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Floor Debate
February 22, 2010

[LB571 LB689 LB701 LB702 LB707 LB711 LB727 LB768 LB770 LB799 LB801 LB820
LB821 LB836 LB842 LB862 LB864 LB877 LB880 LB882 LB888 LB901 LB918 LB919
LB924 LB926 LB937 LB938 LB943 LB956 LB970 LB997 LB1018 LB1036 LB1051
LB1063 LB1081 LB1094 LR295CA LR297CA LR331]

SENATOR ROBERT PRESIDING

SENATOR ROBERT: Good morning. Welcome to the George W. Norris Legislative Chamber for the thirtieth day of the One Hundred First Legislature, Second Session. Our chaplain for today is Senator Wallman. Please rise.

SENATOR WALLMAN: (Prayer offered.)

SENATOR ROBERT: Thank you. I call to order the thirtieth day of the One Hundred First Legislature, Second Session. Senators, please record your presence. (Visitors introduced.) Mr. Clerk, please record.

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

SENATOR ROBERT: Are there any corrections for the Journal?

CLERK: I have no corrections.

SENATOR ROBERT: Do you have any messages, reports, or announcements?

CLERK: I do. Urban Affairs, chaired by Senator McGill, reports LB997 to General File; LB919, General File with amendments. Transportation Committee, chaired by Senator Fischer, reports LB820 to General File with amendments. And Education Committee, chaired by Senator Adams, reports LB956 to General File, and LB937 to General File with amendments. I have a confirmation report from the Transportation Committee signed by Senator Fischer. And the Speaker has selected his 25 priority bills for this current session, Mr. President. That will be inserted in the Legislative Journal. (Re LB571, LB701, LB702, LB707, LB727, LB768, LB799, LB801, LB820, LB836, LB842, LB864, LB877, LB880, LB882, LB901, LB924, LB926, LB943, LB956, LB970, LB1051, LB1063, LB1094, and LR297CA.) That's all that I have. (Legislative Journal pages 591-598.) [LB997 LB919 LB820 LB956 LB937 LB571 LB701 LB702 LB707 LB727 LB768 LB799 LB801 LB820 LB836 LB842 LB864 LB877 LB880 LB882 LB901 LB924 LB926 LB943 LB956 LB970 LB1051 LB1063 LB1094 LR297CA]

SENATOR ROBERT: Thank you. We will now move on to the first item on the agenda, legislative confirmation reports.

CLERK: Mr. President, two reports from the Agriculture Committee. The first involves

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the appointment of Sallie Atkins to the Nebraska State Fair Board. (Legislative Journal page 575.)

SENATOR ROBERT: Senator Carlson, as Chair of the Agriculture Committee, you're recognized to open on your report.

SENATOR CARLSON: Mr. President and members of the Legislature, the Agriculture Committee met on February 16 to hear the Governor's reappointment of Sallie Atkins. This is a reappointment. She's a representative of the state's business community residing in the 2nd (sic) Congressional District. She's one of the original appointees to the State Fair Board following the restructuring of the board by the Legislature in 2002. Originally appointed to a three-year term in 2004 and reconfirmed in 2007, she is eligible for this her final term. She's recently been elevated to the chair of the board. She is a graduate of Mullen High School and the Lincoln School of Commerce. She's former executive director of the Nebraska Beef Council, which has participated at the fair each year. She was a former member of the Upper Loup NRD and former member of Purdum State Bank. She and her husband operate a ranch near Halsey, Nebraska. She remains active in a number of commissions and councils, including the Council for Agricultural Research, Extension and Teaching; the Center for Grassland Studies; and the Agricultural Builders of Nebraska. The committee voted without dissent to recommend the approval of Sallie Atkins' reappointment to the State Fair Board, and I would ask for your support of this confirmation. Thank you, Mr. President.

SENATOR ROBERT: Thank you, Senator Carlson. Members, you've heard the opening to the Agriculture confirmation report. Are there members wishing to speak? Seeing none, Senator Carlson waives his opportunity to close. The question before the body is, shall the confirmation report from the Agriculture Committee be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal pages 598-599.) 34 ayes, 0 nays, Mr. President, on the adoption of the Agriculture Committee confirmation report.

SENATOR ROBERT: The confirmation report is adopted.

CLERK: Mr. President, the second report by the Agriculture Committee involves the appointment of Linda Lovgren to Nebraska State Fair Board. (Legislative Journal page 575.)

SENATOR ROBERT: Senator Carlson, as Chair of the Agriculture Committee, you're recognized to open on your confirmation report.

SENATOR CARLSON: Linda Lovgren was also recommended by the Governor as a

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reappointment. She's the representative of the state's business community residing in the 2nd Congressional District. She was first confirmed for appointment in 2006 to fill the final year of a vacated term. She was reappointed in 2007. She's eligible for this and one additional three-year term. She's a native of Iowa, graduated from the University of Indiana in telecommunications. Linda is the founder of her own marketing business and her career is vested heavily in media and advertising and public relations and, as such, she is very valuable to the State Fair Board. She's provided a very extensive list of professional achievements and community and volunteer activities. These include the Omaha Chamber of Commerce, the Peter Kiewit Institute, the Nebraska 4-H Development Foundation, the Advertising Federation, and several other volunteer positions too numerous to mention. The committee voted without dissent to recommend her reappointment, and so I would ask for your support on this confirmation. Thank you, Mr. President.

SENATOR ROBERT: Thank you, Senator Carlson. Members, you've heard the opening to the Agriculture Committee confirmation report. Are there members wishing to speak? Senator Lautenbaugh, you're recognized.

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I just want to rise in support of this nomination. I have known Ms. Lovgren for many years. I think she's a quality applicant. I'm thrilled that she is reapplying for this and has been nominated for this again, and I would urge the body to approve her.

SENATOR ROBERT: Thank you, Senator Lautenbaugh. Senator Pirsch, you are recognized.

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I'd just like to echo the sentiments of Senator Lautenbaugh. I've known Ms. Lovgren, as well, and she is very well qualified and brings a great deal of experience to the position. So thank you.

SENATOR ROBERT: Thank you, Senator Pirsch. Seeing no other requests to speak, Senator Carlson, you're recognized to close on your report.

SENATOR CARLSON: Thank you, Mr. President. I'm simply going to use this time to make a correction on Sallie Atkins. She's residing in the 3rd Congressional District, not the 2nd. But with that, I ask for your confirmation of Linda Lovgren. Thank you.

SENATOR ROBERT: Thank you, Senator Carlson. Members, you've heard the closing to the Agriculture Committee confirmation report. The question before the body is, shall the report be adopted? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record.

CLERK: (Record vote, Legislative Journal page 599.) 35 ayes, 0 nays, Mr. President, on

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the adoption of the confirmation report.

SENATOR ROBERT: The Agriculture Committee confirmation report is adopted. Next item on the agenda, motion to return to Select File for a specific amendment.

CLERK: Mr. President, Senator Adams would move to return LB711 to Select File for a specific amendment, specifically AM1951. (Legislative Journal page 576.) [LB711]

SENATOR ROBERT: Senator Adams, you're recognized to open on amendment...well, on your motion to return. [LB711]

SENATOR ADAMS: Thank you, Mr. President, members of the body. I rise very reluctantly this morning to ask you to pull this bill back for an amendment, for two reasons. First of all, this bill of Senator Dierks's is ready to go on unified school systems, and we've worked on this and it is ready to go. But secondly, my reluctance is because of what's in this amendment. We are currently, by law, going to schedule to certify state aid to education on March 1. What this amendment would do is to give us until March 10. The reality is this: All of the ARRA reporting is taking the Department of Ed far more time to get TEEOSA ready and all the ARRA reporting ready than what was anticipated. There is still a possibility that they could make the March 1 certification, but I don't want to put them in a position where they're potentially in violation of the law, and so I would ask that we move the certification date from March 1 to March 10 in this amendment. Thank you, Mr. President. [LB711]

SENATOR ROBERT: Thank you, Senator Adams. Those wishing to speak on the motion, Senator Dierks, you're recognized. [LB711]

SENATOR DIERKS: Thank you, Mr. President and members of the body. I am in full agreement with Senator Adams in his efforts to bring this bill back for that specific amendment and I urge your support. Thank you. [LB711]

SENATOR ROBERT: Thank you, Senator Dierks. Seeing no other requests to speak, Senator Adams, you're recognized to close on your motion. Senator Adams waives. Members, the question before the body is, shall LB711 be returned to Select File for a specific amendment? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Please record, Mr. Clerk. [LB711]

CLERK: 35 ayes, 0 nays, Mr. President, to return the bill. [LB711]

SENATOR ROBERT: The motion is successful. [LB711]

CLERK: AM1951, Mr. President. [LB711]

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SENATOR ROBERT: Senator Adams, you're recognized to open on AM1951. [LB711]

SENATOR ADAMS: This very simply is the amendment that sets the cert. date. Thank you, Mr. President. [LB711]

SENATOR ROBERT: Thank you, Senator Adams. Are there members wishing to speak on AM1951? Seeing none, Senator Adams, you're recognized to close. Senator Adams waives his opportunity. The question before the body is, shall AM1951 be adopted to LB711? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB711]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of the Select File amendment. [LB711]

SENATOR ROBERT: AM1951 is adopted. Senator Nordquist for a motion. [LB711]

SENATOR NORDQUIST: Mr. President, I move LB711 to E&R for engrossing. [LB711]

SENATOR ROBERT: Members, you have heard the motion to move LB711 to E&R for engrossing. All those in favor signify by saying aye. Opposed, nay. LB711 does advance. Next item on the agenda, General File, 2010 committee priority bills, McGill division. Mr. Clerk. [LB711]

CLERK: Mr. President, LB770, a bill by Senator Flood. (Read title.) Bill was introduced on January 7 of this year, at that time referred to the Executive Board for public hearing. The Executive Board advanced the bill to General File. There are committee amendments pending, Mr. President. (AM1714, Legislative Journal page 432.) [LB770]

SENATOR ROBERT: Senator Flood, you are recognized to open on LB770. [LB770]

