisters and parents. It is such a stressful situation that nearly 80 percent of the parents can't take it and become divorced. It appears that autism is increasing. Perhaps we are just becoming more aware of it, however. It is thought that it occurs in 1 in every 150 children. Now you might have seen where this has been the subject of many magazines, TV programs, and I think Oprah Winfrey actually did a special on this as well. There are more kids with autism than juvenile diabetes, Down syndrome, childhood cancers, and cystic fibrosis combined. This is a very significant disease. Now with the best treatment, 85 percent of these kids can make huge gains. The American Academy of Pediatrics, the Surgeon General, and the National Council of Education all state that early intensive behavioral therapy is the most researched and the most effective way of treating these kids with autism. One of the things that we often do is tell about if we make an investment now, how much money it saves later. Well, this is certainly true in this case, because it will change people that require a tremendous amount of care the rest of their life. And we will end up with perhaps 60 percent of these people becoming taxpayers with good treatment and another 20 percent requiring minimal additional help other than what they can do for themselves. Well, what does this bill itself do? One of the things that you're going to see that is a very pleasant surprise here tonight is, what we want to do is to leverage public and private dollars and work through a limited Medicaid waiver. I haven't seen many bills go through where we have a pledge of private money to augment what we as a Legislature set aside. We first had a donor that pledged \$1 for every \$2 that the state would put in up to one-half million dollars. We now have a second donor who also has pledged a half a million dollars, so that now for every million--and we're going to ask for just \$1 million--we will have private donors that will match that money. This is rather unique. We will, and we'll talk more about this as we go on, ask for a limited Medicaid waiver. And what we're talking about here is actually limiting the number of people that we want to train or treat with this program so that we don't give a lot of people a little bit of help. We want to make this a pilot study, working through the UNMC medical center

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with this, so that we see what kind of results that we can bring about in these children and how we might influence other programs, particularly with our school system. So we want this to be an integrated program with the UNMC program there being the center. The result of this, if we are able to get this Medicaid waiver, and several other states have, that this then we would be able to take...and I think, if I have my numbers correct here, that for every dollar that the state would contribute--in other words, for the \$1 million and matching it--I think that we come up between \$7 million and \$8 million per year for this program. So there's no question that we would be getting the most for our money. One of the other things that we would do with this program is to make it so that...obviously there are going to be wealthy people who would have children with this, as well as poor people. And so the people who do have a better financial situation would be asked to contribute to the care of their person with autism as well. One of the things that also will happen, we believe, when we get the private sector involved is the private sector is used to getting results. And so what we intend to do is to audit the results as we go along with this program, so that we see that we are getting the results that we want and what our private people and private donors will demand. [LB482]

SENATOR LANGEMEIER: One minute. [LB482]

SENATOR JOHNSON: This is obviously not going to cure autism in Nebraska. But as we look at the state of Nebraska, we have done very, very little, and I would suggest that it's time that we start. And we believe that this is the prudent way of going about it, getting the support from private donors as well, and making our state money go much further. Thank you. [LB482]

SENATOR LANGEMEIER: Thank you, Senator Johnson. As the Clerk has stated, there are committee amendments offered by the Health and Human Services Committee. Senator Johnson, you are recognized to open on the committee amendments. (AM932, Legislative Journal page 1163.) [LB482]

SENATOR JOHNSON: Thank you, Mr. President. The committee amendment replaces the bill as introduced. It adopts the Autism Treatment Program Plan. One, this creates an autism treatment program administered by the Center for Autism Spectrum Disorders at the University of Nebraska Medical Center and two, requires the development of a Medicaid waiver for the provision of autism treatment. The autism treatment program would utilize funds transferred from the Nebraska Health Care Cash Fund and matched by these private funds. The transfer of the cash funds is contingent. It would not happen without receipt of the private funds with no less than \$1 of private funds for every \$2 of cash funds. This will actually be matched dollar for dollar. The amendment creates the Autism Treatment Program Cash Fund. The amendment also requires that the Department of Health and Human Services to apply for a Medicaid waiver or an amendment to an existing Medicaid waiver for the purpose of providing medical assistance for intensive early intervention services based on behavioral

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principles for children with autism spectrum disorders. The amendment provides legislative intent regarding the waiver, which is almost exactly the same as in the green copy of the bill. The amendment raises the amount transferred to the Nebraska Health Care Cash Fund from \$52 million to \$53 million. The amendment transfers \$1 million annually for five years to the Nebraska Health Care Cash Fund, to the Autism Treatment Program Cash Fund. Again, this transfer is contingent on the receipt of the private funds. You will also see an amendment by Senator Erdman that, since we have already had a measure that changed the \$52 million to \$54 million, that the \$1 million will actually make it go to \$55 million. With that, sir, I would stop. Thank you. [LB482]

SENATOR LANGEMEIER: Thank you, Senator Johnson. Mr. Clerk, for a motion. [LB482]

CLERK: Mr. President, Senator Johnson would move to amend the committee amendments, AM1192. (Legislative Journal page 1392.) [LB482]

SENATOR LANGEMEIER: Senator Johnson, you are recognized to open on AM1192. [LB482]

SENATOR JOHNSON: Thank you, Mr. President. AM1192 is a technical amendment brought to me by the Fiscal Office. It simply makes it clear that all the costs associated with the bill be paid from this \$1 million coming from the Nebraska Health Care Cash Fund during this five-year period. This would include all costs associated with the Medicaid waiver mandated in the bill. It provides for the first payment of HHS administrative costs related to applying and implementing for the waiver. And we actually might have a donor that will help us with this as well, by the way, but I don't want to promise that to you tonight; then other medical costs for children who would not otherwise qualify for the Medicaid except for the waiver, and finally the balance goes to the autism treatment program. In other words, what we'll do with this amendment is to take administrative costs out of the \$1 million so that it isn't \$1 million plus the administrative costs. Again, this amendment emphasizes that no General Funds are being requested. With that, Mr. President, I would conclude my remarks. [LB482]

SENATOR LANGEMEIER: Thank you, Senator Johnson. You have heard the opening on LB482, the committee amendments, and the amendment, AM1192, to the committee amendments. The floor is open for discussion. Those wishing to speak, we have Pahls, Heidemann, Friend, Erdman, Harms, Schimek, Kopplin, Mines, Carlson, and others. Senator Pahls, you are recognized. [LB482]

SENATOR PAHLS: Mr. President, members of the body, I want to thank Senator Johnson and his staff and the number of people who helped bring this bill to the floor. Earlier in the session, I was looking for a bill that I thought, that may be a little unique, have a significant impact, and possibly could be a model piece of legislation. I think this

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bill gives us those opportunities. The thing that intrigued me about this bill is we're dealing with the medical sector, the educational sector, and also the private sector. And the nice thing about having the private sector involved in this, because if we have people donating or giving money to a project, they are going to be very attuned to finding and looking for good results. Again, as I said, I do see this as a potential for a way of doing...working with the private sector and the public sector in the future. So that, again, is one of the significant attractions to this bill. In the public schools, we cannot give intensive therapy. That is what this all about. I truly believe when a child receives intensive therapy before he or she enters the public school system, the time they have learned the strategies and found the ways to cope or to fulfill their needs, that will be a tremendous benefit for the public school system, because some of the research shows that if these children who do receive this intensive therapy--and we're talking about hours, not one or two hours a week, but hours of therapy--a significant percentage, such as 50 percent, do not need that type of therapy in the future. I want to speak to just a few of the issues dealing with education. And just...I'm going to throw some numbers out at you and I hope that I can catch your attention: Ainsworth Community Schools, 3; Alliance, 6; Arlington, 6; Auburn, 4; Aurora, 7; Beatrice, 6; Bellevue, 76; Blair, 7; Boone Central Schools, 6; Broken Bow, 6; Centennial, 5; Central City, 3; Columbus, 9; Cozad, 4; Crete, 10; Elkhorn, 13; Fairbury, 4; Fillmore, 4; Fremont, 8; Gering, 4; Grand Island, 22; Gretna, 10; Hartington, 3; Hastings, 12; Kearney, 32; Kenesaw, 3; Kimball, 3; Lexington, 15; the Lincoln Public Schools, over 300; Logan View, 400; Malcolm, 3; McCook, 3; Minden, 3; Mitchell, 4; Nebraska City, 8; Neligh-Oakdale, 4; Norfolk, 13; Norris School District, 6; North Platte, 9; Ogallala, 3; the Omaha and surrounding areas, all the metropolitan schools, over 300; Plattsmouth, 6; Ravenna, 5; Schuyler, 4; Scottsbluff, 8; Seward, 6; Sheldon, 4; Sidney, 7; South Sioux, 15; Stanton, 3; Thayer Central, 4; Tri-County, 3; Valentine, 3; Wahoo, 5; Waverly, 13; West Point, 3; Wisner-Pilger, 4; York, 5. Those are the schools; that's the number of children who are on this spectrum. I could have read a number more where you have one or two children. Now in a larger community, in many ways it's easier to deal with that because what you have, the more children you have, you will have more people who are more familiar with working with children with autism. You get into some of the areas, let's say that I'm in a school where only one child, you can see the needs that would put on me as a school. [LB482]

SENATOR LANGEMEIER: One minute. [LB482]

SENATOR PAHLS: I just want you to keep that in mind. Those are significant numbers. Now in the year 2000, the state implemented a autism spectrum disorder plan. And that plan involved the Nebraska Department of Education, the University of Nebraska. They developed regional service centers. These service centers--one at Scottsbluff, Kearney, Columbus, Norfolk, and metro area--they do provide training, they help parents, teachers. They do not give direct instruction. If you are a graduate of the SPED program, chances are you've had very little training in autism. So if you are in a school

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and you're expected to help a child with autism and you are in a special ed, you may not have enough training. So they do give you training. The sad thing about it is, it's not intensive. That is the reason why we need this relationship. We need to work with the private sector to help us give intense therapy for those children. I could tell you some stories... [LB482]

SENATOR LANGEMEIER: Time. [LB482]

SENATOR PAHLS: Thank you. [LB482]

SENATOR LANGEMEIER: Thank you, Senator Pahls. Senator Heidemann, you are recognized. [LB482]

SENATOR HEIDEMANN: Thank you, Mr. President, fellow members of the body. I want to thank Senator Johnson for bringing this before us, this legislation. If you ask some people, this is probably some of the most important legislation that we're going to deal with this session. Why? Because the number of children with autism is staggering. The cost to society is staggering. Autism will impact every other program in state government unless we address it now, invest now and save a lot of money down the road. That's what LB482 is all about. This is proactive. This is about leveraging limited resources. It's about partnering for the best outcomes. As my colleague Senator Harms often asks, what's the long-term plan? How do we get ahead of this? Senator Harms, LB482 is a long-term plan. It involves public-private partnership. You and I know these types of partnerships will yield better outcomes. The private sector will not invest in issues like this unless they believe in the approach. The Appropriations Committee was fortunate to hear the testimony from an expert in the field of autism and from the private partner who went through her own foundation, has committed a great deal of time and money in helping families that have children with autism. As it was stated, this issue is bigger than all of us and she is correct. We cannot afford to keep turning our backs on this issue. This initiative fits into the Governor's own plan to reduce the cost of Medicaid. If Nebraska currently has over 1,600 children with autism at an estimated cost of \$3 million per child, I'd say we have a Medicaid crisis on a whole new magnitude. It is true that we are expanding Medicaid. But in this case, that expansion hopefully will save the state money in the long run. As many of us know, as many of us in this body know, families are desperate that are dealing with autism. And although agencies like the Department of Education and HHS try to provide some assistance, Nebraska ranks close to last in the resources we put forth to help families with children with autism. LB482 calls for \$1 million per year from a fund that was created to help address the important health issues like autism, the Health Care Cash Fund. I specifically have asked the Nebraska Investment Council to look at the sustainability of this fund, which currently is at \$52 million. This afternoon, we took action to take that to \$54 million. This would take it \$55 million. I did have concerns with this earlier on this year when Senator Kruse brought the biomedical research money bill to the Appropriations Committee. And

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then I became aware of this \$1 million extra cost to the Health Care Cash Fund. I am a very conservative person, and I actually did look into this to see if this was sustainable. And I talked to David Bomberger, the state investment officer, and he provided our committee with an analysis of this fund. He concluded that this is a sustainable number, and I will say that I concur with this and support the \$1 million annual appropriations out of the Health Care Cash Fund for the Autism Treatment Program Act. It does look like this is sustainable. I will say that it is somewhat contingent on all the tobacco funds keep coming into the tobacco fund that supports the Health Care Cash Fund. I hope that continues so that we can do great things like Autism... [LB482]

