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Floor Debate  
March 30, 2011

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SENATOR GLOOR PRESIDING

SENATOR GLOOR: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-fifth day of the One Hundred Second Legislature, First Session. Our chaplain for today is Senator Harms. Please rise.

SENATOR HARMS: (Prayer offered.)

SENATOR GLOOR: Thank you, Senator Harms. I call to order the fifty-fifth day of the One Hundred Second Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

ASSISTANT CLERK: There's a quorum present this morning, Mr. President.

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

ASSISTANT CLERK: Mr. President, there is one correction. (Read correction, Legislative Journal page 1005.)

SENATOR GLOOR: Thank you. And are there any messages, reports, or announcement?

ASSISTANT CLERK: Your Committee on Enrollment and Review reports LB558, LB512, LB337, and LB628, all to Select File, some with E&R amendments. And a series of appointment letters regarding various gubernatorial appointments, Mr. President. (Legislative Journal pages 1005-1016.) [LB558 LB512 LB337 LB628]

SENATOR GLOOR: Thank you, Mr. Clerk. We'll now move to the first agenda item, committee priority bills. Mr. Clerk.

ASSISTANT CLERK: Mr. President, first bill this morning, LB305 introduced by Senator Larson. (Read title.) Bill was read for the first time on January 12 of this year, was referred to the Committee on Agriculture. That committee placed the bill on General File with no committee amendments. [LB305]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Larson, you're recognized to open on LB305. [LB305]

SENATOR LARSON: Thank you, Mr. President and members. I'd, first of all, like to start

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out with a thank you to my predecessor, Senator Dierks, who worked very hard on this issue, and I really appreciated when I was...before I got here, while I was working on it, and it's been my pleasure to continue on working on this issue that Senator Dierks worked so diligently on for a number of years, and I hope we can finally get something going on it. Today I'm introducing LB305, which allows the Department of Agriculture to begin the process of developing a state meat and poultry inspection agency. Currently, 27 states have a state meat and poultry inspection agency, including five of our neighbor states. Nebraska's lack of a state meat inspection agency puts our rural agricultural producers at an extreme disadvantage compared to their counterparts in neighboring states. It is for this reason that the state meat and poultry inspection agency is crucial to Nebraska's agriculture community. Many producers are continually finding it more and more difficult to find facilities where they can get their products inspected in order to market their products to the general public. A state program will benefit producers in niche markets to sell individual cuts of meats to consumers. Producers of grass-fed beef, bison, meat goats, ostrich, and elk could all potentially benefit from meat processing facilities having more inspection options. With the 2008 Farm Bill, state-inspected meat will now be able to be transported across state lines, providing new marketing opportunities for these producers. LB305 is the first step to opening access to these rural and small producers. Because of the creation of a state meat inspection agency, we'll put more inspectors in Nebraska to ensure the health of small farming and ranching operations across the state. One important benefit of the state program is that other states who have meat inspection agencies report that state inspectors are more accessible to processing facilities than USDA inspectors. Better access to inspectors will lead to jobs and communities with processing facilities, increase profits for agricultural producers, and added economic growth for rural communities. A state meat inspection agency under federal law will be able to inspect all types of meat and will comply with all appropriate federal regulations that will require state meat inspection to be at least equal to USDA inspection. Quality and safety standards under state meat inspection will mirror federal standards. LB305 allows the Department of Agriculture to hire a state administrator--excuse me, the original LB305 does but the new amendment changes that--a detail needed to meet federal inspection regulations. Another reason LB305 is important in Nebraska is that it may pave the way to reopening a horse processing facility in our state. LB305 is a first step to a solution for horse owners and others who are concerned with the increasing number of unwanted horses. The last three horse processing facilities in the U.S. closed in 2007, after Congress eliminated an appropriation for federal inspection of horse meat. Since that time, the number of unwanted and abandoned horses has grown tremendously. Some horses are still being processed, but these horses have been shipped to Canada or Mexico. Horse owners face high feed costs, high costs of "euthanization" as well as drastically reduced prices in horses, and, therefore, we do not have a practical solution to deal with horses that are no longer able to work. Horse processing would put money back in the ranchers' pockets by offering them another option. I believe that this is an extremely important bill and that we look at the future of agriculture in Nebraska, and I