SPEAKER FLOOD: Good morning, Mr. President. Good morning, members. This bill is a simple change to save a little money. The bill would amend Section 49-501 and 49-508, and modify how the Clerk distributes copies of the session laws and journals. Currently, the statutes call for the Clerk to distribute two copies of the session laws and journals to each member. This bill changes that to one copy, and a second copy would be available upon request. As the fiscal note points out, this would mean a modest fiscal savings to the state of about \$4,500. I also support the Executive Board amendment, AM1714, which was suggested by the State Auditor. The amendment would change the number of statute books his office receives. Currently, they receive three. This would change it to two. With that, we can save a little money and move right through this bill today. Thank you for voting, in advance, hopefully, for LB770. [LB770]

SENATOR ROBERT: Thank you, Senator Flood. As the Clerk stated, there are

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committee amendments, AM1714. Senator Wightman, as Chair of the Executive Board, you're recognized to open. [LB770]

SENATOR WIGHTMAN: Thank you, Mr. President and members of the body. The Speaker mentioned that at least one of the two changes...the changes are very simple. The committee amendment adds a new section pertaining to the number of copies of the statute books that are distributed. The amendment was added at the request of the Auditor of Public Accounts and would reduce the number of copies of statutes that the Auditor currently receives from three to two. The amendment also makes a technical change in reference to the Nebraska Public Retirement Systems by adding the word "Nebraska" and changing the word "Board" to "Systems." This is all the committee amendment does. If there are any questions, I'd be happy to try to answer them. Thank you. [LB770]

SENATOR ROBERT: Thank you, Senator Wightman. Members, you've heard the opening to LB770 and AM1714. Are there members wishing to speak? Seeing none, Senator Wightman, you're recognized to close on your amendment. Senator Wightman waives the opportunity. Members, the question before the body is, shall AM1714 be adopted? All those in favor vote yea; opposed, nay. Have all those voted who wish? Please record, Mr. Clerk. [LB770]

CLERK: 37 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB770]

SENATOR ROBERT: AM1714 is adopted. Returning to discussion of LB770, seeing no members wishing to speak, Senator Flood, you're recognized to close. Senator Flood waives his opportunity. The question before the body is, shall LB770 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB770]

CLERK: 37 ayes, 0 nays, Mr. President, on the advancement of LB770. [LB770]

SENATOR ROBERT: LB770 does advance. Items for the record. [LB770]

CLERK: Mr. President, your Committee on Health and Human Services, chaired by Senator Gay, reports LB701 and LB1036 to General File with amendments attached. Also have a Health Committee confirmation report. Senator Fulton would offer LR331. That will be laid over at this time. And that's all that I have, Mr. President. (Legislative Journal pages 600-602.) [LB701 LB1036 LR331]

SENATOR ROBERT: Thank you, Mr. Clerk. (Doctor of the day introduced.) Returning to the agenda on General File, 2010 committee priority bills, the next item, LB888. [LB888]

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CLERK: LB888 is a bill by Senator Conrad. (Read title.) The bill was introduced on January 11 of this year, at that time referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. At this time, Mr. President, I have no amendments to the bill. [LB888]

SENATOR ROBERT: Senator Conrad, you're recognized to open on LB888. [LB888]

SENATOR CONRAD: Thank you, Mr. President. Good morning, colleagues. LB888 would enact the Nebraska Uniform Limited Liability Company Act based upon the Revised Uniform Limited Liability Company Act as promulgated by the National Conference of Commissioners on Uniform State Laws in 2006. This legislation would repeal and replace Nebraska's current Limited Liability Company Act. Colleagues, as a point of reference, an LLC is an entity that shares the limitation of liability characteristic of a corporation with a partnership-like capacity to structure the entity by agreement, rather than as prescribed by statute. Like a partnership, an LLC does not pay federal income tax on its profits. Its distributions of income to members are taxed as their income. This characteristic has made LLCs very popular in recent years. In fact, here in Nebraska, according to the Secretary of State, filings for LLCs has increased from 5,544 in 2001, to over 33,000 in 2009. Colleagues, as our business models evolve and change, so does the need to update our public policy framework related to the formation, governance, and regulation of such business models. That is exactly what LB888 seeks to do. This legislation strikes an appropriate balance in providing a stable and uniform policy framework in relation to other business structures authorized under Nebraska law, and tailors a uniform model law to meet the specific needs of our businesses here in Nebraska. Colleagues, let me be clear...and we had a wonderful committee hearing on this legislation, and I'm so thankful and grateful to the Banking Committee for making this one of their committee priority bills as we move forward. But to be clear, I don't hold myself out to be an absolute expert in terms of LLCs or other business formation issues. And, in fact, this has been a tremendous learning opportunity for me, not only this session, but this effort has really extended over a long period of time and has had a very astute and qualified set of actors and interests who have been lending their expertise, time, and talents to this endeavor. With that, I would like to thank the Nebraska uniform law commissioners who have been of assistance with this legislation. Some are in the lobby today if you have specific technical questions that I may be unable to answer. And our Nebraska commissioners are Larry Ruth, the Honorable Arlen Beam, the Honorable Norm Krivosha, Amy Longo, our own Joanne Pepperl, Harvey Perlman, and Steven Willborn. Additionally, I would like to give special thanks to the business law section of the Nebraska Bar Association and their chairwoman, Julie Karavas, who has worked tirelessly combing over this lengthy bill line by line, sentence by sentence, clause by clause to make sure that it works effectively for our business interests on the front lines of these issues. Additionally, I would like to thank the Nebraska Attorney General's Office, the Secretary of State's Office, the

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Department of Revenue, the Nebraska Bankers Association, and others who have contributed to this particular effort. Also, just as a point of notation, colleagues, after the committee hearing we did work with these same groups to address a few technical drafting issues that will be presented as an amendment on Select File. And I'm proud to report, if you look at the length of this bill, our amendments that are going to be required are less than one page for a very, very extensive bill. So I think that can again point and illustrate the fact that this is a very carefully crafted piece of legislation that has been a pleasure to work on with these fine commissioners and members of the Bar Association and otherwise. Finally, a special note: Thank you to Committee Counsel Bill Marienau, who has really been the champion of this legislation and the ultimate authority on these issues and has demonstrated nothing less than Herculean efforts in bringing folks together and helping to assure that this bill is our best foot forward in terms of reforming these issues. So with that, thank you, Mr. President. [LB888]

SENATOR ROBERT: Thank you, Senator Conrad. Members, you've heard the opening to LB888. Those wishing to speak, Senator Pirsch, you're recognized. [LB888]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. This bill was referred to the Banking, Commerce and Insurance Committee, and we had a very good hearing on the bill. It did end up in a result of a vote of 6 votes to advance and 0 votes to not advance it. Two were absent at the time. Speaking as the Vice Chairman of the committee, we thought that it provided a more comprehensive approach to the LLC laws and it does help to fill in the gaps that exist with our current law which is not uniform. It was first created in '93 and kind of developed piecemeal, and so we think that this is a good, more comprehensive approach. Thank you. [LB888]

SENATOR ROBERT: Thank you, Senator Pirsch. Senator Price, you're recognized. [LB888]

SENATOR PRICE: Thank you, Mr. President and members of the body. Good morning. I was wondering, would the body be mindful to notice the fiscal note on this just so we all pay attention. It's not much of a note but it's about a \$10,000 or so note that we do have on here, and I do know that earlier in the year we did have some conversation on the fiscal aspect of notes. And my question is, if Senator Nantkes...or Senator Conrad, pardon me. Would Senator Conrad yield to a question? [LB888]

SENATOR ROBERT: Senator Conrad, would you yield to a question from Senator Price? [LB888]

SENATOR CONRAD: Absolutely. [LB888]

SENATOR PRICE: Thank you very much and I do apologize for the referral there of your name. Anyway, the question I have is, is it...in light of the potential fiscal

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challenges, are these changes to be made this year going to provide a meaningful and total benefit to the state? And I only ask that from the fiscal aspect, because we've done really well. We did have a large number of LLCs formed in the recent past, so I'm just not sure about the goodness. Could you help me out there? [LB888]

SENATOR CONRAD: Sure. Thank you, Senator Price. And we had some discussion about this in the committee hearing. I pushed my light on as well. I don't want to take up too much of your time. But to be clear, colleagues, if you look at the fiscal note on LB888, we are talking about an additional use of some cash funds, not General Funds, not new dollars that impact our bottom line but, rather, cash funds that will be required by the Nebraska Secretary of State's Office to carry out these duties. And to be clear, these funds are not to utilize because we were having some sort of problem with the formation of LLCs prior to this legislation but, rather, because of the increased usage of this type of business formation tool in terms of the LLCs. What we have now is really a lack of uniformity in terms of our state law for what happens when something might go wrong under the existing very flexible, very fluid, very unregulated set of statutory authority surrounding LLCs. So this ensures that as we move forward and that use continues to grow, we have...everybody is on the same page, those on the front lines of business, those who are trusted with enforcing it at the Secretary of State and Attorney General's Office and otherwise. But to be clear, thank you for pointing out that there is a fiscal note on this. It is not new spending. It is not General Funds. It does not impact our bottom line, and actually is a very, very small amount in terms of the breadth and depth of this legislation. [LB888]

SENATOR PRICE: Thank you very much. I would also point out that I was somewhat refreshed. We had committee hearings earlier in the year to talk about voter registration and petition signatures, and the cost to revamp the system seemed to be a lot different. I mean, not that it was different, but it was so much more...and it's good to see that we can do this, because I guess the cost is to create new filing forms for people. But now also would the good Senator Conrad yield to a question for me, please? [LB888]

SENATOR CONRAD: Absolutely. [LB888]

SENATOR PRICE: Thank you. The question I have is, how will this impact existing or people who are in the process of their LLC when this comes up? I mean, with all the rules, as I was looking through it there are a lot of rules. Is that going to have a potential impact on people forming or who have just formed an LLC? [LB888]

SENATOR CONRAD: Thank you, Senator Price, again for the good question here. And to be clear, cash funds are just that. Cash funds that are expended for the person...or the persons who are utilizing the state service pay a fee to register and... [LB888]