SENATOR LANGEMEIER: One minute. [LB482]

SENATOR HEIDEMANN: ...Treatment Program Act. This will not impact other entities currently receiving funds. Quite frankly, I believe this is an excellent use for these funds, and the fact they're requiring a private sector match and leveraging these limited dollars is the right approach for any future request. With that, I ask that you please support all the amendments and LB482. Thank you. [LB482]

SENATOR LANGEMEIER: Thank you, Senator Heidemann. Senator Friend, you're recognized. [LB482]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Last summer, actually on this particular instance it happened to be in my district, a town hall meeting, if you will, of parents and friends of autistic youth. I believe Senator Hudkins was there; Senator Stuthman was there as well. I don't remember if Senator Pirsch came by later on, and maybe others. If I'm leaving anybody out, forgive me. One of the things that I came to a...it wasn't just that night, it was other town hall meetings. Constituents worked with constituents, helped me come to a determination based on the information that I had received over about the last couple of years of trying to study more and more about this, that the early identification in early childhood, the early intervention, especially the intense early intervention, are crucial. And I don't want to be redundant; others have mentioned that. But children and adults with autism obviously have a great deal of difficulty, not just communicating, but if not for some of the intervention and some of the work that can be done with them, a great deal of behavioral and overall social functionality problems. Now the key to this whole thing to me is that there are ways, based on the studies and the things that we've all probably dabbled in and the information that we've gotten about not only this bill but in the past when we look into this subject matter, is that there are ways to spot these disorders really early. There are indicators. And sometimes it might take a professional, sometimes it might take a mom or a dad saying, wait a minute, we've got an issue here. But that's the identification piece and that's sometimes expensive, depending on where you take the child in order to try to bring that identification to a full circle. And there are ways to help with the disorders once you've identified it. And that's the intervention

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piece and that's the very always expensive piece--very expensive. Now what we're dealing with in analyzing this legislation, I think, is a very creative way, very creative--and we talked about this last summer with a lot of folks who were involved in this--of providing a funding mechanism for the proper identification and the proper intervention early on. And you know...and the other speakers have been through this, the cash fund, along with private match. Folks, it's at the very least worth our discussion to talk about this because Senator Johnson is right, it is unique. I've been here, like I said, almost five years, and I haven't seen anything quite like this. Part of it is probably because they figured they didn't want to attack the General Fund (laugh) because that's a dice roll, as you know. Here's why it's at the very least worth discussion. You've got a five- or six-year-old kid--put yourself in the situation where you're trying to deal with a problem like this. In our educational system, you're not, maybe not okay, but they're dealing with that five- or six-year-old in our schools; not a one- or a two- or a three-year-old. We can't; the resources aren't there. And the parents...and I have constituents, one particularly, that have run up...they're bankrupt, because doctors are saying, look, the early intervention, the intense early intervention is the way to go. Well, they said, okay, well, let's go; let's run with it. You've got a two-year-old kid, you've identified the problem, you go into early intervention. And the next thing you know, you're \$75,000 in debt. I can't even fathom that. I'm in debt but, folks, what, a year's time, \$75,000? This isn't a mortgage. You're not building any equity. You're doing what a doctor told you to do. Look, you know, I think... [LB482]

SENATOR LANGEMEIER: Time. [LB482]

SENATOR FRIEND: ...there will be plenty of...time? Thank you, Mr. President. [LB482]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Erdman, you are recognized. [LB482]

SENATOR ERDMAN: Thank you, Mr. President. I don't rise in opposition to LB482, in theory. I rise in opposition in the practical way that it's being done. And I'm hoping that throughout the course of this process that there's a way to resolve some of these issues. I have filed an amendment on Select File that would be an alternative way of doing it. I understand that there's probably not a lot of support at this point, but we can discuss that on Select File. Let me point out a couple things, or at least one thing that I did hand out to you. In the context of this debate, I think it's important to understand where we're at regarding our Medicaid program. And I don't plan to spend a lot of time today talking about that, but I did want to point out for your own information, according to an organization that recently did an analysis or an updated analysis of Medicaid programs across the state, Nebraska ranked second. That's number two out of the 51; 50 states plus the District of Columbia, I believe, Washington, D.C., in the quality and the value of this program to the citizens that it's designed to serve. And I can distribute to you the actual report so you can see all of the information. But Nebraska was the only

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state that ranked in the top 13 in all five categories. We were second only to Massachusetts which, according to their own analysis, says that based on the law that was passed last year, it's likely that they're not going to be able to sustain their programming. And very likely, Nebraska could become the top Medicaid program in the state (sic), according to this organization. And of course there's different ideas of how to analyze this. But this is an update of a study that was done 20 years ago. And I just simply distributed that for your information because we as a state have been looking at the Medicaid system. We are projecting savings this year over what we would have done if we were on, say, autopilot by approximately \$20 million without cutting people off services, without reducing those benefits, but by being more efficient and more effective in the services that we provide. And there are always people that want to do more. But I wanted to bring that up in context. Here's what I think is missing from this process. Senator Pahls went through and, at great length, read through the number of students that have behavioral disorders, and I believe this is specific with autism, in our schools across the state. I don't see them at the table, them being the Department of Education, helping us solve this problem in LB482. That doesn't mean that it's their responsibility to do it, but I think they need to be a willing partner in this. And it's my understanding that from discussions that have gone on, that they have been less than willing to be a partner in this. I think they will see huge benefits. Should we as a state embark on this project and this level of services, they will be the greatest beneficiary, in addition to the families that would be served by this programming. And yet, they're silent on their assistance. And there's one really good reason why that is. Because if you can get a Medicaid waiver, you can get 58 percent matching funds as opposed to 18 percent under special ed. So you get a bigger bang for your buck if you can do it through a Medicaid waiver program. But going back to the Medicaid program, if you authorize a Medicaid waiver for this specific service, those individuals who are eligible for this autism treatment service will also be eligible for Medicaid services generally. So this is an expansion of those basic Medicaid services to a population that currently isn't served, while we're trying to target what I would think everybody would recognize as a needed opportunity in our state to analyze what tools do we need to provide to families in this state that face this type of disorder in their family. [LB482]

SENATOR LANGEMEIER: One minute. [LB482]

SENATOR ERDMAN: And if you have been in the Legislature for the last few years, and I've been on the Health Committee for seven years, the families that have come before our committee are sincere. They are not...this is creative. I know the body voted down a creative idea earlier today. But this truly is creative, and it would be interesting to hold every other expansion of this program to the same type of standard. But these people have done far and beyond what I think you could ask folks. And I think the disagreement here is not if, it's how. How do we do this, how do we provide the checks and balances? But most importantly, how do we provide the targeted results that give us the indication that this will work in the short term without creating a program that lasts

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forever? Because the people behind LB482 want results. They don't want a new program. And I want to make sure that as we go through this process, that we as a body... [LB482]

SENATOR LANGEMEIER: Time. [LB482]

SENATOR ERDMAN: ...are also focused on results and not just simply expanding the program. And I hope that we can have that discussion on this bill. Thank you, Mr. President. [LB482]

SENATOR LANGEMEIER: Thank you, Senator Erdman. Wishing to speak, we have Harms, Schimek, Kopplin, and Mines, and others. Senator Harms, you're recognized. [LB482]

SENATOR HARMS: Thank you, Mr. President and colleagues. You know, I've had the fortunate opportunity to visit with several parents or mothers who have autistic children. And what Senator Johnson said about 70 or 80 percent of these marriages end up in divorce is correct. And until you really take the time to visit with a mother about the stress that's in this family about dealing with their autistic child, you have no idea. As a body, we have no idea what they go through with this. It's just almost shocking. And if it does not bring tears to your eyes, I'll be surprised because it is unbelievable what they go through. And what has been discussed here, and I don't want to repeat it, early intervention is critical. And by having early intervention, some of these children can move and live independent of the parent, and that's the goal. It's better to spend it at the front than at the back. I've had the fortunate opportunity to visit with Dr. Fisher, who is an expert in autism from the University of Nebraska at the Medical Center. He testified at the Appropriations Committee. And we are most fortunate to have someone like Dr. Fisher, who is known throughout the United States as an expert in the area of autism. And I think if we work closely with the University of Nebraska Medical Center and Dr. Fisher, there will be no guessing about results. There will be no guessing about what kind of program we'll put in because this...I really believe that Dr. Fisher is truly an expert in the field that we need to use here. In visiting with Dr. Fisher, I've asked him about what causes autism. And his views are, that is a cloudy issue and that we believe it's a genetic component. And I asked him, do you think in the future, as we develop nanotechnology and some of the other kinds of things to be able to address a lot of science issue and medical issues, we'll be able to manipulate those genes? And he said, we hope, long haul, down the line, in the future that might be possible that we can determine whether this child is autistic and what we do to correct that. Well, that's a dream and hopefully we'll get there. Nebraska needs to step to the plate. We have too many children that are autistic and our schools are not really honestly yet equipped to deal with an autistic child completely. We need to have better understanding of it, and I would just urge you as colleagues to take an interest in autism. And let's move forward with this, because it's going to be critical to the future of these children. Thank you, Mr.

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President. [LB482]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Schimek, you're recognized. [LB482]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I rise in strong support of the amendment and the bill. I too have known children with autism. A family member in my husband's family had a son. He's grown now and he had some services through the public school system, and he is living by himself in a group home in Grand Island. But I wonder if there could have been more done for him through a program like this. I also have a neighbor whose first grandchild has been diagnosed with autism, and she and her family have been before the Health and Human Services Committee pleading for some help. And I am so pleased that they are being heard and have been heard. I could cite you several other cases but the point is, we probably all know someone whose child has been diagnosed with autism. And of course, there are varying degrees and some children are more helpable than others, probably, but they're all capable of being helped. I would like, however, to get a few things into the record, and I had a brief discussion with Senator Johnson off the mike. And I would just like, at this time, to ask him a few questions if I might, Mr. President, Senator Johnson. [LB482]

SENATOR LANGEMEIER: Senator Johnson, would you yield to a question? [LB482]

SENATOR JOHNSON: Certainly. [LB482]

SENATOR SCHIMEK: Yes, thank you, Senator Johnson. I didn't quite understand, I do now, but tell me again about the number of children that could possibly be served by this program. [LB482]

SENATOR JOHNSON: The estimates are that there are about 1,600 of these children under age nine. And the reason that we have chosen age nine is that the earlier we start, and we're talking in the neighborhood of three years of age, the better results that you tend to have. [LB482]

SENATOR SCHIMEK: Okay, and I'm not sure that that was real clear before and when Senator Pahls was reading his list. Those 1,600 children to which he referred were essentially those under nine years of age, I assume. [LB482]

SENATOR JOHNSON: I believe that's the correct number. [LB482]

SENATOR SCHIMEK: Okay. I know that some parents have been sending their children to Wisconsin and other places for the treatment. And I know it's been very expensive, \$70,000 a year or some large figure like that. I guess I wonder how much will the treatment for each child be here, and that's one of the questions I forgot to ask

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you off the mike. But is there a set cost, or will it vary according to the child and the degree to which that child needs help? [LB482]

SENATOR JOHNSON: The cost will vary for the long-term intensive care. And when we say long term, we usually talk in terms of three years at about \$50,000 per year. [LB482]

SENATOR SCHIMEK: Okay. That's a little bit less expensive than I thought it might be. [LB482]

SENATOR JOHNSON: There may be some that would be slightly higher than that. If I might, I might tell you that there is a state employee whose wife and child moved to Wisconsin... [LB482]

SENATOR LANGEMEIER: One minute. [LB482]

SENATOR JOHNSON: ...while he continued... [LB482]

SENATOR SCHIMEK: Yes. [LB482]

SENATOR JOHNSON: ...to work here, because that's where they could get the care they needed. [LB482]

SENATOR SCHIMEK: I am aware of that family. And I'm not going to get to ask all my questions, I guess, but I'll ask one more at this point. Will there be some kind of a screening process by which these children will be chosen? I mean, I'm sure there are going to be hordes of families wanting to get into this program. [LB482]

SENATOR JOHNSON: There will have to be, because the intent is to treat 50 the first year, and then up to 100 per year after that so that there would be a grand total of 425 or so for the five years of the program. We want to do a very good job on a few, but then take those results and those treatment and expand it into the other programs that are already in existence. [LB482]

SENATOR SCHIMEK: So when I get... [LB482]

SENATOR LANGEMEIER: Time. [LB482]

SENATOR SCHIMEK: ...a chance to ask you another question (laugh) I'll come back. Thank you. [LB482]