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believe LB305 is a first step to all of that. Thank you. [LB305]

SENATOR GLOOR: Thank you, Senator Larson. Mr. Clerk. [LB305]

ASSISTANT CLERK: Mr. President, Senator Larson would move to amend the bill with AM1039. (Legislative Journal page 1002.) [LB305]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Larson, you're recognized to open on your amendment. [LB305]

SENATOR LARSON: Thank you, Mr. President and members. AM1039 makes some changes to LB305. The amendment eliminates the first two paragraphs of Section 3 in the original bill, which is the directive for the Department of Agriculture to implement the state meat and poultry inspection agency and allows them to hire an administrator for the program. The department will still produce the report on the implementation of the program by November 15 of this year, but it kind of leaves them...leaves the door open for them a little more and it helps reduce the cost of the bill. The amendment also strikes Sections 2 and 4 in the original bill. The amendment also changes the funding of...or, as I mentioned, changes the funding of the program and the creation of a separate cash fund to administer the program. The Department of Agriculture estimates that this report that they'll be doing on the feasibility of a state meat inspection agency will cost about \$25,000 to complete, which is substantially lower than the \$200,000 that the bill originally had planned. Language in the amendment also allows for some funding to be available for USDA "Market News" and reporting program. The \$24,000 that has been allocated from the General Fund and for the reporting program is not contained in this year's Appropriations or Governor's budget, so this is great for agriculture as well. It's pretty straightforward. Willing to take questions on it but just trying to clean it up and make sure we have the finances of LB305 straight. [LB305]

SENATOR GLOOR: Thank you, Senator Larson. Members, you've heard the opening on LB305 and AM1039. Members wishing to be heard are Carlson, Ken Haar, Karpisek, Christensen, Loudon, and Hansen. Senator Carlson, you are recognized. [LB305]

SENATOR CARLSON: Mr. President, members of the Legislature, I certainly rise in support of LB305 and the underlying amendment, AM1039. I'm going to talk about some things this morning and I want to make it clear that some of you may be listening and can arrive some value in the educational things that we're going to be talking about. I don't want anyone to think that I'm lecturing to you this morning, and I may get emotional in some of the things that I talk about. It's because how deeply I feel on these issues. Why are we here this morning? Why do we have LB305? Why is this an important issue? The circumstance that we're in is the result of the influence of the Humane Society of the United States, and I agree with Senator Larson that it requires action. Now I also want to make it clear that I'm not intending to mix other humane

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groups in with the Humane Society of the United States. In Nebraska, we have the Nebraska Humane Society. There's the Capital Humane Society. There's the Central Nebraska Humane Society. There's the Humane Society of Richardson County. There's the McCook Humane Society, Beatrice Humane Society, Dodge County Humane Society. There may be others in the state of Nebraska. We have no issue with these groups. We can work with the humane societies in Nebraska. They are not the Humane Society of the United States. HSUS, is how I will refer to them from now on, is an organization that is deceptive, misleading, in my opinion, unethical, overreaching, unscrupulous, underhanded, unprincipled, shameless, and ruthless. I hope a good number of people are watching and listening to this discussion this morning across the state of Nebraska. Now I'm convinced that many people in Nebraska give money to HSUS in good faith that their contributions will be used to rescue abused and mistreated dogs and cats. They don't realize that 97 to 99 percent of their dollars go to the Humane Society of the United States' political propaganda and in the accounts of their executive personnel. I think if these good folks in Nebraska really understood how HSUS operates, they would no longer contribute to that organization. I wish people in Nebraska would contribute to their local humane and rescue and shelter groups and not to HSUS. I also wish that local humane groups would take the name "humane" out of their name and use terms like "rescue" and "shelter." This would help eliminate confusion. The money given to local groups... [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR CARLSON: ...would go toward rescue, shelter, and adoption efforts, not for dangerous political poison. Humane Society of the United States likes to take pictures of abused animals and use these in their ads. They want people to see these pictures, to generalize and conclude that all livestock are mistreated and, therefore, livestock operations must all be changed with mandated legislation. In their opinion, all livestock people are bad actors. This is an introduction into what I want to talk about a little bit this morning and I'll add more at a later time. Thank you. [LB305]