SENATOR ROBERT: One minute. [LB888]

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SENATOR CONRAD: ...file their LLC, and those are the cash funds that are then utilized and this authority by the Secretary of State's Office and under LB888. In addition to the second part of your question, as you well know, we rarely if ever have the ability to enact retroactive legislation. There is a variety of statutory and constitutional restrictions against doing such. Thus, almost every piece of legislation that comes before us, with rare example, is prospective in nature rather than retroactive. So it doesn't necessarily diminish, weaken, or inhibit any of the filings that have already occurred but, rather, does provide them with a default set of rules and regulations in terms for dealing with related issues as they may come forward. [LB888]

SENATOR ROBERT: Time, Senator. Thank you, Senator Price and Senator Conrad. Senator Nelson, you're recognized. [LB888]

SENATOR NELSON: Thank you, Mr. President and members of the body. Would Senator Conrad yield to a question or two? [LB888]

SENATOR ROBERT: Senator Conrad, will you yield to a question? [LB888]

SENATOR CONRAD: Yes, absolutely. [LB888]

SENATOR NELSON: Senator, thank you for bringing this bill. I was looking at the statement here and with regard to Part 5, re ULLCA, Sections 501 to 504, "implements the 'pick your partner' principle, which is at the core of the law of unincorporated business organizations, and delimits the rights of transferees." Could you explain that just a little bit? What does "pick your partner" mean and what is the delimitation that we're talking about here? [LB888]

SENATOR CONRAD: Thank you, Senator Nelson. And as a practicing attorney, I'm sure that you've had a lot of experience dealing with these issues and assisting clients along the way as they try and weigh the pros and cons in terms of the critical analysis for what best meets their needs in terms of liability, taxation, and other issues when forming a business entity. I'm going to need a minute off mike to review that particular section, but I would be happy to address that either later on the floor or in personal conversation. And again, to reiterate, we do have uniform law commissioners from Nebraska here that can shed some additional light on that. And as a general note, Senator Nelson, each line, as I noted before, that was presented from the uniform law commissioners' model in the 2006 draft was then carefully evaluated by the business law section of the Nebraska Bar Association, and then a public policy determination was made as to whether or not those specific sections, those specific provisions made sense in Nebraska. And so that is a reflection of what they believe to be a sound public policy in terms of how we move forward in providing definitions and framework for those principles. But I am going to need to flip through my bill real quickly to get you a specific,

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more specific answer. [LB888]

SENATOR NELSON: Thank you, Senator Conrad. I'll be happy to talk with you off the mike about that and do a little inquiry of my own. I'm sure that probably there's nothing wrong with that. I was just intrigued by the "pick your partner" and could not find immediately just what that dealt with or what the implications were. Thank you, Senator Conrad. Thank you, Mr. President. [LB888]

SENATOR ROBERT: Thank you, Senator Nelson. Seeing no other lights on, Senator Conrad, you're recognized to close on LB888. [LB888]

SENATOR CONRAD: Thank you, Mr. President. Thank you, colleagues, for your thoughtful questions and careful consideration of this legislation. Committee counsel for our Banking, Commerce and Insurance Committee has actually had a moment to visit with the uniform law commissioners, so we'll make sure to provide Senator Nelson a very quick response to his astute question. But with that, colleagues, I would urge your support of LB888 as we move forward, and we can all continue to learn more about these structures and these issues. But it's really critically important, in terms of where we are economically and otherwise, that we do all we can to modernize and evolve our public policies to support our ever-changing economic structures and conditions. And this is an integral part of that part of our work. So with that, thank you, Mr. President. [LB888]

SENATOR ROBERT: Thank you, Senator Conrad. Members, you have heard the closing to LB888. The question before the body is, shall LB888 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB888]

CLERK: 32 ayes, 0 nays on the advancement of LB888, Mr. President. [LB888]

SENATOR ROBERT: LB888 does advance. Next item. [LB888]

CLERK: LB821 was a bill originally introduced by Senator Fischer. (Read title.) The bill was introduced on January 8 of this year, at that time referred to the Transportation and Telecommunications Committee. The bill was advanced to General File. There are committee amendments pending, Mr. President. (AM1741, Legislative Journal page 439.) [LB821]

SENATOR ROBERT: Senator Fischer, you're recognized to open on LB821. [LB821]

SENATOR FISCHER: Thank you, Mr. President and members. LB821 requires the Department of Roads to consider the preservation of the existing state highway system as its primary priority when formulating a specific and long-range plan. Most of you are

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aware of the funding problems that we are facing as a state when it comes to our highways. The department is predicting the state will not have enough funds in two years to even cover the cost of maintaining the system at its current level. We have seen the highway construction program fall from \$390 million, five short years ago, to the predicted \$300 million next fiscal year. At the same time, our highway needs are great. The department estimated the 20-year highway needs at \$13 billion with inflation applied, with current projected revenues only covering \$6.4 billion of that cost. There are several high-dollar projects that have been put on hold due to lack of funding and there remains 174 miles of the 1988 planned expressway system to finish. In 2007, the department formed the funding distribution team to determine where the state's resources should be spent in the face of falling revenues. The team concluded that the top priority should be preserving the state's existing highways and bridge assets. LB821 is the statutory reflection of that conclusion. I believe we have an obligation to the citizens across the state that, although we may not be able to build their road in the near future, they will not see the current system deteriorate. That current system is worth \$7.7 billion. I believe it would be irresponsible of us not to protect that system. LB821 does not change the department's current planning process. It simply codifies it. It still will be the department's duty to decide what level of preservation and maintenance is sufficient. Thank you, Mr. President. [LB821]

SENATOR ROBERT: Thank you, Senator Fischer. Members, you have heard the opening to LB821. As the Clerk stated, there are committee amendments. Senator Fischer, as Chair of the Transportation and Telecommunications Committee, you are recognized to open on AM1741. [LB821]

SENATOR FISCHER: Thank you, Mr. President. AM1741 is the committee amendment and this makes a change in the bill. It deletes the words "and maintenance" and it adds to the bill that we are preserving and protecting the highway system assets, which is that \$7.7 billion that Nebraska currently has for assets with our highways and our bridges. Thank you, Mr. President. [LB821]

SENATOR ROBERT: Thank you, Senator Fischer. Members, you've heard the opening to AM1741, the committee amendment. Those wishing to speak, Senator Campbell, you're recognized. [LB821]

SENATOR CAMPBELL: Thank you, Mr. President, and good morning, colleagues. This asset of \$7.7 billion I think can rightfully be asked by all of us, why would we put this forward in this bill as a priority? The Transportation Committee thinks it is extremely important to put this idea forward and for all of us to be very aware of the money that we do put in our transportation system. A transportation system supports our agribusiness and urban centers. It is the foundation of our economic development efforts. And a good transportation network ensures businesses can continue to grow and, thus, grow jobs. Providing roads for Nebraska's future requires not only long-term planning but, we

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believe on the committee, long-term financing. Before we can undertake a new construction focus, it is imperative that we protect the investment we have already made in our transportation system. We are at a critical juncture, my colleagues, if in two years we may not be able to address maintenance of this network. I think it's instructive for us to know how, if we held up a \$1 bill, what comes out of that \$1 bill. At this point, 77 percent of that is spent on surface transportation construction, meaning that we're overlaying roads, we may add a lane, we may be taking care of the interstate. But that is a large chunk of the money. Seventeen percent is spent on routine maintenance of the highways. And here I think it's important to know what we classify as maintenance. Maintenance is activities such as snow removal, mowing, ditch cleaning, litter cleanup, sign and signal repairs. In other words, maintenance is probably the day-to-day tasks that go along with our construction. Five percent is spent on supportive services, 1 percent is spent on public transit and rail functions administered by the Department of Roads. You will note in that list there is no money there for brand-new road construction. And for a number of us who want to finish the expressways, who want to see large projects in the state undertaken, at present the dollar is not there for it. I would hope that you give close attention to the discussion on the amendment and certainly do support LB821. Thank you. [LB821]

SENATOR ROBERT: Thank you, Senator Campbell. Senator Harms, you are recognized. [LB821]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Fischer, would you yield, please? [LB821]

SENATOR ROBERT: Senator Fischer, will you yield to a question from Senator Harms? [LB821]

SENATOR FISCHER: Yes, I will. [LB821]

SENATOR HARMS: Senator Fischer, how does this line up with those areas that already have commitments from the feds that are dealing with expressways? I'm thinking about western Nebraska and the \$20 million that they've got...been earmarked for 10 or 15 years to complete that aspect, and that aspect...is that going to be at risk here? [LB821]

SENATOR FISCHER: I don't believe that would affect it at all, Senator Harms. As you know, a couple of years ago we did put some money in from General Fund to match those earmarks. There, even after the cuts last year, or in November during special session when we made the cuts, there is still money available for that. [LB821]

SENATOR HARMS: Thank you, Mr. President. Thank you, colleagues. [LB821]

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SENATOR ROBERT: Thank you, Senator Harms. Other members wishing to speak? Seeing none, Senator Fischer, you're recognized to close on your committee amendment. Senator Fischer waives her opportunity. The question before the body is, shall AM1741 be adopted to LB821? All those in favor vote yea; opposed vote nay. Have all those voted who care to? Mr. Clerk, please record. [LB821]

CLERK: 34 ayes, 0 nays on adoption of committee amendments. [LB821]

SENATOR ROBERT: AM1741 is adopted. Returning to discussion on LB821, Senator Fischer, there are no lights on. You are recognized to close. [LB821]