SENATOR LANGEMEIER: Thank you, Senator Schimek. Senator Kopplin, you are recognized, followed by Senator Mines. [LB482]

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SENATOR KOPPLIN: Thank you, Mr. President, colleagues. I met my first autistic child 30 years ago when I was director of special education. Family moved to town mostly to get closer to the urban areas where they could find help. A lovely child but at times would communicate not at all; other times would fixate on a word and repeat it over and over and over. I didn't know what to do. I didn't have staff who knew how to work with these children. So I turned to my colleagues in the rest of the suburbs--the Millards and the Bellevues. They, too, were frustrated. They had more children. But what did we do? And we formed some coalitions and we did the best we could. Now my daughter is director of special education. There's ten of these students that she deals with. They're much, much better prepared to work with autistic children. But you heard Senator Pahls' numbers that he shared with you, and you can only ask yourself why. Why did we come from 30 years ago when there was just a few of these children to now when we have hundreds and hundreds? We used to talk about in the suburbs that, yes, the reason we were seeing increases in number was because we were located to where parents could find service. And the parents were so frustrated. What do they do? They couldn't do anything either. But there's got to be reasons, reasons we don't know. And usually what we hear is, well, it's something genetic. And I believe the doctors know what they're talking about. But why? Why did that happen? Are we just identifying more children? It isn't like you're looking for children to put into a program. They're difficult to deal with; they break your heart. But we can do something. So I'm going to support very much what Senator Johnson is bringing to us. If they can just discover some things that will work, think of what it will mean to school districts across the state as we deal with more and more autistic children. We need to do this program and many more because we are in a crisis situation. We need to do right by these kids, and we don't know how, and we have to find out how. And with that, Senator Schimek, if you'd like the rest of my time, you may have it. [LB482]

SENATOR AGUILAR PRESIDING

SENATOR AGUILAR: Senator Schimek, 1 minute, 29 seconds. [LB482]

SENATOR PAHLS: Pahls. [LB482]

SENATOR AGUILAR: Senator Pahls, 1 minute, 19 seconds. [LB482]

SENATOR PAHLS: It probably would be fair for me to give this to Senator Schimek. I do have some things, but I think Senator Schimek had some questions. May I transfer this to Senator Schimek? [LB482]

SENATOR AGUILAR: I don't think you can. [LB482]

SENATOR PAHLS: May I request that you...okay, okay. There are just a couple things I

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want to just...like I said, I have a few stories I could tell you. Just let me finish out the time here. Last Friday, I went to an elementary principal and I was talking to her. And she says, oh, I see the bill you prioritized deals with autism, said this is great. She says, I'm a little bit afraid. And I said, why? Because a parent just contacted me and she's going to be sending a child to our school next year... [LB482]

SENATOR AGUILAR: One minute. [LB482]

SENATOR PAHLS: ...and she said she had around 20 pages of questions. And you could see that because parents are very, very strong advocates for their children. And the thing that caught me by surprise, though, this principal, before she was a principal she was in charge of a special ed program in a very sophisticated school district. So the reason why I'm saying is...and like I said, she had a special ed background. A lot of teachers have not had that training. It's not a significant part of their training. It's a small part. So you can see why we do need these children who have received intensive therapy before they come to our schools. And I do want to point out, the state does... [LB482]

SENATOR AGUILAR: Time. [LB482]

SENATOR PAHLS: Thank you. [LB482]

SENATOR AGUILAR: Senator Mines, you are next. You are recognized, followed by Senator Carlson. [LB482]

SENATOR MINES: Thank you, Mr. President, colleagues. A little more than a couple of years ago, I casually bumped into a friend in Omaha and...Gail Werner-Robertson, and I didn't know the story behind the foundation she and her husband, Scott, had started, a foundation called GWR Sunshine Foundation. Didn't know that they have four children and two are autistic. Didn't know of their passion for dealing with helping Nebraskans deal with the...all the problems and issues that go with autistic children. We chatted a bit and then I received an invitation to the GWR Foundation benefit. They have an annual benefit. And we all go to benefits; we all go to events. And went to the event where they raised hundreds of thousands of dollars for their cause and got a sense of what parents are going through. I can't pretend to imagine, but for the grace of God, I could be there with my children. So at that event, I learned a bit and took the time to pay attention and learn more about autism and what goes on in Nebraska. I might mention, the Sunshine Foundation, they're doing wonderful things, folks. And they are the impetus behind this, and they are generous, thoughtful, caring people. Their foundation was established to serve as a catalyst for providing assistance to interested parties concerning the challenges of individuals diagnosed with autism spectrum disorders and other special needs. What I found was autism and the development of autism is in epidemic proportions. In the 1960s, research showed about 1 in 2,000 to 2,500 children was

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diagnosed with autism. In the 1970s, another study found the number was maybe 1 in 10,000 (sic) children diagnosed with autism spectrum disorders. Today, 1 in 150 births are diagnosed with this awful disease. That affects maybe one, one-and-half million Americans. It's the fastest growing disability in our country. There's a reason for that, but we don't know necessarily what the diagnosis is. And to that point, we can't solve that, but we can certainly help in the diagnosis of children at very early stages through this legislation. Here's a comparison. In the 1990s, our population in the United States grew by 13 percent. Disabilities increased by 16 percent. Autism increased by 172 percent. It's time that we as Nebraskans deal with it. We have a benevolent partner willing to share in the costs, share in the hard work, and share in everything we do. I think we have to...we don't have to think. [LB482]

SENATOR AGUILAR: One minute. [LB482]

SENATOR MINES: We must take advantage of this opportunity. We must deal with the issues and all the things that all of us are saying. We have to deal with autism and the spread of autism, particularly the diagnosis, early treatment, and it's more than the right thing to do. I urge you to support LB482 and the amendments. Thank you, Mr. President. [LB482]

SENATOR AGUILAR: Thank you, Senator Mines. Senator Carlson, you are next. You are recognized. [LB482]

SENATOR CARLSON: Mr. President, members of the Legislature, Senator Johnson started early and then Senator Harms mentioned, too, the devastating effect of autism on families, and this bill is the right thing to do. Seems to me like it's a wonderful partnership with the private sector, and that's part of the beauty of this bill. The bill gives five years to observe results and, in the process, help needy children and their families. I think this is a part of opportunity that God has given us, and if we don't see it that way I believe we're blind. And the cooperation with the private sector makes it extra special. This action will bring much needed hope and healing to families. We all need hope and this is a great opportunity for the Legislature to step forward in a manner that we should all be thankful for. Thank you, Mr. President. [LB482]

SENATOR AGUILAR: Thank you, Senator Carlson. Senator Wallman, you are next and recognized. [LB482]

SENATOR WALLMAN: Question. [LB482]

SENATOR AGUILAR: 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 aye; all those opposed vote nay. Record, Mr. Clerk. [LB482]

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CLERK: 29 ayes, 0 nays, Mr. President, to cease debate. [LB482]

SENATOR AGUILAR: Debate does cease. Senator Johnson, you are recognized to close on your amendment. [LB482]

SENATOR JOHNSON: Mr. President, just a couple of comments. One is let me, first of all, tell you that our special education fund is \$181 million, so we're talking \$1 million a year that hopefully will not only result in better acute treatment of these kids with autism, but we really do mean it that we will hope to make our treatment through our schools be enhanced as well. So don't know as we would reduce the \$181 million, how much, but hopefully we could get more for our money. The second thing is this; is that Senator Erdman is indeed right in that we need to watch where we're spending our money. He is the head of a task force trying to cut down on our expenses in Medicaid, and we certainly need to, you know, work with him to accomplish that. I think someone did say that...and I know Doctor...or Senator Erdman said that we were second in Medicaid by this listing, and he's absolutely right. I'm not sure that that's an honor. But I know one thing is that when you're next to last or so in the treatment of autism, it certainly is not an honor either. The...one of the things that again was mentioned is that if you sign up a kid for the Medicaid for this, it does qualify him for other things as well; but just because they have autism does not mean that they have a lot of other diseases, and if the families have private insurance, it's unlikely that they would cancel their private insurance to go on Medicaid. So it probably is less of a problem than it might ordinarily be. With that, I want to tell everyone that this has been a great last hour for those of us that believe that we need to do something about this problem and particularly want to thank our private donors who have encouraged us to proceed down this line. So with that, I would ask that we first pass the amendment to the amendment, and the amendment itself, and then advance the bill. Thank you. [LB482]

SENATOR AGUILAR: Thank you, Senator Johnson. You've heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk. [LB482]

CLERK: 41 ayes, 0 nays, Mr. President, on the amendment. [LB482]

SENATOR AGUILAR: The amendment is adopted. [LB482]

CLERK: Mr. President, Senator Erdman would move to amend the committee amendments. (FA105, Legislative Journal page 1471.) [LB482]

SENATOR AGUILAR: Senator Erdman, you are recognized. [LB482]

SENATOR ERDMAN: Mr. President, AM...excuse me, FA105 would change the

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limitation on the Health Care Cash Fund on page 3, line 13 of AM932, from the proposed \$53 million to \$55 million. If this amendment is not adopted, you cannot fund this bill because the current limitation that we have...actually, if you would adopt this in the form that it is, it would actually eliminate \$1 million of the \$2 million in biomedical research that was in the budget. So it is important that this bill be amended either to at least a minimum of \$54 million, to follow the budget, because this bill will probably pass after the budget and we replace that language, but if you're going to do this bill you need to make this \$55 million, and that was something that I observed and I beat Senator Johnson to the punch evidently. I wasn't...in trying to avoid a circumstance that we had previous, I was trying to make sure that the amendment was filed on an A bill, or at least a proposed...something that could be considered an A bill. We're spending \$181 million in special ed costs for the state of Nebraska, \$181 million. That's a lot of money. And if you have an effective treatment program that deals with behavioral disorders, such as autism, you're probably going to be able to spend that money more effectively because you're going to be able to target young people, as we have heard in front the Health Committee, at an early age with intervention programs that would be successful in helping them to transition into a more...what we would generally refer to as a more normal lifestyle. There are technical issues that I think need to be addressed, but before I get to that, Senator Johnson, I'm not the head of a task force. I'm just a member, so I'm one of the herd. Senator Don Pederson is the chair of the Medicaid council which has members that are working to look at issues such as this and others, as we go forward with our Medicaid program. If we do go forward with LB482, without an alternative idea, there are things that probably need to be addressed. First of all, our Medicaid program is not administered by another entity. It's administered by the Department of Health and Human Services, and it's my understanding that if we're going to go forward with a waiver program we need to maintain that oversight. If you read AM932, that oversight is vested in the University of Nebraska Medical Center. That won't work, at least that won't work in the eyes of the department. And I think to an extent that that can be accommodated; we should do that. That's in Section 3. Also in Section 3, if I recalled what Senator Johnson said correctly, that the private donations are actually going to be a dollar-for-dollar match, which is different than what's in the bill, on the bottom of page 1 it's \$1 of private funds for every \$2 from the Health Care Cash Fund. That's \$1 for every \$2. That will need to be addressed if we are truly going to have a dollar-for-dollar match. There's no requirement that it be limited to that, because the bill also allows for gifts to be given above that, but if what I've heard is correct then we need to make sure that the language in Section 3 on the bottom of page 1 is also reflected that way. Section 4 also has issues dealing with where the program cash fund will be administered, and this ties in with the issue of administration of this program, since it would be a Medicaid waiver program, trying to determine the appropriate housing of those funds. Let me talk to you briefly about this amendment. Senator Johnson passed out a handout that gives you the history of the Health Care Cash Fund. You'll notice that in 2001, LB692 was the authorizing legislation that distributed this fund or these funds that we received from the tobacco settlement payments into the Health