SENATOR GLOOR: Thank you, Senator Carlson. (Doctor of the day introduced.) Senator Ken Haar, you are recognized. [LB305]

SENATOR HAAR: Mr. President, members of the body, I have some questions for Senator Larson, but I would give up this time slot to Senator Christensen...I'm sorry, to Senator Carlson if he'd like to continue. [LB305]

SENATOR GLOOR: Senator Carlson, you have 4 minutes and 44 seconds. [LB305]

SENATOR CARLSON: Thank you, Mr. President. Thank you, Senator Haar. Sometimes for HSUS, in order to make their case, they or with the help of like-minded organizations plant employees in reputable livestock operations. These employees look authentic, but

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they're paid to take pictures of anything that looks questionable in the handling of livestock. They may already have employees planted in Nebraska operations. In other states, if these employees can't find anything questionable, they'll stage an event and take pictures. This happened in Ohio. It was a despicable staging that can't even be shared on this floor. The pictures taken were used in their campaign as an example of how that particular feedlot operates. This practice of staging events, in my mind, is beyond comprehension. We don't operate like that in Nebraska. We are way above HSUS in our morals, in our practices, in our caring of livestock. They are a dangerous outside group. We don't need them in Nebraska, we don't want them in Nebraska, we won't tolerate them in Nebraska, we will defeat them in Nebraska. Then we'll tell the nation how they operate and how to defeat them. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Carlson. Senator Karpisek, you are recognized. [LB305]

SENATOR KARPISEK: Thank you, Mr. President. Good morning, Legislature and Nebraska. First of all, I cannot agree more with Senator Carlson and I thank him for his comments, and he has been a great Chair on this issue of the HSUS. I do want to reiterate that local humane societies are not the HSUS. Want to make sure that we do not lump them together. We've seen the great things that they do at the local level. Again, I cannot agree with him more on HSUS. I also want to say that I was the only...the no vote out of committee on LB305 and I will tell you a few reasons why today, will take a little while, and maybe Senator Carlson said he isn't lecturing, I don't mean to lecture but maybe I want to try to share a little bit of my knowledge on this subject. I am not an advocate against horse slaughter. Let me make that perfectly clear. That had nothing to do with why I did not vote LB305 out of committee. In fact, LB305, the only reason that I would have supported it would be for the reason of horse slaughter. Senator Larson's AM1039 is a very good amendment to work toward the money side and the study of this issue, and I appreciate his work on this. I will say I grew up in a meat market. I owned one for 20 years. And Senator Larson probably knows just as much about this issue as I do and I appreciate that he has been very knowledgeable and very up-front on his bill. We do disagree on a little bit of how all this will work and that's fine. I do not come out here to try to kill this bill, to try to do it any harm. If the body wants to pass it, they pass it. But I want to try to say why I don't think this is probably the right time. The idea of this bill I would have to say I had about eight years ago before I ever got here. As a member of the Nebraska Association of Meat Processors and later as its president, other members convinced me why Nebraska does not need a state meat inspection. There are three different types of meat facilities in the state or in the U.S. There's the USDA full inspection. We have quite a few in the state. I can't tell you right now. It is less than 20 I would suspect of the smaller ones. We have the bigger ones, the Smithfields, Omaha Beef, those sort of people, Excel. These I'm talking about would be the smaller people who bring cattle in or hogs, butcher them, and they can sell that meat for resale through their counter to you or I. There is also a USDA