SENATOR FISCHER: Thank you, Mr. President and members. I view this bill as a very important first step in our continuing discussions on highway funding. Many of you know that I've committed to offering a bill in January next year to address the highway funding needs. But I think, first of all, this body needs to take this step and recognize that we are at a preservation and maintenance-only policy in this state. We have a huge asset, \$7.7 billion in roads and bridges in this state, and we need to preserve that. I think it's the only responsible course that we can be on. That's what the Department of Roads is doing now. Does it address the concerns of the future? No, not at all. We need to do that next year. And in order to address the concerns of the future, we're going to have to look at a variety of options when it comes to roads funding. We're going to have to look at bonding. Senator Campbell and Senator Gay had a bill up in committee this year dealing with bonding. We'll need to look at that. We'll need to look at our expressways and the commitment from 1988 that those communities received from the state and what this body feels is appropriate to be done with regard to that. And we need to look at the continuing funding that we provide at the state level for counties and for cities with their highway needs, with their street needs, with their bridge needs. All that comes out of the Highway Trust Fund. So I hope you will advance this bill. Put your commitment there, and next year we'll work on the harder task of trying to move ahead in the next 10 and 20 years on meeting all the needs across the state. Thank you, Mr. President. [LB821]

SENATOR ROBERT: Thank you, Senator Fischer. Members, you've heard the closing to LB821. The question before the body is, shall LB821 advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Mr. Clerk, please record. [LB821]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB821. [LB821]

SENATOR ROBERT: LB821 does advance. Next item on the agenda. [LB821]

CLERK: Mr. President, LR295CA proposes a constitutional amendment to Article XIII, Section 2 of the Nebraska Constitution. The resolution was introduced on January 19 of

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this year, at that time referred to the Urban Affairs Committee. The resolution was reported to the Legislature. At this time I have no amendments pending, Mr. President.
[LR295CA]

SENATOR ROBERT: Senator McGill, you're recognized to open on LR295CA.
[LR295CA]

SENATOR MCGILL: Mr. President and members of the body, LR295CA is a constitutional amendment that would allow Nebraska charities to take advantage of partnering with their communities to utilize bonds as an important tool to finance future construction projects, equipment needs, and other personal property purchases. Projects could be a new sports complex, renovating a community center, or building a new children's museum. This measure is identical to a constitutional amendment we passed here in the Legislature in 2008 with no dissenting votes. The measure was supposed to appear on the primary ballot in May, but, as you all know, the Attorney General recently issued an opinion that questioned the validity of adopting that proposed constitutional amendment along with the one on our...the salary increase. As a result, the Secretary of State has removed both the legislative pay raise and this tax-exempt municipal bond constitutional amendment from the primary ballot in May. Adoption of LR295CA will place this measure back on the ballot in May. A little about what this constitutional amendment does, for those of you who weren't here in 2008 when we initially put this on the ballot: These bonds would not be general obligation...not be a general obligation of a governmental subdivision. Taxpayers are not at risk in any respect by virtue of the issuance of these bonds by a county, city, or village. The activities of the political subdivision exercised under this subsection would be deemed for a public purpose, but the subdivision could not acquire the property by the exercise of the power of eminent domain. The principal and interest on the bonds issued would be secured by a pledge of the lease and any revenue derived from it. The proposed change would serve to allow Nebraska charitable organizations, like they do in the vast majority of other states, to participate in the federal tax benefits derivable from the inclusion of their projects within the definition of those eligible for industrial development bonds. Subject to a few restrictions, 501(c)(3) nonprofit organizations can be the beneficiaries of tax-exempt financing similar to a governmental unit. This exemption reflects a policy determination that 501(c)(3) organizations often perform functions that government would otherwise be required to perform if those organizations didn't exist. Tax-exempt borrowing generally bears lower interest rates than comparable traditional sources of financing since the lenders or bond investors do not have to pay taxes on the interest received. In order for interest on obligations to be tax-exempt, however, the obligations must be authorized by applicable state law. Goodwill Industries is one of many organizations that would benefit from this. They're looking at several new projects, one of which would be I think a \$1.7 million project. And the passage of this constitutional amendment would save them \$400,000 on that project alone. And then their bigger, long-term plans, it would save them over \$4 million. This proposed

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constitutional amendment will be beneficial to Nebraska and all parts of Nebraska. Experience in other states has reflected that types of bond financing for nonprofit organizations has been used for hospitals, nursing homes, ambulance services, private colleges, museums, a whole list of good applications. This was again, members, approved unanimously by the Legislature in the past, and I hope it will be again here today. Thank you, Mr. President. [LR295CA]

SENATOR ROBERT: Thank you, Senator McGill. Members, you've heard the opening to LR295CA. Those wishing to speak, Senator Campbell, you're recognized. [LR295CA]

SENATOR CAMPBELL: Good morning, Mr. President, and thank you. I would say that I don't intend to be the second speaker on every bill up today, but these are two that I care very much about. I would urge your support of LR295CA. And I told Senator McGill that I would speak to this. In my other job in which I do fund-raising for CEDARS Home for Children Foundation, in the past two years we have worked diligently on a capital campaign to add a shelter addition for kids who need to be moved out of their home and then on to foster care. We started out with the premise of could we use a financing mechanism that would allow tax-exempt bonds of the mechanism that Senator McGill has explained to you. At present, the only way that a nonprofit such as CEDARS could have accessed that, if it was under a medical model. And no matter how we looked at it--we brought in the bond counsels from Lincoln and Omaha and they all looked at it--no matter how we looked at it, we just could not fit under that structure. For the nonprofits across the state who need to put in new additions or build new facilities, this is an extremely important amendment to add. The other portion of this bill that a lot of people become confused about is when it says that the city or the county or the village has to accept and back. You're never backing those bonds with the property tax, but as the entity is the highest entity, you have to say that you understand the financing and the tax exemption. Lancaster County and many counties across the state have done this for years on what they may have as a hospital authority. We have done millions and millions and millions of dollars for BryanLGH, for Madonna, for Tabitha, and on and on and on. But the county is not liable for this. The entity is liable to pay back the bondholders. And I think that is an important point that we should convey to our constituents, because oftentimes they see this and say, ah, this is another drain on the property tax. It is not. And so, colleagues, I would urge your support of LR295CA. [LR295CA]

SENATOR ROBERT: Thank you, Senator Campbell. Senator Wightman, you're next and recognized. [LR295CA]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I, too, rise in support of LR295CA. I think it is an important tool that cities and counties would be able to use to build projects and use only revenue for purposes of financing that. And Senator Campbell is absolutely right that it will not be a drain upon the resources nor

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will any property be liable for the payment of these bonds. I think it's important. And last time, I think, when the committee statement or the statement with regard to the ballot question was put together, it did not reflect the language. It said that it would be paid from revenues, but it did not say that it could not be a drain on the General Fund or that no General Funds could be used. And I think it is important that we get that on the ballot statement this time. I know that was a concern with regard to the previous amendment that was being proposed, and I think that was for a vote in March as well. If Senator McGill would respond to a question, I do have a question or two. [LR295CA]

SENATOR ROBERT: Senator McGill, will you yield to a question? [LR295CA]

SENATOR MCGILL: I'd be happy to. [LR295CA]

SENATOR WIGHTMAN: Senator McGill, how soon does this have to be passed in Final Reading in order to get it onto the May ballot? [LR295CA]

SENATOR MCGILL: It needs to be passed by March 19, Senator. [LR295CA]

SENATOR WIGHTMAN: On Final Reading. [LR295CA]

SENATOR MCGILL: Yes. [LR295CA]

SENATOR WIGHTMAN: So if we are going to pass this, it's important that we act rather rapidly, and it will be passed with an emergency...I don't know, does an LR...? [LR295CA]

SENATOR MCGILL: I think it just needs to be passed by the 19th. I don't think an emergency clause is necessary. [LR295CA]

SENATOR WIGHTMAN: It doesn't need to be... [LR295CA]

SENATOR MCGILL: I don't think so. [LR295CA]

SENATOR WIGHTMAN: It automatically goes on because it says that it would be in the May ballot. Is that correct? [LR295CA]

SENATOR MCGILL: Exactly. [LR295CA]

SENATOR WIGHTMAN: Okay. Thank you, Senator McGill. Thank you, Mr. President. [LR295CA]

SENATOR ROBERT: Thank you, Senator Wightman. Senator Price, you are recognized. [LR295CA]

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SENATOR PRICE: Thank you, Mr. President, members of the body. Would Senator McGill yield? [LR295CA]

SENATOR ROBERT: Senator McGill, will you yield to a question? [LR295CA]

SENATOR MCGILL: Yes. [LR295CA]

SENATOR PRICE: I'm afraid...I was listening with one ear and I believe perhaps Senator Wightman did ask that, but that Section 1, line 3, where it says "primary election" in the bill, we don't have to change the language at all in the bill? [LR295CA]

SENATOR MCGILL: No. [LR295CA]

SENATOR PRICE: Okay, great. Thank you. And the only other part I would bring up is the aspect...and I applaud this and I will support this,... [LR295CA]

SENATOR MCGILL: Uh-huh. [LR295CA]

SENATOR PRICE: ...this bill, but I did notice, I went ahead and I pulled up the numbers on the 2002 and 2006 ballot, and it does look hopeful because in 2002 we only had 40 percent for it, I guess, and in 2006 we had 46.57 percent. [LR295CA]

SENATOR MCGILL: Uh-huh. [LR295CA]

SENATOR PRICE: So if we get another 6 percent, we may actually get the ability to do this. But I do appreciate you bringing it and I'm glad to know that we don't have to amend the bill. I am a little perplexed why we don't have to, but I'll accept it that we don't have to amend it to say "the general." Thank you very much. And I will yield my time to Senator McGill if she would like to use it. [LR295CA]

SENATOR ROBERT: Senator McGill, 4 minutes. [LR295CA]

SENATOR MCGILL: Well, we are going to be putting it on the primary, so it will be on there in May as opposed to the general election. But I do feel that, you know, the public has gotten more and more educated on this issue over the years, and there aren't going to be any other issues on the primary ballot, which I think will help. As of right now, there won't be. And so it will be a good chance for those who are interested to really just lobby on this particular issue and educate the public on it. Thank you, Mr. President. [LR295CA]

SENATOR ROBERT: Thank you, Senator McGill and Senator Price. Senator Fulton, you're recognized. [LR295CA]

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SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator McGill yield to a question? [LR295CA]

SENATOR ROBERT: Senator McGill, will you yield to a question from Senator Fulton? [LR295CA]