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Care Cash Fund from the Tobacco Settlement Trust Fund. It was envisioned at that time that we would grow this to \$50 million a year, and that would be sustainable. That included the stairstepped increased appropriations for research to the research hospitals in the state of Nebraska. In 2001 there was no vision of increasing that limit, at least from my recollections of the discussion in which I was a part of. Proceed to 2003. We took \$5 million of grants from the Nebraska Health Care Council and funded the SCHIP program, or Medicaid, the Kids Connection. That was a direct offset and I think that was easier for some folks to swallow, even though the healthcare grants were successful in certain areas of the state and were very much appreciated by some. It was recognized that the priority at that time should be funding our Kids Connection since then, and I believe still, the rate is about one-third of the kids in the state are on that program. There was also an additional appropriation of \$150,000 for the Department of Justice. If you go into 2005 you begin to see additional funding. You see the cap was raised from \$50 million to \$52 million. And then you come to today and here we are adding another million, and in fact, according to the Appropriations Committee, another \$2 million on top of that. Here's what I think is missing from this discussion. If you go back to 2003, this Legislature decided that it was a more appropriate priority to fund Kids Connection under Medicaid. What we're being asked to do today is just simply add on to the pile. I would think it would be more appropriate if we truly believe, as some have said, that this is a big priority for the state--and I can't disagree--that we should look at these entities that are currently receiving funding and to determine, if we are going to go to the Health Care Cash Fund, is there a way to do it under existing authority and funding. If not, then this may be the only way. But I think that's also been lacking from this discussion, and I hope between...if this bill advances on General File, I hope between now and Select File we'll have that opportunity to try to work through some of those issues. Ironically, the only entity that received a loss of funding under the Health Care Cash Fund, besides the grants, was the Legislature. We went from a \$500,000 appropriation to a \$100,000 appropriation for the purposes of funding certain studies and things that we have done. And under LB542, the bill that we just advanced, the funding for the expenses comes out of that same Health Care Cash Fund, and I think we also have to make sure before that bill comes up that we have an authorization that's appropriate to reflect the costs that they may incur. What's not being said in the budget is, is that if you look at the numbers that Senator Johnson gave you, you notice that in none of those years we hit the actual limitation, which means that there's some funds that were available but not spent or unobligated. This year the Governor took all of those unobligated balances and funded some programs in the budget, and so now we're back at zero. And so as we go forward we need to make sure that the funds match what it is that we as a body think are appropriate to be funded and making sure that we're able to do what we envision. Senator Johnson brought up the issue that individuals who qualify for this waiver, should this go forward and we get approval from CMS and we proceed with a waiver under the Medicaid program, that those people or those young people would be eligible for basic Medicaid coverage but it's not likely that they would receive those services. We have no idea whether they

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would take advantage of it or not. But I will tell you, my understanding of these types of treatment programs is that even under this autism treatment that is envisioned, it won't fully cover all of the costs. It will go a long ways, and if you've talked to those families that have gone through this and have made the difficult decisions to take out second mortgages and to do the things that they needed to do to get the funds, to get the intensive treatment that their kids needed, they're going to tell you that it is very expensive. This may not cover it. One of the ways you may figure out as a family to avoid some of those horrible circumstances that Senator Johnson pointed out about dividing the family and divorce and other circumstances is saying, we can take some additional funds out of our private insurance by putting our kids on Kids Connection or Medicaid and use that towards their treatment as well. That's a viable option. That would be perfectly ethical and legal under this proposal. So those are part of this reality that we have to discuss. So the extent that somebody...and again this is not going to be based on any specific income at this point. [LB482 LB542]

SENATOR AGUILAR: One minute. [LB482]

SENATOR ERDMAN: There will be a determination of how to set this. But you could have individuals that obviously don't qualify for Medicaid treatment or Medicaid programs under Kids Connection or other services, qualify because of the waiver. And once you qualify for the waiver, you qualify for all of the services. If you don't take advantage of them, that's your decision. But going forward, we have to have an understanding that that potentially could have an impact on the budget. And Senator Johnson's amendment that was just adopted talks about those funds have to be offset with any funds that are available, so the matching funds that we would have to come up with as a state, the 42 percent, would come out that. So it's more intricate than you think. We do need to figure out a way. It would appear that you're comfortable with this way, and we'll have better opportunities to discuss it. Again, this floor amendment increases the cap on the Health Care Cash Fund to \$55 million. [LB482]

SENATOR AGUILAR: Time. [LB482]

SENATOR ERDMAN: If this amendment is not adopted, someone else needs to either offer the amendment or we can't do the bill. Thank you, Mr. President. [LB482]

SENATOR AGUILAR: Mr. Clerk, items for the record? [LB482]

ASSISTANT CLERK: Mr. President, I do: A series of amendments to be printed: Senator Adams to LB641; Senator Erdman to LB482; Senator Cornett to LB588 and to LB588A. Thank you. (Legislative Journal pages 1472-1473.) [LB482 LB641 LB588 LB588A]

SENATOR AGUILAR: Those waiting to speak on FA105 to AM932 are Senators Dubas,

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Heidemann, Howard, Erdman, Johnson, Dierks, Langemeier, and Kopplin. Senator Dubas, you are recognized. [LB482]

SENATOR DUBAS: Thank you, Mr. President, members of the body. I am very appreciative of the fact that we are having this discussion this evening and that this bill has been brought forward by Senator Johnson. And as a legislator, I appreciate the points that Senator Erdman has brought up and that this is...this is an intricate issue. There's a lot of things that we have to take into consideration as a legislator. But from a personal standpoint, I have a little bit of a difficult time remaining objective about this. I have a family member who is autistic. I know firsthand what autism does to a family. I know firsthand the struggle that a family member has in trying to live in our world. And so I am thrilled with the prospect of this public-private partnership and what this has to offer to the children who are...and the families who are dealing with autism. I know that the success rate with early intervention is high, and that early intervention, where we spend that money up front and where we spend that money early, and not just that money but the time, affords us huge dividends, not just economically, not just down the road economically, but also for the society and for our families and personally. Those dividends just...they just go on and on. Oftentimes we create programs here in the Legislature and we're never quite sure where they're going to go, but with programs like this and with the statistics that we have out there, we know that there's a high rate of success and again, that they're going to pay huge dividends for us. I can't imagine anything sadder than to know that there's an effective and successful treatment available for a child and then not being able to access it because of financial resources, and so to have a program like this available to families, it's just got to be one of the greatest hopes that we can offer to our citizens, to our constituents, and most importantly to these children. We're able to give these children an opportunity to truly be happy, to grow up happy, to grow up healthy, and to be able to be an active and contributing member of our society. So again, I am just thrilled to death that we're having this discussion and that we're having these opportunities. I appreciate the donations that have been made by foundations, their contribution to helping us address this issue. And with that, I'd yield the rest of my time to Senator Johnson. [LB482]

SENATOR AGUILAR: Senator Johnson, you have 2 minutes, 20 seconds. [LB482]

SENATOR JOHNSON: Thank you, Senator Dubas. I just want to make everybody aware that on the particular amendment by Senator Erdman that he is absolutely correct and that this measure needs to be adopted. So I would strongly recommend that you support Senator Erdman's amendment here because it does make the funding mechanism function. So with that, I will yield the rest of the time. [LB482]

SENATOR AGUILAR: Thank you, Senator Johnson, Senator Dubas. Next speaker is Senator Heidemann, followed by Senator Howard. Senator Heidemann, you are recognized. [LB482]

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SENATOR HEIDEMANN: Thank you, fellow members, Mr. President. Just briefly, I know it's getting late and people are probably losing a little bit of patience here, but I wanted to just touch base with that we need to also look about where we're going to be at down the road. I want to warn you and, even though I am supporting this bill, as Appropriations Chair, that if this program is successful and as we ramp this up that down the road, maybe four years or five years, that there probably will be General Fund money being asked for this. So if you are still here in four or five years and you remember the conversation that this is going to be funded by the Health Care Cash Fund, for the time being that statement is correct. But if this program is successful, and I hope it is, I really...and I believe it will be, and as it expands, because it is successful, the amount of money that we're talking about tonight will not be enough. So there is a possibility and I've been even told this by the people that are supporting this that, yes, there will probably be some General Fund money that eventually will be needed. I understand that and I think at that time, if this program is successful, that it's a possibility that we may be saving enough money, or hopefully would be saving enough money in other areas of state spending and special education, other things, that we might actually be able to put more money into this. So with that, I'll give my time back to the Chair. [LB482]

SENATOR AGUILAR: Thank you, Senator Heidemann. Senator Howard, you are next and you are recognized. [LB482]

SENATOR HOWARD: Thank you, Mr. President and members of the body. I was off the floor earlier when Senator Heidemann spoke, and I was very moved by the words that he used and the things that he said. And I really...I wanted to take a moment to compliment him and to thank him for his preventative and proactive thinking regarding the needs of these children. I know often he's regarded as the "no" man and (laugh) in this instance he certainly has demonstrated that he, too, has a heart. Everyone wants the perfect baby--ten little fingers and ten little toes. I just had a foster mother call me out to the lobby to see her beautiful baby girl and she just glowed. I have also seen the other side of this picture, the child who is not responsive, who cannot learn in a traditional classroom setting. Parents of these children have a tough row to hoe, and they valiantly do this for their child. The Munroe-Meyer facility, which is a part of the UNMC campus, does a truly outstanding job of working with children with a diagnosis of autism, and their families. I have had a long-term relationship with this facility and have worked with them often to address the needs of children with autism and with fetal alcohol syndrome. The parents of these children have worked hard to give them every opportunity to lead a normal life, and I support them. I want to thank you, and I offer the remainder of my time to Senator Kopplin. [LB482]

SENATOR AGUILAR: Senator Kopplin, you have 3 minutes, 10 seconds. [LB482]

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SENATOR KOPPLIN: Thank you, Senator Howard. I just wanted to take a moment to pass on some information about special education funding, not necessarily this fund. But years ago, when I first began, we had 90 percent funding for level one services, which was...which means that children received less than three hours per week. If they were in a classroom setting we paid first the per-pupil costs, and then we received 90 percent of that funding. If we had to contract for services with someone else we paid per-pupil services and received 90 percent of the funding. That eroded to the 80s, to the 70s, to the 60s, and this year, I suppose I can be corrected, but I believe we are funding in the 50 percents. We have nothing to feel good about in our funding of programs for handicapped children. Thank you. [LB482]

SENATOR AGUILAR: Thank you, Senator Kopplin, Senator Howard. Senator Erdman, you are next and you are recognized. [LB482]

SENATOR ERDMAN: Mr. President, I call the question. [LB482]

SENATOR AGUILAR: 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 aye; all those opposed vote nay. Record, Mr. Clerk. [LB482]

ASSISTANT CLERK: 25 ayes, 0 nays to cease debate, Mr. President. [LB482]

SENATOR AGUILAR: Debate does cease. Senator Erdman, you're recognized to close on your amendment. [LB482]

SENATOR ERDMAN: Mr. President, thank you. FA105 would amend Section 6, page 3, line 13, strike the word "fifty-three" and insert the word "fifty-five." Senator Johnson is in agreement with this amendment. I would encourage your support. Thank you. [LB482]

SENATOR AGUILAR: Thank you, Senator Erdman. You've heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk. [LB482]

ASSISTANT CLERK: 29 ayes, 0 nays on the adoption of Senator Erdman's amendment to the amendment, Mr. President. [LB482]

SENATOR AGUILAR: The amendment is adopted. [LB482]

ASSISTANT CLERK: Mr. President, I have nothing further pending to the committee amendments. [LB482]

SENATOR AGUILAR: Back to discussion on the committee amendments. Senator

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Erdman, you are recognized. [LB482]

SENATOR ERDMAN: Fantastic. Thank you, Mr. President. Members, again, I hope you'll understand that this is the continuation of a long discussion that we have had in the Health Committee. A couple years ago we had LB101 that was introduced by Senator Jensen and cosponsored by, I believe, Senator Chambers and others. That bill advanced 7 to 0 under the idea that an amendment would later be offered that would make it a pilot program. I think as we proceed with LB482 we need to be careful about what it is that we put in place that makes this more than a pilot program. As I have shared with the proponents of LB482 and I will share with you now, I am convinced 100 percent that their intent is that we don't simply expand Medicaid or provide an additional service without having the research and the results to validate that at a time certain. There are those that will come before the Health Committee and say, no matter the quality of the product, we should continue it forever. That is not the intent of those behind LB482. And to the extent that we can make that more clear than is currently in the bill, I think that is a benefit to our process, while still beginning the idea or going down this path of determining how we can meet this need, if it's possible or feasible without obligating ourselves long term. And there have to be a lot of people in this discussion. There have to be a lot of people in this discussion from the front lines that Senator Pahls, Senator Kopplin were at one time, to the people that are going to be administering this program, to making sure that if we are going to make this the law of the land that it's written correctly. And I hope that if the committee amendment is adopted that those discussions can continue on between now and Select File; that we'll have an opportunity to come back on Select File for a healthy discussion about what those ideas need to be to make this more effective. Thank you, Mr. President. [LB482]

SENATOR AGUILAR: Thank you, Senator Erdman. There are no other lights on. Senator Johnson, you're recognized to close on AM932. Senator Johnson waives closing. The question is, shall the committee amendments be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk. [LB482]

ASSISTANT CLERK: 32 ayes, 1 nay on the adoption of committee amendments, Mr. President. [LB482]