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custom exempt, where if you're a farmer or a rancher you bring your animal in to them, they butcher it, cut it up how you would like, freezer wrap it or vacuum pack it, and give it back to you and to you only, hence custom exempt. The state of Nebraska also has the Bureau of Foods and Dairies, and I know Lancaster County, and I'm not sure about the Omaha counties, have their own inspection. [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR KARPISEK: Those are the inspectors who inspect bars, restaurants. My meat market was inspected under that because I did not...I could not sell for resale other than through my counter. My problem with the bill is that right now if someone wanted to open a meat market or a slaughter facility, they could do so under a USDA full inspection or custom exemption. I don't feel that we need state inspection. Right now, we can still only ship, if you are state inspected, you could only ship intrastate, within state lines, and they're working on that at the federal level. We'll talk about that later. USDA you can ship interstate, outside the state all over the U.S. and probably all over the world. We are not there yet and we will get back to that later. [LB305]

SENATOR GLOOR: Time, Senator. [LB305]

SENATOR KARPISEK: Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Karpisek. Mr. Clerk. [LB305]

ASSISTANT CLERK: Mr. President, an announcement that Government, Military and Veterans Affairs Committee will hold an Executive Session at 9:30 in Room 2022.

SENATOR GLOOR: Thank you, Mr. Clerk. Senators wishing to be recognized are Christensen, Loudon, Hansen, Wallman, Dubas, Schilz, Larson, and others. Senator Christensen, you're recognized. [LB305]

SENATOR CHRISTENSEN: Thank you, Mr. President. I'd just like to thank Senator Larson for bringing this bill. I worked with his predecessor, Senator Dierks, several times trying to get some horse slaughter plants on reservations, different things this way. We searched for answers for this and didn't come up with it, and I appreciate the idea and the thought that Senator Larson has brought here. I'd like to ask if Senator Larson would yield to a question. [LB305]

SENATOR GLOOR: Senator Larson, would you yield for a question? [LB305]

SENATOR LARSON: Yes. [LB305]

SENATOR CHRISTENSEN: Senator Larson, I've had several e-mails from local

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butchers, that cut up meat like for me to have my own beef at home or they'll have a small retail out of that same business, that are concerned that this could...that this bill would allow the state to, if they choose, put a fee on him or it may be automatically now forcing him to raise his prices. Can you address that, please? [LB305]

SENATOR LARSON: No, this...they would have to choose to be part of the state meat inspection program before they would...the state of Nebraska would add anything more on in terms of regulations. If they're custom exempt now then they could stay custom exempt if they so choose. If they're...those that are USDA inspected currently could choose to stay USDA or move to the state meat inspection program. So I don't...I don't think there would be any extra raising of fees if he's custom exempt and wishes to stay custom exempt. If he wishes to move into the state meat inspection program then, you know, he would have to, you know, meet the guidelines that we lay out to meet USDA, you know, equal to or lesser...or equal to or greater than USDA standards. So as long as he stays custom exempt, he won't have to worry about the state meat inspection program. [LB305]

SENATOR CHRISTENSEN: Thank you. And if you'd like my time, I'll yield it to you. [LB305]

SENATOR GLOOR: Two minutes and fifty seconds, Senator Larson. [LB305]