SENATOR MCGILL: Yes. [LR295CA]

SENATOR FULTON: This may have been answered but... [LR295CA]

SENATOR MCGILL: Okay. (Laugh) [LR295CA]

SENATOR FULTON: ...and if it is, I apologize to the body. The mechanism by which...so in the event that revenues are not coming in as predicted such that bonds could be paid back, what is the next method of repayment? [LR295CA]

SENATOR MCGILL: Well, it's nothing that has anything to do with the city. It's totally on the nonprofit organization. [LR295CA]

SENATOR FULTON: Okay. [LR295CA]

SENATOR MCGILL: And the agreement they make with those who buy the bonds and their...have to know in advance going in what they're getting themselves into. [LR295CA]

SENATOR FULTON: Okay. So this simply...this is permissive in nature. We are, as a state, through our political subdivisions, providing the permission of nonprofits... [LR295CA]

SENATOR MCGILL: Uh-huh. [LR295CA]

SENATOR FULTON: ...to be able to have the authority to bond. This is not saying that they necessarily will. [LR295CA]

SENATOR MCGILL: Yeah, and to reach our tax-exempt status as a government entity. [LR295CA]

SENATOR FULTON: Okay. [LR295CA]

SENATOR MCGILL: So it saves them in that way. [LR295CA]

SENATOR FULTON: Okay. Secondly, Senator Price was touching on this, can you

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comment on the language of the two previous elections? And let me explain why I ask this. [LR295CA]

SENATOR MCGILL: Uh-huh. [LR295CA]

SENATOR FULTON: I've tried to be sensitive to previous votes so when the people take a vote on issue X, we in the Legislature come back and we put it on the ballot again. [LR295CA]

SENATOR MCGILL: Uh-huh. [LR295CA]

SENATOR FULTON: And if we do that continually, I have a sensitivity, a fear that we are not being responsive to the folks. Could you comment? And I will just yield you the rest of my time if you would please comment on the content of the 2002 and 2006 votes that were taken. So I could yield the rest of my time to Senator McGill. [LR295CA]

SENATOR MCGILL: And in all fairness, I may have to do a little bit of research between now and then, but from what I understand this is identical to, well, what we passed in 2008 to be on this. But there has been some tweaking since the last ballot language. But I can get that to you, Senator Fulton. I don't have the other language directly in front of me right now, but I share the concern that we want to make sure that this time it's as clear as possible what the obligation, particularly of the city and the taxpayers, is. Thank you. [LR295CA]

SENATOR ROBERT: Thank you, Senator McGill and Senator Fulton. Seeing no other lights on, Senator McGill, you're recognized to close on LR295CA. [LR295CA]

SENATOR MCGILL: Just really quickly, members of the body, this is a great amendment. We can all play a part in trying to educate our voters this election year on the importance of this to all of the agencies in our communities. Now these nonprofits provide services that we as a government would have to do if they didn't exist. And it helps...this will help their money go a little farther in serving those people. It doesn't cost the taxpayers any money. But I say let's get this on the ballot and do our best to get it passed. Thank you, Mr. President. [LR295CA]

SENATOR ROBERT: Thank you, Senator McGill. Members, you've heard the closing to LR295CA. The question before the body is, shall LR295CA advance to E&R Initial? All those in favor vote yea; opposed vote nay. Have all those voted who wish? Please record, Mr. Clerk. [LR295CA]

CLERK: 32 ayes, 0 nays, Mr. President, on the advancement of LR295CA. [LR295CA]

SENATOR ROBERT: LR295CA does advances. Next item on the agenda, General

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File, 2010 senator priority bills, Fischer division. [LR295CA]

CLERK: LB689, Mr. President, a bill by Senator Langemeier. (Read title.) Introduced on January 6 of this year, at that time referred to the Natural Resources Committee. The bill was advanced to General File. I have no amendments pending at this time, Mr. President. [LB689]

SENATOR ROBERT: Senator Langemeier, you're recognized to open on LB689. [LB689]

SENATOR LANGEMEIER: Mr. President and members of the body, today I bring to you LB689. LB689 deals with the excise tax which is currently three-fifths of a cent. That three-fifths of a cent is collected from every irrigated corn producer and every dryland farmer in Nebraska. That money was originally set forth to be put into the Ethanol Fund. The Ethanol Fund was set to expire on December 31, 2012. It generates from \$10.5 million to \$11.5 million a year. In LB701, as a funding source in LB701, this particular tax or excise fee was extended beyond the 2012 indefinitely, and placed in the Water Cash Fund...Water Resources Cash Fund to be correct. The discussion at the time was, let's look for a better source of funding for water issues in Nebraska instead of having a primary source be a checkoff tax which was a self-inflicted tax on farmers, and by a majority of them being dryland farmers, to deal with water issues. So here we are today. I'm asking for your help to repeal this. Is there still a need for money in the Water Cash Fund? Yes, there is. But as we have a source like this that's producing roughly \$10.5 million a year, depending on our harvest and sales in Nebraska, it's tough to bring people together to look at a true funding source. What's equitable for water resources in Nebraska? Does agriculture need to play its role within the future of water in Nebraska? You bet. They are a big user. Do other sources need to play a role? I believe so. So I'm asking for you to repeal LB689 so we can have that discussion on how we're going to fund water. As the Governor said last year, water is the issue of the decade. And we're going to have to look for funding sources. Now, we have signed into...through the Governor's Office, they have signed into the Platte River Recovery act (sic)--a very worthy program on the Plattes. It's going to need money. In the out-years when this money starts to come into the Water Cash Fund, they were hoping to use \$7.5 million of that money every year for the next three years to help with that program. So do we, as a body, need to look for funding sources to make that happen to protect the wildlife habitat for the whooping crane? You bet we do. And so I am going to work over my next two years here in the Legislature to look at an equitable funding source that includes agriculture and the rest of the water uses in Nebraska. So is there a long-term commitment out there? You bet. We have to deal with it. And today I'm asking for your repeal of the three-fifths of a cent out of the Water Cash Fund--it is the sole source of it--that I think we can look for a better, more even funding source into the future. And with that, I will take any questions people have as we go forward, and I would yield the rest of my time to Senator Dubas if she would like it, as she made this her priority bill.

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[LB689]

SENATOR ROBERT: Senator Dubas, 6 minutes 30 seconds. [LB689]

SENATOR DUBAS: Thank you very much, Mr. President. Thank you, Senator Langemeier. As he stated, this is my priority bill. I think we can take what this bill is talking about back to the special session when we discussed what checkoff dollars do. Checkoff dollars are dollars that farmers and ranchers decide to put into the promotion, the research, and production of their specific product. We don't have an advertising budget that we can go to. We don't have research and development dollars that we can go to as individual producers. But we have these checkoff dollars, and those dollars are set up for a very, very specific purpose. And by taking this checkoff money and diverting it into the Water Resources Cash Fund goes to what our discussion was last fall. It's outside of the realm of what checkoff dollars are meant to do. Every ag group that came in and testified on this bill all said, we know ag needs to be at the table; we know ag has to be a part of the solution; we know ag has to be able to contribute financially. We're just saying not through the checkoff dollars. That's not what these dollars are intended for use. So there is definitely a recognition of the problem. There's definitely a willingness to come to the table and find solutions. Many of us stated on the floor when LB701 was discussed and this portion of that bill was discussed, we didn't like using the checkoff dollars. And we were, you know, it was like, okay, let's just get this bill moving forward. We can come back and revisit that funding mechanism later. Well, it's later. It's time for us to revisit this issue. We have till December 31 of 2012 is when that EPIC Fund incentive money stops. So our time is getting narrower and narrower, so we really need to be stepping up and being more aggressive with finding solutions. I know many of the ag groups are already talking amongst themselves about what they feel is a fairer approach, what they feel their members could live with in supporting this Water Resources Cash Fund. We know what the dollars that are being used already for this Water Cash Fund are being used to help, you know, buy off water rights, helping us get us and keep us in compliance with the Republican River Compact. But as Senator Langemeier said, we have the Platte River Compact now that's going to be coming into play. So there's going to be a lot of demands for dollars that we need to have to support these programs to keep us in compliance with these compacts so that we don't get ourselves into trouble with...in future years with lawsuits, etcetera, like we're facing with the Republican River Compact right now. So I really do want to stress to my colleagues, especially those from the more urban areas who were very willing to become educated about what the checkoff dollars are for during the special session, and I truly do appreciate that, but I want to stress to you, ag is not just saying...just turning their back and walking away from this problem. They know...we know, as ag producers, water is our future. If we don't protect and preserve the waters that we depend on to grow our products, to raise our livestock, you know, we're all in a tough situation. So we're not saying we're turning our backs and, you know, just, you know, let the chips fall where they may. We're saying, yes, we recognize ag has to be a player and we're willing to

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come to the table and find and work on those solutions. Senator Langemeier has committed himself to working on solutions. I truly am committing myself to work very actively with the farm groups, with individual producers. This is a tough situation. We hear water bills all the time in Natural Resources and they're tough bills because it's such an important issue to our state. You have producers in the southwest corner of the state who are now looking at the possibility of being completely shut off from irrigation. This is going to have devastating impacts, not just on the individual producers but entire regions of our state, entire economies of our state. When you turn irrigated valuation into dryland valuation, that impacts your schools, that impacts your counties, that impacts your cities, that impacts every level of government. So people are saying, we know there's a problem. I can't emphasize this enough. We recognize the problem. We recognize that we all need to be at the table; we all need to be working on this. But as long as this funding mechanism is in place, people are going to say, well, we have no incentive to come to the table; we're going to have those checkoff dollars available to us and we'll just use those. But as we talked about during the special session, what is the purpose of those checkoff dollars? Those are for education and promotion and research of our product. It's not to help us deal with any other issues across the state. So I truly hope...you know, I'd be willing to answer any questions my colleagues may have on this also. But I hope you can help us get this particular issue addressed and know that there are many senators and ag groups and other interested individuals who want to sit down at the table and who want to find a better funding mechanism for this Water Resources Cash Fund. So I thank you. [LB689]