SENATOR AGUILAR: The amendments are adopted. [LB482]

ASSISTANT CLERK: Mr. President, I have nothing further pending on the bill. [LB482]

SENATOR AGUILAR: There are no other lights on. Senator Johnson. [LB482]

SENATOR JOHNSON: Mr. President, members of the body, thank you very much for a very pleasant evening. I think that you can go home feeling very good about yourself

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after you push your green button. [LB482]

SENATOR AGUILAR: Thank you, Senator Johnson. The question is, shall we advance to E&R Initial LB492? All those in favor vote aye; those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk. [LB482]

CLERK: 38 ayes, 1 nay, Mr. President, on the advancement of LB482. [LB482]

SENATOR AGUILAR: LB482 is advanced. Items for the record, Mr. Clerk? [LB482]

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

SENATOR AGUILAR: We're now on LB377. Senator Ashford, you're recognized to open. Excuse me, Senator Ashford. Mr. Clerk. [LB377]

CLERK: Senator, forgive me. I read the title. Mr. President, LB377, a bill by Senator Ashford, relates to the courts. (Read title.) Introduced on January 12, referred to the Judiciary Committee. The bill was advanced to General File. The committee amendments were considered on April 12; they failed. I now have other amendments pending at this time, Mr. President. [LB377]

SENATOR AGUILAR: Senator Ashford, you are recognized to open. [LB377]

SENATOR ASHFORD: Thank you, Mr. President. Sorry, Mr. Clerk. This is just a small matter involving judges' salaries. LB377, as originally introduced, proposed to add one district judge to the 9th Judicial District in Kearney. The legislation was introduced as a...essentially as a placeholder bill to await a determination by the Judicial Resources Committee as to the allocation of two judgeships from the 12th District. In effect, that is what the original bill is. The committee amendments, which are next, Mr. President, are the bill, and then there is an amendment to the committee amendments that was recently filed concerning the salaries. So with that, Mr. President, I would just move on to the amendment when appropriate time. [LB377]

SENATOR AGUILAR: Thank you, Senator Ashford. [LB377]

CLERK: Mr. President, Senator Ashford, before I get to where I think you want to be, Senator, I think you may want to withdraw AM832? [LB377]

SENATOR ASHFORD: That one had been withdrawn before, but if it was not, I would withdraw it at this time. [LB377]

CLERK: You had indicated you wanted to, but we hadn't done it on the floor, Senator. [LB377]

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SENATOR ASHFORD: Okay. [LB377]

CLERK: Likewise, Senator Fulton, I have AM988; again a note from you to withdraw. Mr. President, Senator Ashford, as Chair of the committee, would move to amend with AM1099. (Legislative Journal page 1257.) [LB377]

SENATOR AGUILAR: Senator Ashford, you're recognized to open on your amendments. [LB377]

SENATOR ASHFORD: Thank you, Mr. President. AM1099 represents the unanimous recommendation of the Judicial Resources Commission, the Supreme Court, and the Judiciary Committee regarding judicial resource needs in Nebraska and amends LB377 in three ways. First of all, it incorporates the provisions of LB659, Senator Pedersen's bill introduced to increase the salaries of Supreme Court judges and, thereby, also increase the salaries of other judges within the state of Nebraska, including district court judges, county court judges, juvenile court judges and the like. LB659 was advanced from committee unanimously. Current law provides that the salary of the Chief Justice and judges of the Supreme Court is \$126,846. LB659 provides for an increase in the salary of such Supreme Court judges to \$133,500...I'm sorry, \$133,505.41 beginning July 1, 2007, and an increase to \$140,514.01 beginning July 1, 2008. The change reflects a 5.25 percent increase annually for two consecutive years and I might add, Mr. President, that there is an amendment which will be following the committee amendments which reduces that increase to...from 5.25 percent to 3.5 percent increase for the two years. Although the bill only specifies salary increases for the Supreme Court judges, other judges, as I mentioned, including the district court judges, county court judges, juvenile court judges, appellate court and Workmen's Compensation Court judges also receive commensurate salary increases. I have handed out to the body some salary information on the amendment, committee amendment, salary increases as in...as stated in the amendment, and then on the second page with the 3.5 percent increase that will be following with the other amendment to the committee amendments. Secondly, AM1099 removes a district court judgeship from District 12 and transfers that judgeship to the district court in the 9th Judicial District, which includes Hall and Buffalo Counties. Currently, there are three district judges serving the 9th District, and as the caseload would indicate--and I've attached caseload studies for the district court and the juvenile court to the handout that you have--the judges in the 9th District are simply unable to meet the caseload needs of the people residing in those two counties. This amendment is based on the recommendation of the Judicial Resources Commission as a way to handle the vacancy in the 12th District that exists due to the retirement of Judge Paul Empson. This particular change is supported by the Supreme Court in a letter which I believe has been handed out to you. Thirdly, the committee amendments eliminate a vacant county judgeship from District 12, which has been vacant since the death of Judge C.G. Wallace in 2004. This amendment reallocates

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those resources to add a juvenile judgeship to District 3, the Lancaster County Separate Juvenile Court. Currently, there are three juvenile court judges serving the 3rd District, and as the caseload study would indicate--again, in the handout I passed out to you--the juvenile court judge situation in Lancaster County is, I would say, extreme and I believe the committee felt that this was a serious issue needed to be addressed as soon as possible, and we are recommending that we transfer the county judge from the 9th...or from the 12th District to Lancaster County Juvenile Court. With that, Mr. President, I would simply urge the adoption of AM1099. [LB377 LB659]

SENATOR AGUILAR: Thank you, Senator Ashford. Mr. Clerk, do you have items on your desk? [LB377]

CLERK: Senator Ashford would move to amend AM1099 with AM1267. (Legislative Journal page 1474.) [LB377]

SENATOR AGUILAR: Senator Ashford, you're recognized to open on AM1267. [LB377]

SENATOR ASHFORD: Thank you, Mr. President and members. AM1267 does, in fact, reduce the request for the increase for the judges in Nebraska from 5.25 percent to 3.5 percent, and I would ask that the...urge that this amendment be adopted as well, Mr. President. Thank you. [LB377]

SENATOR AGUILAR: Thank you, Senator Ashford. Items for the record, Mr. Clerk? Those waiting to speak are Senators Lathrop, Erdman, Johnson, Wightman, and Chambers. Senator Lathrop, you are recognized. [LB377]

SENATOR LATHROP: Thank you, Mr. President and colleagues. I rise in support of the amendments and of LB377, and I'd like to visit a little bit tonight about our bench. I've had an opportunity to practice in the various courts across the state and argue cases in front of the Supreme Court and the Court of Appeals, and I, you know, sometimes we talk about the judges and the lawyers and we snicker a little bit when we do that, but you should know that we have a bench that we can be proud of. These are men and women that serve our state with distinction, and they come to us out of the legal profession where they could make a good living. We have, truly have top quality judges in our state and the raises proposed in this bill are modest. Their income, while good by standards of the state of Nebraska; they are still, compared to their peers across the country, certainly not overpaid. These pay raises are fair, necessary, and if you want to continue to have the best and the brightest moving to the bench and to serve our state in that capacity, it's important that we provide them with adequate pay that's in keeping with what they could make in private practice. And these raises here will do that. You should know that every year the bar association sends out a survey to attorneys that practice in the state. We have an opportunity to review the judges in that survey and each year the survey results are posted in the news journal that lawyers receive, and I

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can tell you that...and you should be heartened by the fact that the great majority of judges that serve our state receive high marks from the lawyers who practice in front of them, and these judges work hard and deserve the pay raise that is found in the amendment. For those of you who are not familiar with the process when a judge leaves, retires or dies while on the bench, after there is a vacancy in a court in the state the Judicial Resource Commission meets to determine whether or not a judge should be reappointed to that same position, or whether the caseloads have moved around such that there is a greater need in a different district or in a different court. That Judicial Resource Commission has met following the vacancies created in both the district court and the county court in District 12, which is a district out in greater Nebraska, in western Nebraska, and after conducting a weighted case survey and determining where the needs are the greatest, they have determined that we need a district court judge in District 9, which is...we call it Kearney generally, but I think it's a two-county district, and the juvenile court in Lancaster County. And I'd like to comment just briefly about the juvenile court judge in Lancaster County. It was clear from every person who appeared in front of the Judiciary Committee, really, at several of the hearings that they are way, way understaffed in the Lancaster County Juvenile Court. That is an acute situation. If you look at the handout, you'll see there are three judges handling approximately the same number of cases they have five judges handling up in Douglas County. They need help in Lancaster County, as well as the district court in Buffalo County, so I would urge you to...urge your support of both the amendments and of LB377. [LB377]

SENATOR AGUILAR: Thank you, Senator Lathrop. Next to speak is Senator Erdman, followed by Senator Johnson. Senator Erdman, you are recognized. [LB377]

SENATOR ERDMAN: Mr. President, would Senator Ashford yield to some questions, please? [LB377]

SENATOR AGUILAR: Senator Ashford, would you yield to questions from Senator Erdman? [LB377]

SENATOR ASHFORD: Yes, sir. [LB377]

SENATOR ERDMAN: Senator Ashford, LB377, as I understand it, would simply add a district court judge to Buffalo and Hall County. Is that correct? [LB377]

SENATOR ASHFORD: That's correct. [LB377]

SENATOR ERDMAN: And the committee amendment, AM1099, would shift one of the county court judges from District 12 to the juvenile court in Lincoln. Is that accurate? [LB377]

SENATOR ASHFORD: That's accurate. [LB377]

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SENATOR ERDMAN: Can you give me the rationale? And I think I know the answer, but as someone who has tried to follow this process as we've had vacancies come up in District 12, can you walk me through how a decision is made to simply add a district court judge in one case and then, in another case, take the district...or the county court judge and reallocate them? I mean, is there a...what's the differentiation, I guess, would be the question. [LB377]

SENATOR ASHFORD: Well, the...again, you're correct, Senator Erdman. This is not adding a new judge to the pool of judges, but is shifting a judge from District 12 to District 9, in this case, Buffalo and...counties. I...the process is, as Senator Lathrop mentioned, is through the Judicial Resource Committee (sic), and they look at the caseload allocations and the territory covered and all of the relevant factors and make a recommendation as to how the judges should be allocated throughout the state. In the cases...in the cases here, the two cases, we had two vacancies in the 12th District and the...it was at that time...the procedure is to have, when that happens, is for the Judicial Resources Committee (sic) to meet and make a recommendation on how those should be allocated. It's our job then ultimately to, if there is a reallocation, to do that in this body, and that's how it happened in this case and that's the normal course. [LB377]

SENATOR ERDMAN: And then the third issue in the bill, as I understand it, is the pay raise for the Supreme Court justices, which all other judges are tied to that as a percentage. Is that accurate? [LB377]

SENATOR ASHFORD: That's correct. [LB377]

SENATOR ERDMAN: And I believe you told me earlier the fiscal note to LB659 will give us the approximate cost of the salaries, or is that the approximate cost of the entire bill if it's amended in the proposed form tonight? [LB377 LB659]

SENATOR ASHFORD: That's...the fiscal note does not have the amended version, Senator Erdman. The fiscal note reflects the bill, the committee amendments, but not the...or actually, it reflects LB659, Senator Pedersen's bill, but does not reflect the committee...or the amendment that we're talking about, AM1267. [LB377 LB659]

SENATOR ERDMAN: And last question I'd have for you, Senator Ashford: When was the last time we raised the salaries of the judges? [LB377]

SENATOR ASHFORD: Well, that was...we raised them last year, but I think that was a technical correction. It was not a...I can get you some information on that specifically, Senator Erdman. I don't believe there was an increase, per se. There was a technical adjustment that had to do with benefits, I believe. [LB377]

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SENATOR ERDMAN: Okay. All right. Thank you, Senator Ashford. Members, I remember...I recall the bill that Senator Beutler introduced, and I believe it was a similar to bill to what's before us in which we would take the judge from the 12th District and reallocate that position to some other part of the state based on caseloads, and I honestly can't stand up here and definitively argue against it because I have seen the work that the Judicial Resources Commission has done in analyzing caseloads and some of those things. But I'm going to offer the idea that I think there are things that probably need to be looked at. I'm a little uncomfortable with this for a couple reasons: one, obviously it affects my part of the state. [LB377]

SENATOR AGUILAR: One minute. [LB377]