SENATOR LARSON: Thank you, Senator Christensen. And I, you know, when I brought this bill and growing up on a horse ranch I understand the issue and, yes, the issue can get emotional for a lot of people, whether it's me or people that disagree with horse processing, but we have to continue to remember this bill is more than just about horse processing. It really is about a state meat inspection agency and the economic development that it can bring the communities, whether, as I mentioned in my opening, whether it's elk or ostrich or bison or grass-fed cattle. This is a market that Nebraska isn't utilizing, a state meat inspection agency. Five of our neighboring states have them and we're at a competitive disadvantage. We have to...we talk a lot about in this Chamber about economic development and moving forward and how do we get economic development in rural Nebraska. Well, this is something that could bring economic development in the future and we have to continue to look towards that. I think LB305 is a great step for all animals, whether it be the elk, the bison, the horses. And, you know, I appreciate the discussion today and hopefully that we can continue to move forward on this. [LB305]

SENATOR GLOOR: Thank you, Senator Larson. Senator Louden, you are recognized. [LB305]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. As I listen to the discussion, I certainly would agree with Senator Carlson on his description on some

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of the people that have been against some of these slaughtering facilities and mostly the slaughtering of horses, but as I point out, this bill, there isn't a thing in this bill that says anything about slaughtering horses. This is we're talking about a meat inspection program for the state of Nebraska and this is what we don't have. And I think Senator Karpisek said a few years ago they decided against it, and this bill, something similar to this was introduced for state meat inspectors when now Senator Johanns was Governor, and he vetoed the bill because we had federal meat inspectors. Well, over the years a lot of those packing houses, we lost a packing house in Gordon that had a federal meat inspector. I think we had a federal meat inspector down there around Bayard and also we had a slaughterhouse in Gering that was processing cows and those have closed out. Now that those have closed, we don't have those federal inspectors out there anymore that used to go to these smaller, what would you say, custom slaughter shops that would slaughter usually cattle or hogs or sheep or whatever and be able to have that federally inspected so that you could actually sell that meat. That used to be, oh, about 15 or 20 years ago, when I was taking cattle to a feedlot, people would go in there and you could actually cut one out and take it and sell it to somebody, have it slaughtered and sell the meat because it was federally inspected. We've lost all of that. That's a value-added product that we aren't able to utilize anymore. And by having this state inspection system like in Senator Larson's bill here is something that I think moves forward. It gives us a chance to value add to the products that we grow in Nebraska, which is meat and poultry. It isn't just everybody takes it up as a horse slaughter bill. It isn't necessarily that. It's all kinds of livestock, can be ostrich. That's what happened to the ostrich industry, was because we didn't have a good place to slaughter the meat and able to get it federally inspected and process it and send it on. And now you don't see any ostriches whatsoever grown in Nebraska, but at one time there was a lot of them in the state. Some of your sheep industry, right now we're getting into a goat industry around. There's a lot of goats being sold and that's a new industry coming on. And as I've pointed out to some of these cattlemen and I think Senator Hansen might know that also, that it could be in another 10 or 15 years a lot of these cattle ranchers will be raising some goats on the sideline. There's quite a market for goats. At the present time, there's Fort Collins out there has a big sale every week of goats. So we have to look forwards on what we need to do here and we come up with a bill like this to be a way of increasing our products that we can be sold in Nebraska and value add to our agriculture products. And I need to point out that probably what will bring Nebraska out of their revenue problems is going to be the ag community, because that's where the money is nowadays. That's where the money always has been. That's what saved Nebraska going into this recession and this is what's going to bring Nebraska out of it now. If any of you followed some of the commodity markets here lately, the price of corn is one thing but just take a look at the price of what fat cattle futures are and feeder cattle futures are. They're all-time highs. I'm not saying that they're high enough. I would say we probably need all we can get because the input is higher than it was. But this is a bill here that we can use to value add to our products and I certainly thank... [LB305]

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SENATOR GLOOR: One minute. [LB305]

SENATOR LOUDEN: ...Senator Tyson (sic) for bringing it forwards and I support the bill. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Louden. Senator Hansen, you are recognized. [LB305]