SENATOR ROBERT: Thank you, Senator Dubas, Senator Langemeier. Members, you have heard the opening to LB689. Those wishing to speak: Senators Karpisek, Christensen, Carlson, White, and Wallman. Senator Karpisek, you're recognized. [LB689]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I rise today in support of LB689. I do support LB701 of Senator Carlson's and I think we've done a lot of good work and there will be more good work to be done in that area. I'm very, very happy to see how much has been done. However, when that bill was up I did not support using the corn checkoff money and I still don't. That's not what the corn checkoff was ever started for. It was for themselves to use as a tool to try to get more for themselves, not to be out in another way. I feel that that money should not be touched. I do agree that it's a great idea. We need to find some other money, as Senator Langemeier said. They have enough to do the way they have it. I don't think we should be touching that money for anything else. I don't have a lot more to say on it other than I do agree with LB689. I will be supporting it. Thank you, Mr. President. [LB689]

SENATOR ROBERT: Thank you, Senator Karpisek. Senator Christensen, you're next and recognized. [LB689]

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SENATOR CHRISTENSEN: Thank you, Mr. President. I'd like to encourage people to vote for this. This come out of a bill of mine, LB701, where we agreed to find a new funding source. And by removing this it will put our heads to the fire. We will have to come up with another source. But at the same time, that was our agreement back then. We want to live up to what we said. You can make arguments for and against this checkoff being used, and you can make a definite argument we have to have a funding source. But I want everybody to think about, especially those that were here will understand, we give our word if you'll just vote for this on the floor, we'll find another funding source. And we have not been able to. But this is the perfect way to hold our hands to the fire to make it happen, because we have to have a funding source. And so as we go through this, I think this is very important that we live up...because we told a lot of farm groups that were opposed to this part of that bill that we would find another way. And since we haven't, I think it is proper to put everybody's mind at rest, get this provision pulled out of here, and then that will give us two years to come back and get another option placed in there to replace this, that we can have everybody in agreement on. And with that, I thank you, Mr. President. [LB689]

SENATOR ROBERT: Thank you, Senator Christensen. Senator Carlson, you're next. [LB689]

SENATOR CARLSON: Mr. President and members of the Legislature, I, too, am in support of LB689. And I would address a question to Senator Langemeier if he would yield. [LB689]

SENATOR ROBERT: Senator Langemeier, will you yield to a question? [LB689]

SENATOR LANGEMEIER: Yes. [LB689]

SENATOR CARLSON: Senator Langemeier, would you give a little history of how we are at a point where we've got corn and grain sorghum checkoff dollars in a position that, in fact, if we don't do anything, will end up in the Water Cash Fund come 2013? [LB689]

SENATOR LANGEMEIER: During the negotiation of LB701, there was a lot of components in there: your vegetation management, as well as bonding, and occupation tax and a property tax to help augment water issues within the state of Nebraska. In that discussion, the Water Cash Fund was brought up as it's going to need some money. And I think this was looked at as a source by some, other than me, as a good source that was already being levied or it was already being an excise tax. It was already out there so it made it really easy to move it over so you had some funding within the Water Cash Fund. I think pretty much that the majority of the people in that discussion were committed to say, hey, we're going to repeal that before 2012. And so that's where we

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are today. [LB689]

SENATOR CARLSON: Okay. Thank you, Senator Langemeier. Some of you could look at this and say it's maybe rather irresponsible to remove a source of dollars from the Water Resources Cash Fund without having something specific put in its place. And I guess I think that we need to take this step and we need to bring the seriousness of the matter to the forefront. And when we have questions that need to be answered that come out of other committees in the Legislature, many times we have an interim study to discuss and to study that matter. And I think this would be a good topic for the next couple of years, as interim studies, finding this other source. Water is an issue. Water is a big issue in the state of Nebraska. You've heard several of us talk many times about the fact that agriculture is our number one industry and water is the lifeblood of agriculture. We have to deal with this problem. We also have to deal with a long-term plan for water sustainability across the entire state. And we have bills forthcoming that will try and address that problem, that challenge. We have water sustainability and we have economic sustainability. We need a plan that will assure us that in years to come and generations to come that there's water available for irrigation and for production in agriculture without sacrificing economic sustainability as well. So this does require long-term planning. This issue that we're talking about right now requires some maybe short-term planning, but I think the passage of LB689 will bring this to the forefront. We'll deal with it. We'll come back next session and the next couple of sessions with an answer for that, and so I would ask for your support of LB689. Thank you, Mr. President. [LB689]

SENATOR ROBERT: Thank you, Senator Carlson. Senator White, you're recognized. [LB689]

SENATOR WHITE: Thank you, Mr. President. I have a number of questions and then I want to talk about some general concerns with the bill. Though before I start, I'd like to point out that I've always thought it was fundamentally unfair that a dryland farmer who does not irrigate must help pay, through an excise tax on his grain, into a fund that basically subsidized irrigating farmers. It always seemed unfair. Though they're in the same industry, they're also competitive. And so I'd ask Senator Langemeier a question and I'd ask him to clarify on the mike, if he would yield. [LB689]

SENATOR ROBERT: Senator Langemeier, will you yield to a question? [LB689]

SENATOR LANGEMEIER: Yes. [LB689]

SENATOR WHITE: Senator Langemeier, does this in any way affect the funding sources to pay off the Republican River money we appropriated to buy water to send down to Kansas to forestall a lawsuit? [LB689]

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SENATOR LANGEMEIER: No. Roughly, that was around \$9 million. I don't have the exact number in front of me. But we had put in that bill an occupation tax and a property tax to help pay that. One was deemed unconstitutional and the other one is still in court. And so this is a separate issue than that. [LB689]

SENATOR WHITE: All right, now the question I have and the concern I have is a lot of the water projects are to absolutely help and develop agriculture, irrigation. For example, Senator Carlson and I went round and round over his "devegetation" of the riverbanks, though we both agreed that was a good thing that the riverbed should be "devegetated." But the question I had was, who should pay for it? We had a statute in place that said adjoining landowners should. I am concerned that this is a step in moving expenses, that should fairly be appropriated to the people using the water, on to the general taxpayer. I don't think that's appropriate and I'd like to hear some discussion as we move forward from the various senators of where they're going to get the money to replace this to carry out these jobs. Are they just looking at General Fund money? If Senator Langemeier, I would yield the rest of my time to him. [LB689]

SENATOR ROBERT: Senator Langemeier, 2 minutes 40 seconds. [LB689]

SENATOR LANGEMEIER: Thank you, Senator White. Let me explain the way I perceive this happening if we do nothing. If we repeal this amount of checkoff, LB689, and it is scheduled by the department to put \$7.5 million a year, starting in 2013, for three years, to help with the Platte River Compact, if we repeal this and we don't come up with a solution--and you talked about General Funds--if we don't come up with a new solution, what's going to happen is, is to come into compliance within the Platte River Basin is going to be the shutoff of wells. It won't be a General Fund obligation. It will be a shutoff of wells. So when we try and come up with a real solution to help the Water Cash Fund over the next two years, the discussion is going to be, is to come up with a way to augment that so we don't shut off the wells. So that's our goal. The end result is not a General Fund by default obligation. It's--I'm the first one to say--is the department, if they don't have money, they're going to shut off the wells. So that's our obligation, to come back over the next two years and say how are we going to address funding to stay in compliance with the Platte River Compact. And so does it fall immediately back? No. Thank you, Mr. President and Senator White. [LB689]

SENATOR ROBERT: Thank you, Senator Langemeier. Senator Wallman, you're recognized. [LB689]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. I, too, support this bill and the amendment. Regarding Senator White's comments about farming, we have NRDs set up in this state. What were they supposed to do? Conserve our natural resources. That was their job. Now they come to the Legislature and want us to do something for them? I'm sorry, that's why I couldn't support LB701. I just didn't vote,

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which was a coward's way, but dryland farmers have had to conserve water. Irrigated farmers have got benefits. They've got low pressure systems. They've got taxpayer money. They got higher government payments on pivot corners. Numerous benefits that irrigated farmers have got in the past that dryland farmers didn't have. And a lot of my friends and relatives are irrigators, so I don't have anything against irrigators, but they will tackle this problem on their own if we let the NRDs and the farmers take care of it. We shouldn't have to do this out of here. Even vegetation management, the farmers let it get out of control. Tell the farmers to take ownership. Talk to Environmental Trust people. Tell the farmers to take ownership of their property. If it's an absentee landowner, he should pick up the bill. It will go onto the cash rent. Senator White is right. You know, you read some books like Collapse, the world's aquifers, if you are greedy with the water it will disappear. And the farther away from the river source you are, you will lose water, and then things will start to happen like in Texas. But then it's almost too late. So if you want to let things go this way and put an occupation tax on and all this and retire your irrigated acres by paying somebody to go to dryland, the number one issue is there will always be differences in rainfall. Eastern Nebraska, our yields go up and down. You prepare for that. It's risk management. It's taking care of your land, taking care of your water, conservation tillage. It's a bunch of things you can do to save water. But if you irrigate, myself included, it would be pretty easy to just turn on the well. There would be water there tomorrow, be water there the day after tomorrow. So we're going to have water issues forever, but let the natural resource people that we appointed take care of it and the farmers in the district. And if we sign a compact with Kansas or Colorado, we should be watching what we sign. Did somebody else do it ahead of us? Sure. But we have to watch what we sign and watch what we do, because water is our most precious resource. Thank you, Mr. President. [LB689]

SENATOR CARLSON PRESIDING

SENATOR CARLSON: Thank you, Senator Wallman. (Visitors introduced.) Senators still wishing to speak: Senators Heidemann, Lathrop, and Christensen. Senator Heidemann, you're recognized. [LB689]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. This is a little bit more difficult bill for me. This is one that I would like to support. I'm on the edge of the cliff, that I'm about ready to jump off and say I want to support it and will support it, but I'm not quite there yet. We're about to head down a path that I think is very, very dangerous, pulling funding...a funding source and not having another one in place, and it's something that I normally do not do. And I actually stand in opposition to it normally. I do think, though, if you would look back at the discussion on LB701, if you would read the transcripts, it would show that I probably stood up and said that I was going to be part of helping get rid of this because I didn't agree with it. So I'm at that point, but unfortunately I'm also at a point that I need...I realize that we need to have a funding source for this and if it's not this, then it needs to be something else. And we've