SENATOR ERDMAN: I can talk to county clerks, clerks of the district court, those folks that are responsible for holding court in those counties and tell you that if we can get a judge to some of these rural counties in the 12th Judicial District once a month, maybe twice a month, that's great. The need is greater and some of that is factored in as far as mileage. If you have to serve Garden County and all these other rural counties, you don't just sit at the city-county building and have people come to you. In our area the judges go to those counties. And I have at times questioned whether or not we're given the full weight, but at this point I can't argue definitively against this. I just don't like it. And I think it's a hindrance for justice in my communities, or at least in my counties, to have individuals sitting there awaiting a judge that shows up once a month because they simply have so many other places to go. And I hope between now and the next time this bill comes up that I'm able to run down some more of that information and some of that... [LB377]

SENATOR AGUILAR: Time. [LB377]

SENATOR ERDMAN: ...and be willing to share that with you, because I do believe that this has a negative impact on some of those areas that I represent. Thank you, Mr. President. [LB377]

SENATOR AGUILAR: Thank you, Senator Erdman. Senator Wightman, you are next, and you are recognized. [LB377]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. I rise in support of both the amendments and LB377. Actually, Buffalo County...a lot of Buffalo County lies in my district. I know also that Kearney has had a particularly heavy caseload that has been running 100 or more, maybe as many as 200, above the state average, and I know that they've had to have help from the adjoining district judge who resides in Lexington. The judge in Lexington, who happens to be my former partner, Jim Doyle, has not quite as heavy a caseload as Buffalo County, but he has a tremendous need for translators in the county because we do have an extremely high minority

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population. And so percentagewise I think perhaps the district in which Lexington lies may have as high a percentage of cases that require translators, so he doesn't have a lot of time to go there and help. But I know that the district judge in Buffalo County, Judge Icenogle, has experienced a very heavy caseload, been unable to handle all of his caseload, so I think it is a proper allocation of judicial resources. I'm a little bit familiar with the method that they use, and certainly a number of cases are considered, the mileage to the various courts within the district are considered. And the Judicial Resources Commission took a look at all of this, I think made a recommendation to the Judiciary Committee, and I think they're carrying out the recommendations of the Judicial Resource Commission. That commission is a body made up of legal representatives, representatives of the bar association throughout the district, and I think also some laypersons. And I know they've looked at it very closely and decided that that would be the best use of the judicial resources without adding a judge. With regard to the judges' pay raise, I think that is quite modest, considering the length of time since there has been an increase, and I would recommend the approval of the pay increase as well. So with that, thank you, Mr. President. [LB377]

SENATOR AGUILAR: Thank you, Senator Wightman. Senator Chambers, you are next, and you are recognized. [LB377]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm going to wait until we get to Senator Ashford's amendment relative to the judges' salary, but I'd like to ask him a question, if I may. [LB377]

SENATOR AGUILAR: Senator Ashford, would you yield to a question from Senator Chambers? [LB377]

SENATOR ASHFORD: Yes. Yes, I will, Mr. President. [LB377]

SENATOR CHAMBERS: Senator Ashford, has Senator Stuthman given you any Cheetos today? [LB377]

SENATOR ASHFORD: I'm free of Cheetos, so... [LB377]

SENATOR CHAMBERS: Okay. So then I can ask you a question, you'll be able to answer it. I was going to give you time to clear your buckle cavity if that was necessary. [LB377]

SENATOR ASHFORD: Senator Stuthman doesn't have any Cheetos today... [LB377]

SENATOR CHAMBERS: Okay. [LB377]

SENATOR ASHFORD: ...apparently. (Laughter) [LB377]

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SENATOR CHAMBERS: Are we now discussing your amendment to alter the language that stated what percentage increase the judges would get? [LB377]

SENATOR ASHFORD: That's correct. [LB377]

SENATOR CHAMBERS: That's before us now. [LB377]

SENATOR ASHFORD: That's correct. [LB377]

SENATOR CHAMBERS: Okay. And that is an amendment to the committee amendment. [LB377]

SENATOR ASHFORD: Correct. [LB377]

SENATOR CHAMBERS: After that is adopted, I'm going to have an amendment that I'll offer to your amendment, and I'm going to wait until that juncture is reached before I speak further. But I don't want my failure to address anything at this time to be construed to mean that I'm comfortable with everything that is before us at this point. Is that clear now that I've explained it? [LB377]

SENATOR ASHFORD: I feel more comfortable now, Senator Chambers, with the clarity of your explanation,... [LB377]

SENATOR CHAMBERS: Thank you, (inaudible). [LB377]

SENATOR ASHFORD: ...but... [LB377]

SENATOR CHAMBERS: Thank you. [LB377]

SENATOR ASHFORD: Thank you. [LB377]

SENATOR CHAMBERS: Thank you, Mr. President. [LB377]

SENATOR AGUILAR: Thank you, Senator Chambers and Senator Ashford. Senator Synowiecki, you are next and you are recognized. [LB377]

SENATOR SYNOWIECKI: Thank you, Senator Aguilar. Would Senator Ashford yield to a question? [LB377]

SENATOR AGUILAR: Senator Ashford, would you yield to a question? [LB377]

SENATOR ASHFORD: Yes, sir. [LB377]

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SENATOR SYNOWIECKI: Senator Ashford, I'm looking at this handout that you gave us, and it speaks to the transferring of the judgeship from District 12 to the 9th Judicial District. [LB377]

SENATOR ASHFORD: Correct. [LB377]

SENATOR SYNOWIECKI: And it's based upon a weighted caseload study, which brings in many variables. My question is relative to the corresponding probation personnel. I'm sure that this study takes into account both the criminal and civil caseload of the judgeships. Wouldn't that be... [LB377]

SENATOR ASHFORD: That's correct. [LB377]

SENATOR SYNOWIECKI: And there's been a history within the probation department to have disparate caseloads for probation officers, and I was wondering if...what is the judicial branch corresponding reaction going to be to this transfer of the judgeship in terms of the probation support to that judge and the corresponding support staff to the probation department, and how this all interplays with what's taking place here? [LB377]

SENATOR ASHFORD: That's a good question and I don't have a specific answer for you, Senator Synowiecki, but I would...there is no increase or change in allocation of resources with this change in judgeships, or reallocation of judgeships, relating to probation that I'm aware of, so I just don't know the answer specifically to your question. But it's an excellent question. I can try to find out the answer before Select File. [LB377]

SENATOR SYNOWIECKI: Do you think it would be a logical proposition to think that if there was a deficiency in the caseload numbers and taking into account mileage and so forth in the District 12 Judicial District, that a corresponding case could be made for the probation personnel associated with that judge and with the associated caseload numbers and mileage? [LB377]

SENATOR ASHFORD: Yes. Kearney, Grand Island has a significant need at the district court level, and I suspect there could be a case made for that, Senator Synowiecki. [LB377]

SENATOR SYNOWIECKI: And this Judicial Resource Commission, is the scope limited to just judges, or is it within their purview...can they evaluate the entire judicial staff component, which would include probation, or is their scope strictly limited to the judge only? [LB377]

SENATOR ASHFORD: It's support staff, but I wouldn't...I would suggest and I would think that it does not include probation, support staff of that nature. There is a fiscal note

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on the juvenile judge in Lancaster County resulting from the transfer, but I doubt at this point, Senator Synowiecki, that the Judicial Resources would have anything to say about the reallocation of probation officers, though I could be corrected on that. [LB377]

SENATOR SYNOWIECKI: Well, thank you, Senator Ashford. I appreciate your responses. And what brings that question up is, as I said, a history of disparate caseloads throughout the state relative to probation caseloads. It's not uncommon for some districts in the state for probation officers to be carrying caseloads in excess of 250 and 300 cases where you can't--you literally, physically cannot--provide adequate supervision for the court. And if we're looking at a reallocation of a judgeship due to caseload...a weighted caseload study which takes into account the criminal cases processed, the mileage involved in adhering to and responding to the citizens within that judicial district, and there's found to be... [LB377]

SENATOR AGUILAR: One minute. [LB377]

SENATOR SYNOWIECKI: ...no need for a particular judgeship in a district, I think we ought to, in the interests of good government, to also look at the corresponding staff relative to the assignment to that judge, relative particularly, that I'm concerned with, to the probation department. Thank you. [LB377]

SENATOR AGUILAR: Thank you, Senator Synowiecki and Senator Ashford. Senator Pirsch, you are next and you are recognized. [LB377]

SENATOR PIRSCH: Mr. President, members of the body, I'm going to yield back my time. [LB377]

SENATOR AGUILAR: Thank you, Senator Pirsch. There are no other lights on. Senator Ashford, you're recognized to close on AM1267. [LB377]

SENATOR ASHFORD: Thank you, Mr. President and members. AM1267 reduces the request for the increase in judges' salaries across the state from 5.25 percent to 3.5 percent. Mr. President, I would urge the advancement of the...or adoption of the amendment. [LB377]

SENATOR AGUILAR: You've heard the closing on the amendment. The question is, shall the amendment be adopted? All those in favor say aye...vote aye; all those opposed vote nay. Have you all voted that care to? Record, Mr. Clerk. [LB377]

CLERK: 28 ayes, 0 nays, Mr. President, on the adoption of Senator Ashford's amendment to the amendment. [LB377]

SENATOR AGUILAR: The amendment is adopted. [LB377]

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CLERK: Mr. President, Senator Chambers would move to amend Senator Ashford's amendment. (FA106, Legislative Journal page 1474.) [LB377]

SENATOR AGUILAR: Senator Chambers, you are recognized to open on your amendment. [LB377]

SENATOR CHAMBERS: Mr. President, members of the Legislature, my amendment may seem to be a bit unorthodox. Senator Ashford's amendment is...that I'm dealing with, would be AM1267, I believe, which talks about striking, on page 1, lines 11 through 16, the new matter, and he substitutes this language: On July 1, 2007, the salary of the Chief Justice and the judges of the Supreme Court shall be \$131,285.61. On July 1, 2008, the salary of the Chief Justice and the judges of the Supreme Court shall be \$135,880.60. Before I go to my amendment, I'd like to ask Senator Ashford a question. [LB377]

SENATOR AGUILAR: Senator Ashford, would you yield to a question? [LB377]

SENATOR ASHFORD: Yes, Senator Chambers. [LB377]

SENATOR CHAMBERS: Senator Ashford, in the first part of your amendment that relates to the increase that will take place on July 1, 2007, the small change ends with 61 cents. When we get to July 1, 2008, the small change ends with 60 cents. What happened to that penny? [LB377]

SENATOR ASHFORD: I think I have it here in my right-hand pocket, Senator Chambers, but I...(laughter) I don't...right offhand, other than in my pocket, I don't know where it would be. [LB377]

SENATOR CHAMBERS: Well, you know that a judge cannot accept compensation from you or any other person, don't you? [LB377]

SENATOR ASHFORD: Yes, I do. [LB377]

SENATOR CHAMBERS: So the penny in your pocket won't work, correct? [LB377]

SENATOR ASHFORD: It will have to stay in my pocket. [LB377]

SENATOR CHAMBERS: Okay. [LB377]

SENATOR ASHFORD: I was just trying to find a cute answer to your question. [LB377]

SENATOR CHAMBERS: And it was good. I think so. Now have you drawn up on your

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gadget my amendment? [LB377]

SENATOR ASHFORD: Yes, I have. [LB377]

SENATOR CHAMBERS: What words am I striking from your amendment, so I can see if we're on the same page? [LB377]

SENATOR ASHFORD: I believe you're striking "the Chief Justice and"; those words. [LB377]

SENATOR CHAMBERS: Right. And that would mean that I'm willing to give this increase to the judges but not to the Chief Justice. [LB377]

SENATOR ASHFORD: That's correct. That's what you are asking. [LB377]

SENATOR CHAMBERS: I would refer to him...that's all I will ask you. Thank...first of all, Senator Ashford, do you support my amendment? [LB377]

SENATOR ASHFORD: No. [LB377]

SENATOR CHAMBERS: Why not, if I might be so bold as to inquire? [LB377]

SENATOR ASHFORD: Well, I have to know why first before I.. [LB377]

SENATOR CHAMBERS: Okay. I'll speak a bit and then I'll see if you support it. I would refer to this man as the Chief of "Injustice." I read a dissenting Opinion he gave in a case. There was a split decision: four intelligent judges, three not so intelligent. Two of them followed this man called the Chief Justice. His name is Michael Heavican. Before he was elevated to this high and lofty position of responsibility by Governor Heineman--who has talked in recent days about how he's going to show me my place, words to that effect, he's going to fix me--before he was elevated to the position of Chief Justice Mr. Heavican was a political hack. He was county attorney of Lancaster County and did not distinguish himself as far as being a highly competent lawyer. He wanted to be the Attorney General of the state of Nebraska. He ran in the "Repelican" primary and lost, so he was not a successful politician. He got a political appointment to be U.S. Attorney in Nebraska. All appointments to the U.S. Attorney position are political. Occasionally a U.S. Attorney has great competency in the law. In this case, that was not the situation, in my opinion. Mr. Heavican made a show of appearing in press conferences to give the impression that great work was being done by him in conjunction with the Omaha police. One of the schemes he helped hatch dealt with a way to circumvent a law in Nebraska so that money from confiscated drug enterprises would not go to the schools in the state of Nebraska. How did he do it? He said when time comes to confiscate the ill-gotten gains of a drug enterprise, whether it's money,

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vehicles or whatever, we'll let the federal guys come in and take it, the forfeitures. Then instead of that money, half of it, going to the schools, the federal government would get it all. And then they'd give the lion's share back to the local police agency, and they'd keep all of that and none went to the schools. That's what the U.S. Attorney Michael Heavican did. That's his respect for the law. And I'll tell you what else they did. There is a law on the books in Nebraska, because I put it there, that certain categories of persons in custody, whether parole, probation, in jail, could not be used as undercover snitches for the police. So the State Patrol and Michael Heavican agreed, or schemed, or colluded, to let the federal authorities use this snitch and circumvent the Nebraska law. But what the Nebraska Supreme Court said, there was so much involvement with this snitch by the Nebraska State Patrol that nothing this snitch said could be used at the trial, which is what the law says. So despite all the machinations and attempts to skirt the law by this man who is sworn to uphold the law, skirting the Nebraska Constitution in one instance and trying to skirt it...skirt the statute in another, he now is the Chief Justice, appointed by David Heineman. Well, a man with a record of so little respect for the law certainly should not be the Chief Justice of this state. An amazing thing happened. When he was appointed, lawyers came from everywhere talking about what a great lawyer he had been and what a great judge he would be, but they knew that he was a political hack and they knew he had helped the federal authorities circumvent the Nebraska Constitution and the Nebraska statute, and he helped corrupt the State Patrol because they were going along with him with the intent of circumventing the law. But the Nebraska Supreme Court said, uh-uh, fellas, there's too much involvement by the State Patrol; the Nebraska law applies and what this snitch is presenting cannot be used in any proceeding whatsoever. If I'm lying on Heavican, you think I'm going to stand up here and say it? No. I'm telling the truth. He's the man who is a stranger to the truth. I had talked about the number of shootings in my community and the shooters were teenagers. There are many teenagers with guns in my community, and they're not like these guns with a broken handle or something taped together to hold it together. These are... [LB377]

SENATOR AGUILAR: One minute. [LB377]

SENATOR CHAMBERS: ...brand new modern pistols. And I pointed out that in order for these guns to be obtained by youngsters they had to know who the gun sellers, gun runners, gun dealers are, and if these kids know who they are the police know. The U.S. Attorney knows; the Bureau of Alcohol, Tobacco and Firearms and Explosives, that bureau, knows; and Michael Heavican knows; and they look the other way because the guns are being used in the black community by young black men against other young black men. And I've said those things on the floor of the Legislature. I have a weekly television program in Omaha and I said it on that program. I wrote to the head of the FBI, and nothing is done. How much time do I have, Mr. President? [LB377]

SENATOR AGUILAR: Time. But you may continue, Senator, on your next light. [LB377]

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SENATOR CHAMBERS: Thank you, because while talking about a man who disregarded the law, I don't want to disregard the rules. If a drug dealer is going to make money, he or she must make it through volume. So people know who the drug dealers are. And when you have drug dealers plying their trade in a community, it's because the cops know and either they've been paid off, bought off, or scared off. And drug dealers function in my community also, and we're not cops, we're not vigilantes. There are people sworn to uphold the law and enforce the law, and they're paid to do it, but they don't do it. And Michael Heavican knew it and took no steps to do anything about it. So my suggestion was that since the kids know who these gun dealers are, these gun sellers, then let the kids be the cops and make the arrest, because they know who they are and where they are. You think these cops don't know? You think they can't find out? They've got snitches for everything else. And that's the man who is the Chief Justice. Now if I said this and he was not the Chief Justice it'd be a ho-hum, but now, because they put a gown on him and put a wooden hammer in his hand and lets him sit on a bench, all of a sudden he's beyond the realm of criticism? Not as far as I'm concerned, brothers and sisters, friends, enemies and neutrals, because some of those may be out there watching. He's the man who said that even though a case was pending before the Nebraska Supreme Court which might strike down the electric chair as being cruel and unusual punishment, in violation of the Eighth Amendment to the U.S. Constitution, he said, by God, we set an execution date; burn him, that's how I feel, because he doesn't respect the law. He doesn't respect the nature of judicial work. He lacks a judicial temperament. He was put there by David Heineman, who knew the lawless attitude of Michael Heavican and appointed him there anyway. And Heavican carried to the bench what he was before he got there. Too bad "Parson" Carlson is gone because he'd be familiar with the verse that talked about when somebody croaks. If a man is dirty, let him be dirty still. If he's righteous, let him be righteous still. If he was nothing before he got to the bench, he's nothing on the bench unless his conduct swerves from his pattern of conduct prior to when he became the Chief Justice. I don't tremble in front of badges and titles that some guy has. They call him Chief Justice so that makes him somebody that I'm afraid of? Badges and titles mean nothing to me. You won't hear anybody talk about a Chief Justice who's in office in the way that I'm talking about this man, but I'm facting, not acting. What Marty Conboy said when he was down here testifying on a bill before the Judiciary Committee and I brought these matters up to him, he said, Ernie, I have to agree with you. If there was the epidemic of guns in the hands of young white guys in a white community, it would have been stopped--it would have been stopped. The FBI has conducted stings on gun dealers in Omaha, licensed dealers who were illegally selling weapons. You know why? Because the weapons were being purchased by the kind of white people who would use them against white people. They know how to conduct stings, too, and they've done it. And I've called this to the attention of the authorities. [LB377]

SENATOR AGUILAR: One minute. [LB377]

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SENATOR CHAMBERS: You've shown it so you choose not to do anything, and I'm deeply offended by that. No community should be faced with what my community is faced by. Now we have cops who'll come out and shoot black people, unarmed black people. One guy was tasered ten times into unconsciousness, and the county attorney decided that no felony had been committed. A white male cop forced a black prostitute to perform oral sex on him, but she was smart enough to use a plastic identification card to spit the semen on and had his DNA. Otherwise they would have cut him loose. And then the judge, after telling how he shamed himself, his profession and so forth, gave him probation. And black people are supposed to respect the law and the courts? [LB377]

SENATOR AGUILAR: Time. [LB377]

SENATOR CHAMBERS: Thank you, Mr. President. [LB377]

SENATOR AGUILAR: Your light is next, and this is your third time, Senator Chambers. [LB377]

SENATOR CHAMBERS: Thank you, Mr. President. And as John Paul Jones or one of those guys said, I have not yet begun to fight. We might be here till 12:00 tonight, but don't count on it. There's a point I want to make and it won't take me that long to make it. If a black cop had forced a white prostitute to perform oral sex on him, you think he would have got probation? Heavens no. That's what the white justice system, as it's called, does to us. And you all wonder why we're upset with it and say there is no justice here? He's a cop enforcing the law, and that's what he's doing, and that's probably not...I'm sure that's not the first time he did something like that. And then he lied when he was being investigated by internal affairs, and the judge knew all of these things. We're not human beings, so the least I can do is talk about what these rascals and rats do, apology to the rats. They are what they are by nature. They behave according to the nature of a rat. Human beings are rational animals and they choose to do certain things. So my amendment says that the judges of the Supreme Court will receive this salary increase. It just eliminates the name of the...the acknowledgement of the Chief Justice, but he'll get the increase also. Now I'd like to ask Senator Ashford a question. [LB377]

SENATOR AGUILAR: Senator Ashford, would you yield to a question? [LB377]

SENATOR ASHFORD: Yes, Senator Chambers. [LB377]

SENATOR CHAMBERS: Senator Ashford, do you support my amendment? [LB377]

SENATOR ASHFORD: You know, I don't, Senator Chambers, because I don't think we can...no, I don't. [LB377]

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SENATOR CHAMBERS: Senator Ashford, do you understand why I offered the amendment? [LB377]

SENATOR ASHFORD: Yes, I do. [LB377]

SENATOR CHAMBERS: If you were situated as I am and if the things that I'm saying are true, would you be at least somewhat disturbed with that state of affairs? [LB377]

SENATOR ASHFORD: Senator Chambers, I agree with you that there are many, many instances where black defendants are not treated equally with white defendants, and I do agree with you. [LB377]

SENATOR CHAMBERS: Do I have the authority to arrest a cop, a misbehaving cop? [LB377]

SENATOR ASHFORD: You personally? [LB377]

SENATOR CHAMBERS: Yeah. Do I have the authority to go out and arrest cops? [LB377]

SENATOR ASHFORD: I don't believe you do, Senator Chambers. [LB377]

SENATOR CHAMBERS: Can I arrest a U.S. Attorney for dereliction of his duty? [LB377]

SENATOR ASHFORD: I don't...I don't believe so. I think you...no. [LB377]

SENATOR CHAMBERS: So there...I'm powerless as a private citizen to do anything about any of these things I'm talking about other than complain and appeal to those who are in a position to do something about it. Do you agree? [LB377]

SENATOR ASHFORD: That's correct, Senator. [LB377]

SENATOR CHAMBERS: And if they don't do anything about it, what's left? [LB377]

SENATOR ASHFORD: Not much, Senator Chambers. [LB377]

SENATOR CHAMBERS: Now suppose I were a very volatile person and I went over the edge. Then I might decide to resort to some self-help as other people have done in other places under other similar circumstances. Isn't that true? [LB377]

SENATOR ASHFORD: Yes, sir. [LB377]

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SENATOR CHAMBERS: So it's probably very fortunate that I am not of the frame of mind to do things like that. Would you agree? [LB377]

SENATOR ASHFORD: Yes, I agree that that would be appropriate, Senator Chambers. [LB377]

SENATOR CHAMBERS: So, by comparison to what I could be doing, what I'm offering here is really quite mild, isn't it? [LB377]

SENATOR ASHFORD: In a relative sense (laugh), it's somewhat mild, yes, Senator. [LB377]

SENATOR CHAMBERS: And all I've done is used words. Is that correct? [LB377]

SENATOR ASHFORD: That's correct, and that's what you do. [LB377]

SENATOR CHAMBERS: Have I used any profanity? [LB377]

SENATOR ASHFORD: No, you haven't. [LB377]

SENATOR CHAMBERS: Any vulgarity? [LB377]

SENATOR ASHFORD: No, you haven't. [LB377]

SENATOR CHAMBERS: So the only fault that can be found with this amendment is that you think that it ought not to be done because we should not eliminate the name...the term "Chief Justice" from what we're doing. Is that correct? [LB377]

SENATOR ASHFORD: That's correct. I believe the salaries are all tied to the Chief Justice. [LB377]

SENATOR AGUILAR: One minute. [LB377]

SENATOR CHAMBERS: Well, if the term "the Chief Justice" were eliminated, do you think that this bill would not be effective? [LB377]

SENATOR ASHFORD: I...in my mind, it's questionable whether, without changing other parts of the statute, whether it would be effective. [LB377]

SENATOR CHAMBERS: But in the paragraph right below all of this there's a reference to the Chief Justice and all the judges, pointing out that they cannot hold any position for pay while they're on the court. So it doesn't eliminate Chief Justice from the statute

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altogether, correct? [LB377]

SENATOR ASHFORD: That's correct. I...my under...yes, correct. [LB377]

SENATOR CHAMBERS: But you don't want to roll the dice. I'll tell you... [LB377]

SENATOR ASHFORD: Not tonight, Senator Chambers. [LB377]

SENATOR CHAMBERS: Vote with me to put this in, then I will support you in a motion to eliminate...to strike my amendment. Are you willing to do that, or do we need... [LB377]

SENATOR ASHFORD: I think I just got to...I've got to go with what I have here, Senator Chambers, because my, you know... [LB377]

SENATOR CHAMBERS: Okay. So how many hours do you want to spend on this? [LB377]

SENATOR ASHFORD: How many do you want to spend on it? [LB377]

SENATOR AGUILAR: Time. [LB377]

SENATOR CHAMBERS: Well, it's not up to me. Thank you, Mr. President. [LB377]

SENATOR AGUILAR: There are no lights on, Senator Chambers. You are recognized to close. [LB377]