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had, I think, two years to come up with a solution and we don't have it yet. So what leads us to believe that if we do this today that in the next two years we're going to find an alternative funding source? That makes me a little bit nervous. On the other hand, I've got people down in Falls City, Nebraska, that raise 200 bushel corn dryland and if you take 200 bushels times three-fifths of a cent, it's about \$1.20 an acre that they're paying into this. And you take \$1.20 an acre times say 1,000 acres that a farmer will raise in corn in a year, then you've got \$1,200 a year that a farmer is paying for something that he has nothing to do with. And I don't think that that's fair either. I would...would Senator Langemeier yield to a question or two? [LB689]

SENATOR CARLSON: Senator Langemeier, will you yield? [LB689]

SENATOR LANGEMEIER: Yes. [LB689]

SENATOR HEIDEMANN: You do agree that there needs to be an alternative funding source? [LB689]

SENATOR LANGEMEIER: Yes. [LB689]

SENATOR HEIDEMANN: Are we headed down a dangerous path? [LB689]

SENATOR LANGEMEIER: Well, my experience in the Legislature is, is when you have a funding source like this is that produces \$10.5 million into something, it's tough to get people together to say, hey, let's come up with a better plan when they're all like, oh, don't look at me as a source for funding because you have that already. And so I think it's important. You know, everything we do in this place could go down a dangerous path whether we mess with people's lives or what we do. But I think it's crucial to say this isn't the right choice, we need to look for a better funding source. [LB689]

SENATOR HEIDEMANN: Isn't it true that when we signed the compact, the Platte River Recovery compact, that for every dollar that we put in, there's like a match from the federal government of like a 150 percent almost? Wouldn't that jeopardize that? [LB689]

SENATOR LANGEMEIER: Well, first of all, we didn't sign it. I want to be clear, I did not sign that. But there is cost-share with the federal government, yes. [LB689]

SENATOR HEIDEMANN: Wouldn't it be appropriate, until we find a different funding source, to put an amendment on this bill that says we'll take \$7.5 million a year from the General Fund starting in the year 2012 to 2013 to make sure that we have a funding source until others can come up with some alternative? [LB689]

SENATOR LANGEMEIER: You know the reality is, is I don't know that...I guess I have a tough time saying that General Funds are where this needs to come from. But if you

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were going to put the burden on the back to want to get it changed, that's probably a more realistic spot than on the corn checkoff. But I, personally, don't think this is a General Fund obligation. [LB689]

SENATOR HEIDEMANN: I appreciate that answer. I still have... [LB689]

SENATOR CARLSON: One minute. [LB689]

SENATOR HEIDEMANN: I still have...I actually would like to see it probably go to the General Fund for right now because I don't like to head down the path of not having a funding source. [LB689]

SENATOR LANGEMEIER: Yeah, I think if you had a burden on something, the General Fund helps adopt a different plan that's a better plan into the future if it's on the General Fund. I can't argue that. But at the end of the day, is this truly a General Fund obligation? I don't believe so. [LB689]

SENATOR HEIDEMANN: Thank you. Thank you, Mr. President. [LB689]

SENATOR CARLSON: Thank you, Senator Heidemann and Senator Langemeier. Senator Lathrop, you're recognized. [LB689]

SENATOR LATHROP: Thank you, Mr. President and colleagues, good morning. I'm nervous about this and I think we ought to stop for a second and talk about what we're doing because I was around when we tried to fix the Republican River Valley water problems. And we developed...one option when we were working on the Republican River Valley issue was to simply say to those who irrigate, turn your irrigation equipment off. And Senator Carlson and Senator Christensen, as I recall, sort of led the charge on a solution. And the solution required money, we have to pay Kansas something, and so they went to a variety of resources and said, we've come up with the money we're going to need. Now, one of them has been declared unconstitutional. We have the...another significant portion of it, the occupation tax, which I understand is in the courts now and being examined as to whether or not that is constitutional, but the corn checkoff and these checkoff programs were used as a funding resource for taking care of our obligation to Kansas under the compact. My concern today is that we had a deal that was struck. And I...boy, do I appreciate what I've heard today from those who have dryland farmers and they say, you know, those people that are dryland farmers shouldn't pay into the checkoff to have it go down to pay Kansas so that some people in the Republican River Valley can irrigate. Believe me, I understand that. Here is my concern and my concern is that we are...and Senator Heidemann expressed it, I'm going to repeat it. We are taking away part of the funding source for that obligation today, which was part of the deal that allowed that water bill to pass. We're taking that away and saying, we'll get back to you on how we're going to fix it. And as I expected,

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we're already talking about taking it out of the General Fund. By taking this...passing this bill, taking the corn checkoff money out of the equation, we are putting off to another day the decision on how are we going to backfill the money we're taking out of this solution. I am, like Senator Heidemann, I recognize that this is an unfair place to get the money but that was the deal that was struck. And at the same time, if we can't develop the solution today, what makes us think in the next biennium we'll be able to come up with one? And it just seems to me that if the answer is we don't have enough money to pay Kansas, then we ought to be addressing the question of what do we do to reduce the use of water in the Republican River Valley so that we are not getting behind the eightball with the state of Kansas on an agreement that was struck with them. Would Senator Langemeier yield to a question? [LB689]

SENATOR CARLSON: Senator Langemeier, would you yield? [LB689]

SENATOR LANGEMEIER: Yes. [LB689]

SENATOR LATHROP: Senator Langemeier, I'm going to tell you that when I get to these kind of issues I oftentimes approach Senator Dubas, who sits right in front of me, and I say, Annette, what's going on with this? And she says, as she has here, well, we'll find it from another ag source, a fairer place, another resource besides the General Fund. Give me some assurance today that we are not taking this money back to the corn checkoff program, essentially breaking the deal we had when we passed the solution to the Republican River.... [LB689]

SENATOR CARLSON: One minute. [LB689]

SENATOR LATHROP: ...problems, and that we'll be looking at the General Fund in 2012. [LB689]

SENATOR LANGEMEIER: And I'm going to use your time but I'll turn my light on if we need more, but... [LB689]

SENATOR LATHROP: No, go ahead, take the rest of it. [LB689]

SENATOR LANGEMEIER: But the \$7.5 million that we're talking about is actually going into the Platte River, not into the Republican. I just want that clear. I may have misrepresented that. But as we have talked over the last two years, we've talked about having irrigation well fees for irrigators to participate in this. And what we hear out there is, oh, you're already taking our corn checkoff. There's a fear out there that people in ag don't want to commit...I mean, they understand their commitment but they don't want to commit to a new, yes, I'll pay an irrigation well registration fee to go to the Water Cash Fund, because they don't think we'll ever repeal the corn checkoff. So they're fearful to say, yeah, I'll let you do something else when this is out there, and... [LB689]

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SENATOR CARLSON: Time. Thank you, Senator Lathrop and Senator Langemeier. Those wishing to speak: Senators Christensen, White, Schilz, Dubas, Pirsch, Langemeier. Senator Christensen, you're recognized. [LB689]

SENATOR CHRISTENSEN: Thank you, Mr. President. I guess I get a little bit disturbed hearing some of this discussion. We have a discussion going here of, I don't want to go to General Fund dollars. First of all, that ain't even any part of the equation. It goes to regulation, if this is pulled out and we don't find another source. But that's not what irritates me here. We use sales tax dollars to bail out the Qwest Center. We have sales tax dollars available for a Lincoln arena. We have a bill coming up that we'll be debating for sales tax dollars for a Ralston arena and amusement park. Them are city issues. This is a state issue. I don't even know how we intermingle the two. As I said first, if we don't have this, we go to regulation. Yes, the discussion is said about state dollars. But you know what, this is a state issue. Every one of the compacts, the cooperative agreements on the Platte, everything is a state, signed deal. And we're...oh, I don't even know where to go. This frustrates me because we shouldn't even be here. If aggies want to pull it off and they want to run the risk of regulation, they ought to have the opportunity to do it. When the state dollars come into the discussion I understand the people getting upset. But again, state issue. I know we're going to look at a bill that was prioritized to look at expand around another arena, the third one. Them are city issues and we're looking at state dollars for them. No comparison here. I don't understand that talk in that direction. If you look at what this bill does, we pull this funding source out, we go to regulation. That means we're going to shut off irrigated acres. It's still a state issue. The state is shutting off the acres. The state will have the last income. It's still a major state issue. Has nothing to do with...yeah, it's going to kill the local economies, it's going to kill the local cities, it's going to have a lot of effect on them too. But total different issue than what we've looked at in 2007 on the Qwest, 2008 on Lincoln arena, 2010 we're looking at a Ralston one. I'm sorry, I supported the Qwest Center one. I supported the Lincoln one. But I don't like this comparison here that this ain't a state issue, that we're now not going to fund the state issue, that we're not...I'm sorry--state issue. The other ones I talked about I brought the discussion to it but them are city issues, all three of them. Two of them don't even have to build them. You could cut it out, save the tax dollars, wouldn't have to build them. I'm not going that direction. But I want people to think about this. Agriculture is your number one industry. Grain is number two. Livestock is number one. It's generally lumped together as number one. But I understand the concern that's been brought up. [LB689]

SENATOR CARLSON: One minute. [LB689]

SENATOR CHRISTENSEN: If you defeat this and we leave it in there, we'll survive. If we take it out, we'll figure out a way to do it. It's going to be disastrous to this state if we don't take care of water issues, which is state signed, state problems. I think we got to

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remember what the focus here is--state issues. We in this body legislate state issues. I think we need to think about our focus here, but we got to remember other bills we look at, too, all affect income to the state. So I think people need to think about this a little bit. Think about what really happens if we pull this out. It goes to regulation. Yeah, someone might propose... [LB689]

SENATOR CARLSON: Time. [LB689]

SENATOR CHRISTENSEN: Thank you. [LB689]

SENATOR CARLSON: Thank you, Senator Christensen. Senator White, you're recognized. [LB689]

SENATOR WHITE: Thank you, Mr. President. I'd like to go back to some first principles to help us all kind of focus on the issue. Let's start with the fact that God gave us an incredible gift in the Ogallala Aquifer. I mean, it is an enormous gift. And unlike almost every state in the country, we treat that as the property not of an individual but of the people as a whole. Texas treats it as the right of capture, whoever is on top of it, grab it and use it, and now they're a desert. We have never done that. Our state constitution has always said water, the underground water belongs to the people, although people have a right to beneficially use it and that happens in order. First, we have a right to drink it so we can stay alive. Drinking water comes first. Second, agriculture. Agriculture is the heartbeat, it is the foundation of this state and ag has the next right of beneficial use. The third level of right is industry. Industry is the last in right under our state constitutional scheme of the commonly owned water. Now, I do not like the corn checkoff. I do not like the corn checkoff because it discriminates and pits a burden on those who do not use a state resource, dryland farmers, to pay for services that are necessitated by farmers who are using irrigated acres. Unlike Senator Christensen, however, I would tell you that my ideal scheme is not that it is a General Fund obligation to be shared by people who live in the city, just because they live in the city or just because it was a state compact. I think the right thing to do is, those who use the water ought to pay a proportionate share to make sure that we maintain that resource in a reasonable way. So if I as a city dweller, the municipalities use water and they pull up water out of our commonly owned Ogallala Aquifer, we ought to pay part of the cost to our water use of maintaining a good, healthy, plentiful supply. If I'm an ag person and I'm using water to produce my grain, which I use to compete with those in my neighborhood who do not use that water, I should pay for the fact that I'm using this common resource. And industry, industry should pay as well. I think the appropriate and fair thing to do, in my own mind, is that we look not at somebody who is living in a small town and is an accountant or a doctor and tell them their income tax must pay for this, but instead look at those who use it in a fairly apportioned way. It is a state problem. Senator Christensen is absolutely correct. We need a statewide solution, but it is one that I think the most fair process over time would be to look at as we use water, we pay

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into the fund to make sure that it will be there for everybody in fair proportion and for our children for generations to come. Thank you, Mr. President. [LB689]

SENATOR CARLSON: Thank you, Senator White. Senator Schilz, you're recognized. [LB689]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. I guess I feel some of the frustrations that Senator Christensen has. For years and years the state of Nebraska and this body has really failed to do their job when it comes to funding for water issues. You know, they are some of the largest issues that we deal with every single day in Nebraska. And it doesn't matter whether you're from rural Nebraska, urban Nebraska. Nebraska is a water state and it's one of our most highly prized, one of our biggest resources that we have, and we beneficially use that every day to produce incomes and livelihoods for people all across the state, all across the country. So it is an important thing. I think Senator Heidemann was exactly right when we talk about a dangerous path. But I contend with you that that dangerous path was started on when we first looked into this and signed on to use this fund to pay for this issue. To me, that's where the first mistake was made and what we're doing here today is we're going back and correcting that. Do we have a funding source? Well, no, and not to make light of it but, like I said, for years and years we've sat here and worried about where funding was going to come for water issues. We haven't had it before. Why start now? But that's a little joke. I think we need to be serious about this. We've got to find a funding source that's more fair and we have to do that before this runs out. But I think...and I don't disagree that we're walking on some kind of a tight rope here, but I think that when you look at things and when you look at what occurred during the special session with checkoff funds and things like that, I think that it's pretty clear that folks want us to use that for what those intended purposes were and not to go off on tangents and fund that. So I'm going to be supporting this bill. I'll support to move it forward. And with that, I'd yield the rest of my time to Senator Christensen. [LB689]

SENATOR CARLSON: Thank you, Senator Schilz. Senator Christensen, you have 2 minutes. [LB689]

SENATOR CHRISTENSEN: Thank you, Mr. President. Thank you, Senator Schilz. Again, I support taking this out and I'll throw you an alternative you can put in here. LB862, occupation tax, goes on the irrigator only. It is something that I have tried to do since 2008. It has been fought. I'm going to again tell you I'm not sure that's the truest, fairest way, but it does put it on the person using the water. And if they don't use any, they don't pay. That bill you will see before you yet in this session. It could be tied up also into this water deal. But it hasn't been that popular either, because it's not totally fair. As this one, the drylanders see they're paying for an irrigators problem. That's not totally true either from the standpoint anybody that no-till irrigates, anybody that has terraces, they stop water from going to the river and decrease flows. If you go to

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strictly... [LB689 LB862]

SENATOR CARLSON: One minute. [LB689]

SENATOR CHRISTENSEN: ...to the irrigation people that irrigate, now you're saying anybody that's got farm ponds, anybody that no-tills, terraces, any of them don't create any issues to stream, which is wrong too. Both of these have their faults. But it's easier for most people to swallow if you don't...if you want to irrigate, you pay. I can personally live with either one, but I give my word we would get a different source in here and I am committed to getting that done. As you've heard Senator Langemeier, Senator Dubas, and a number of others saying, we will find another way to fund this. We have two years to do it. I'm telling you that occupation is one of them. All we'd have to do is either get the Natural Resources Committee to expand my bill and you guys would have to get on board, or we have to change it on the floor. I'm not saying that's the right solution. I'm saying it's an option. [LB689]

SENATOR CARLSON: Time. [LB689]

SENATOR CHRISTENSEN: Thank you. [LB689]

SENATOR CARLSON: Thank you, Senator Christensen. Senator Dubas, you're recognized. [LB689]

SENATOR DUBAS: Thank you, Mr. President, members of the body. This has been a great discussion. It's been an important discussion and it's one that we in the Natural Resources Committee hear at almost every committee hearing. Water is a huge issue to our entire state. It's huge. And when you talk about taking water away from people that rely on it for their livelihood, it gets their attention. They're willing to come to the table and talk about how can we find solutions. When we entered the decade of the 2000s, we entered into it in a severe drought. I'm a dryland farmer. For about eight years my family was lucky to raise two crops. We didn't have access to irrigation. We relied on Mother Nature. But it certainly brought home the point to me about just how important water is to our state and how we need to be not taking it for granted. And I think that drought taught irrigated farmers that same lesson. We have taken our water resources for granted, but that drought taught us a lot about what we need to do for the future. And we are dealing with bills regularly in the Natural Resources Committee to help us find ways to protect, preserve, and use our water resources in a much more responsible manner. Our NRDs, the DNR are working on these things on a daily basis with their producers in their districts. LB701 was our big comprehensive water bill. We knew we needed it. LB701 has done great things for our state. LB701 and what we've been able to do to clean up the rivers has helped us gain a lot of traction in recapturing water that was being used basically to feed weeds. We've also on other occasions in this Legislature worked on big bills. And we haven't always agreed on every component

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of the bill, but after lots of negotiation and working with everybody, sometimes you say, okay, I'm willing to, you know, let you move forward with this bill if we can come back and revisit a certain portion of it at a later date. And that's where I was at on LB701 and I think that's where a lot of other senators were at also. We didn't like the fact that we were, again, using checkoff dollars for a purpose that they are not intended for. But we knew the importance of LB701. We knew we needed it and we said, okay, let's move forward with this bill. Let's get it going, but we need to come back and revisit the fact that we're going to use checkoff dollars for something that they aren't intended for use. And this is where we're at today--LB689 and how do we remove the checkoff dollars from the Water Resources Cash Fund and then what can we do to find replacements for it. Believe me, there is a huge incentive for people to come to the table. If we remove the checkoff dollars from the Resources Cash Fund, there is a huge incentive for these people to come to the table because the alternative is they lose their water. The alternative is they're shut off. The alternative is they lose their livelihood. We're talking about...to people in the Republican River Basin right now who plans are to shut them off. Senator Carlson had a bill talking about a Water Sustainability Task Force, which I'm in complete support of because we need to have everybody at the table, everybody that's impacted. It's just not farmers and ranchers who are impacted. It's every person who lives in every community in the counties in the southwest corner of the state but across the entire state. This is a statewide problem. It needs statewide attention. We are already putting General Fund dollars into the Water Resources Cash Fund. Ag knows they need to step up to the plate. If you look at the committee statement and you look at the people who came in and testified in support of LB689, every single one... [LB689]

SENATOR CARLSON: One minute. [LB689]

SENATOR DUBAS: ...of them said, we know that ag needs to be at the table. We know it. We're not looking to turn our backs on this. We're not looking to abdicate our responsibility. We're just saying, we need to get LB689 passed, we need to get the checkoff dollars removed so that there is an incentive and a little bit of a trust, as Senator Langemeier mentioned, you know. I'm not willing to give you something else if this is still on the table. You know, I can't afford it. So I think if we can get LB689 passed...I don't think, I know, we'll get these people. Even those who came in, in opposition were only in opposition because they're afraid that these, you know, that we won't find replacement dollars. But they understood that using the checkoff dollars probably wasn't the best use of money for that. So, you know, I just can't stress enough with my colleagues the importance of this bill and the recognition on the part of agriculture to be at the table, to be a part of the solution, because it's not something abstract to us. It's very real. [LB689]

SENATOR CARLSON: Time. [LB689]

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SENATOR DUBAS: Thank you. [LB689]

SENATOR CARLSON: Thank you, Senator Dubas. Mr. Clerk, items for the record? [LB689]

CLERK: Mr. President, Revenue Committee, chaired by Senator Cornett, reports LB918 to General File with amendments; LB1018, General File with amendments; LB1081, General File with amendments. Senator Nelson offers proposed rules change. Name adds: Senator Sullivan to LB689; Senator Council to LB938. (Legislative Journal pages 603-609.) [LB918 LB1018 LB1081 LB689 LB938]

And a priority motion: Senator Dubas would move to adjourn the body until Tuesday, February 23, at 9:00 a.m.

SENATOR CARLSON: Thank you, Mr. Clerk. You have heard the motion. All in favor say aye. Opposed, the same. Motion carried. We are adjourned.