SENATOR CHAMBERS: Thank you, Mr. President, and I will close at this point, but I haven't decided whether I'm going to move to reconsider. I haven't decided really what I'm going to do on this bill. But when I read that Opinion written by the man called Chief Justice Heavican, I call the Chief of "Injustice," and as kids in the community say, when I was a little fella, I said it, I meant it, and I'm here to represent it. I don't care about him. He would kill a man under circumstances where that killing could constitute criminal conduct, in my view. He elevates rigid formalism above judicial substance, justice--that which is fair and proper and appropriate. He never said once that the judge...that the court lacked the authority to do what it did. He pointed out that there's no constitutional requirement of the kind of things he was saying ought to be the case, and he acknowledged the court had the power to do it. But he's peevish. He's trying to do what his boss David Heineman put him up there to do--be a prosecutor on the bench like you were out here. He doesn't know the meaning of the term "judicial temperament." Now he would understand the term "hanging judge," because that's what he is. A lot of lawyers would never say what I say because they're going to have to go before him and they don't want to alienate him. So we consider things other than what it is we ought to

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say, and we'll do and say those things that are expedient, those things which will carry a political benefit for us, and the truth is not spoken. When Pilate asked Jesus, what is truth, and walked out, as Bacon said, it would have been good had he stayed there so that we could have gotten the answer. And if "Parson" Carlson was here...were here, he'd say, well, Jesus did give the answer at another juncture. And I'd say, Senator Carlson, "Parson," when was that? He would say, well, Senator Chambers, if you were up on your "Bibble"...he'd say Bible, if you were up on your Bible you'd know that at another place Jesus said, my word is truth. He just didn't give the answer to Pilate, but he gave it somewhere else. I'd say "Parson" Carlson, touchy--you all say touche'--you got me on that one. But really, that question has never been definitely answered--what is truth? I'm speaking a truth with all that I've said, and that goes back to what I have discussed in the past about a white man not having to have qualification to get a position. A black man couldn't have the spotty history of a Michael Heavican and be appointed Chief Justice of a Supreme Court anywhere, but white men don't have to be qualified. They've always had affirmative action. All of these housing programs, Fannie Mae and all the rest of them, were created for white people. All of those programs put in after the war were created for white people, and black people were systematically banned and barred from them. Those were examples of white affirmative action, which white people have always had ever since they've been in this country and which they enjoy right now. And we watch these things. We're not crazy. [LB377]

SENATOR AGUILAR: One minute. [LB377]

SENATOR CHAMBERS: If we were, we would demonstrate it in the way that some of these other people do that take an action of a different kind from what I'm trying to engage in here. So don't be scandalized at anything I say. Be glad that I'm limiting my opposition and protests to words. Senator Ashford can't stand up here, even after he does some research, at a future time and say the things that I've said about Michael Heavican are not true, but he wouldn't draw the conclusions that I draw because Senator Ashford is a nice person. And I'm a nice person when people allow me to be, but when they're like this man is and he abuses authority and he abused his power and did not comply with his oath of office when he was in other positions, I don't have any respect for that, and I certainly don't fear him. [LB377]

SENATOR AGUILAR: Time. [LB377]

SENATOR CHAMBERS: Thank you, Mr. President. I will ask for a call of the house. [LB377]

SENATOR AGUILAR: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB377]

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CLERK: 26 ayes, 0 nays to place the house under call. [LB377]

SENATOR AGUILAR: The house is under call. Senators, please record your presence. Those senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Chambers, would you check in? Senator Burling, Senator White, please return to the Chamber. The house is under call. Senator Burling, Senator White, the house is under call. Please return to the Chamber. All members are present. Senator Chambers, how do you wish to proceed? [LB377]

SENATOR CHAMBERS: I'll take a roll call vote in regular order slowly. No, I'm just kidding, but in regular order. [LB377]

SENATOR AGUILAR: A roll call vote has been requested in regular order. Mr. Clerk, call the roll. [LB377]

CLERK: (Roll call vote taken, Legislative Journal pages 1474-1475.) 3 ayes, 24 nays, Mr. President. [LB377]

SENATOR AGUILAR: The motion is not adopted. Mr. Clerk, items? We are now back on AM1099, the committee amendments. There are no lights on, Senator Ashford. [LB377]

SENATOR ASHFORD: What? (Laugh) [LB377]

SENATOR AGUILAR: I raise the call. Senator Ashford, you are recognized to close. [LB377]

SENATOR ASHFORD: Thank you, Mr. President. I would just urge the adoption of AM1099. [LB377]

SENATOR AGUILAR: You've heard the closing on AM1099. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB377]

CLERK: 30 ayes, 3 nays, Mr. President, on adoption of committee amendments. [LB377]

SENATOR AGUILAR: The amendment is adopted. We're now back to discussion on LB377, to advance to E&R Initial. Senator Chambers, you are recognized. [LB377]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, and I want Senator Ashford to know that I'm not going to try to take the wheels off this bill, and all the other lawyers who always got to vote for a judges' salary increase, although

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some of them will vote against things that will help ordinary people, as Senator Pirsch did several times on the budget bill. I watch these lawyers. I watch them. They won't vote against a judges' increase. Get a list of all the lawyers and watch how they vote. But if you talk about some money to help people who need it, you'll find the lawyers, all of a sudden, they can find the "no" button. A judge is nothing but a lawyer, and they are not cut from different cloth unless it's an inferior cloth. I'm interested in seeing and reading very carefully future Opinions of the Chief of "Injustice." I want to watch how he handles and disposes of other cases. He wasn't a good lawyer as a county attorney. He was not a good lawyer as the U.S. Attorney. He's not a good lawyer as the Chief of "Injustice" of the Nebraska Supreme Court. This man is disregardful of the solemnity, the gravity of a case dealing literally with life or death. Suppose he had gotten his way and a man was executed and in the process caught fire? That doesn't mean anything to Michael Heavican, but say all that happened and the other judges, four at least, ruled that the electric chair violates the Eighth Amendment to the U.S. Constitution which prohibits cruel and unusual punishment. What do you think Michael Heavican would say after that? Them's the breaks. Judges are paid to do hard things. We are the law. Does a person become fit for a position simply because he occupies it? Some men have become better after they became judges. Everybody writes about the fact that Hugo Black was a practicing member of the Ku Klux Klan before he became a Supreme Court justice, U.S. Supreme Court justice, but as years went by his political and judicial philosophy evolved, and he became known as what some people would call a liberal,... [LB377]

SENATOR AGUILAR: One minute. [LB377]

SENATOR CHAMBERS: ...a defender of civil and other rights. So the fact that a person was a scoundrel before ascending the bench does not mean he or she has to remain a scoundrel or a "scoundreless", as the case might be, after ascending to the bench. But I'm going to watch this man. And I'll tell you something that is troubling to me. I have a lot of work to do in this Legislature, Senator Stuthman, but I'm paid to do it. I'm paid to do that. But I shouldn't have to do the work of others. Do you all realize if I hadn't written that letter to the Supreme Court Carey Dean Moore's case never would have come before the judges, and they wouldn't have made the proper decision? What Judge Gerrard acknowledged, in writing his Opinion for the majority... [LB377]

SENATOR AGUILAR: Time. And you may continue, Senator Chambers. [LB377]

SENATOR CHAMBERS: Thank you, Mr. President, and this is the last time I know I will have to speak on this bill. I'm not going to offer any other motions or amendments. Judge Gerrard pointed out that pending before them was a case that they would have argued in September, before them; it had a fully developed record on the question of whether or not the electric chair is constitutional as a punishment under the changing landscape of the law and society's attitude. He wrote that had they properly considered

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these factors they would not have issued a death warrant in the first place. And he's right, they wouldn't have. And you wouldn't be listening to me saying these things now, and I wouldn't have had to do other people's work to find a way to let the court do its job. And if these lawyers in here would read my letter to the court and read the court's Opinion, you'd be shocked, probably, at the similarity between what I wrote and what they decided, because I don't just write words and throw them out there. I research. I read the constitution. I read the statutes. I read court cases, and I understand the power of a court. I know what inherent powers are. I know what a court can do on its own motion, and I'm the one who raised those issues, and I'm the one who pointed out that an inmate cannot make the court waive its duty to obey the law. Those are weighty matters. But none of the lawyers are concerned about that. They don't care about the majesty and integrity of the law. Even if they're talking to young law students, they might use those words, but again they do not let that govern their professional lives. They don't get involved in anything that doesn't pay them a fee, and then they select the cases. They don't want any that are controversial, meaning that have an impact on society and how society's business is carried out. Some judges, some lawyers do those things, but they're few and far between. But I believe that the law is a living thing when it's at its best, and it is an instrumentality for changing society, for righting wrongs, for giving some kind of hope to people who have no hope, even when it comes to being mistreated and discriminated against by the law in the courthouse. But because of the fine words and sentiments that comprise the law, those people on the outside can hope that someday there might be better judges, and maybe the words of the law will have life breathed into them and they will work for us as they've always worked for white people. We always have to be the hopeless ones finding something to hope for. There was a song Dionne Warwick sang. She said, something even nonbelievers can believe in. I'm a nonbeliever in white people's law. Yet, I have to hope that it works and I have to try to make it work, and sometimes I can. But that's not a part of my job description, not as a black man, not as a legislator, not as a person who was dragged over here in chains. [LB377]

SENATOR AGUILAR: One minute. [LB377]

SENATOR CHAMBERS: There's a lot that happens that I don't believe white people could live under if the same things that I have to experience they experienced. They can't hardly hold up under what we do here on the floor of this Legislature. Senator Ashford will get his bill, the lawyers will vote for the judges' increase, then they hope the judge will smile on their clients when they go before the court. And I have tried to make my point, which I did not make, and that's not unusual here for me. So like Pilate, if I had water and a basin, I'd pour the water over my hands and wash my hands of LB377 and tell Senator Ashford, do with it what you will and get your fellow colluders to go along with you. Thank you, Mr. President. [LB377]

SENATOR AGUILAR: Time. Thank you, Senator Chambers. Senator Pahls, you are

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next. You are recognized. [LB377]

SENATOR PAHLS: Mr. President, members of the body, would Senator Chambers yield? [LB377]

SENATOR AGUILAR: Senator Chambers, would you yield to a question? [LB377]

SENATOR CHAMBERS: Yes, I will. [LB377]

SENATOR PAHLS: Senator, I would like perhaps a brief answer to this, if at all possible. [LB377]

SENATOR CHAMBERS: It will be brief. [LB377]

SENATOR PAHLS: Okay. Do you think people of my persuasion, I'm talking about my complexion, send their children to private or parochial schools so they would not have to deal with people of your race? [LB377]

SENATOR CHAMBERS: Yeah, I think a lot of them do and some have expressed that as a reason for sending their children to these schools that you described. [LB377]

SENATOR PAHLS: Okay. Thank you. That's all I need. Thank you. [LB377]

SENATOR AGUILAR: Thank you, Senator Pahls and Senator Chambers. There are no other lights on. Senator Ashford, you're recognized to close on LB377. [LB377]

SENATOR ASHFORD: Thank you, Mr. President. And I will close, but first I just want to thank Senator Pedersen, who has been an advocate and is the primary advocate for this bill and LB659, and was unable to be here because he's, as we all know, he's home taking care of his wife. And I appreciate his willingness to allow me to introduce the bill for him. And with that, Mr. President, I would urge the advancement of LB377 to E&R. [LB377 LB659]

SENATOR AGUILAR: You've heard the closing on the advancement of LB377 to E&R Initial. All those in favor vote aye; all those opposed vote nay. [LB377]

SENATOR CHAMBERS: (Microphone malfunction)...call vote. [LB377]

SENATOR AGUILAR: A roll call vote has been requested. Mr. Clerk, call the roll. [LB377]

CLERK: (Roll call vote taken, Legislative Journal page 1475.) 29 ayes, 3 nays, Mr. President. [LB377]

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SENATOR AGUILAR: The bill advances. Items for the record, Mr. Clerk? [LB377]

CLERK: I have no items, Mr. President.

SPEAKER FLOOD PRESIDING

SPEAKER FLOOD: While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign LR83, LR84, LR87, LR88, and LR92. Mr. Clerk, motions on the desk. [LR83 LR84 LR87 LR88 LR92]

CLERK: Senator Langemeier would move to adjourn until Wednesday morning at 9:00 a.m., Mr. President.

SPEAKER FLOOD: The question before the body is, should the Legislature adjourn until tomorrow morning at 9:00 a.m.? All those in favor say aye. All those opposed say nay. The ayes have it. We stand adjourned.