SENATOR HANSEN: Thank you, Mr. President, members of the Legislature. I, too, would like to rise and thank Senator Larson for bringing this bill and his predecessor, Senator Dierks. He and I worked on this, brainstorm, brainstorm, brainstorm, and then Senator Larson found out there was a connection to the 2000 Farm Bill and I think that that will really help. And I want to impress upon people that this is a process. This is a process that Senator Larson brought, LB305. Now it has to go through the Department of Ag and find out where we can get that inspection. Senator Karpisek said maybe federal inspection is coming back for some of these niche markets. It is a process and we need to be cognizant of that. At the same time, we get hammered from the outside of the industry, from the outside of the state with folks like HSUS. And I do want to come to this at a little bit different place than probably most of you. We have a ranching operation. We do most of our work on horseback. We have a couple four-wheelers but they're too dangerous to ride so we choose to ride horses, and we do that almost every day. And this time of year we're calving. We started calving the 1st of February and we will continue calving through May or the first part of May anyway. We use horses every day and we use horses every night too. We have to have a tame horse for the nighttime, one that we can either ground tie or get one that will, you know, we can tie to a fence and hopefully will stay there until we get done checking the cows. But we do use horses every day. Horses go lame, horses get old and what do you do with those horses? I had a constituent e-mail me a very concise story about, you know, what are our options now. And it's not easy, number one, to take a horse to a processing plant. It's not a good day. It just about ruins your day to do that, but that is a humane way to take care of a horse. It's not a humane day...I guess it's a humane way but it's not a humane day, it's not a good day, when you have to actually shoot a horse that is so lame that you couldn't get into a vehicle to take them to a processing plant. Horses are very important to my industry and they continue to be. I used to ask people if they knew the difference between a horse and a four-wheeler because four-wheelers are becoming so popular now, and they say, well, no, what is the difference between a horse and a four-wheeler, and in the good old days we would say, well, that four-wheeler will never be in the food chain. Well, now that's what we want to do with this bill, not only horses though. Senator Tyson (sic) included all the niche markets. I would love to sell hamburger from bulls that don't meet our standards. I'd love to...well, I'm not going to go that far. Senator Louden indicated that I might know something about goats and I don't. I don't know anything about goats other than I know pot loads of

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goats go into the Lexington market fairly regular and bring over \$1 a pound live, on the hoof, on the little goat hoof. So I know goats are becoming more and more popular too. That's just one thing we need to look at. But elk, and we have neighbors that raise domestic elk. We had someone trying to raise emus and the emus got out and we I guess pastured an emu one summer but...not that I'm going to raise them but we do need these niche markets. And the process has been started with LB305, the funding source, the inspection, whether it be state or federal inspection, but we...I believe in this process that we've started and I think it's a great start. [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR HANSEN: And again, I rise to thank Senator Larson for doing this. I want to come back to the mike a little bit when I have a little more time and talk about some of the HSUS issues, too, and to bolster up what Senator Carlson started this morning. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Hansen. Senator Wallman, you are recognized. [LB305]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. Since I've grown up, the countryside has changed dramatically--more horses, more goats, more sheep. It looks kind of nice out there. And this bill is not just about horses. And if you go to Palmyra sale barn out here, you'll see chickens, you'll see goats, you'll see sheep, you'll see all kinds of animals. It's an interesting place to go. And also in Senator Karpisek's district, Saline Center, they bring about anything over there and all different kinds of animals. So this is economic development for all kinds of animals, whether you like goats. I don't particularly like goat meat or sheep meat. I've had them both, not my favorite. Beef or pork does fine with me. But so I appreciate Senator Larson bringing this forth and if Senator Carlson wants more of my time, I would yield to him. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Senator Larson, 4 minutes. Senator Larson waives. Chair recognizes Senator Dubas. [LB305]

SENATOR DUBAS: Thank you very much, Mr. President. Good morning, colleagues. I rise in support of the bill and especially the underlying...the amendment. I think the amendment really does take a little bit of that step back and really gives us the opportunity to look at this issue more in depth, and if we're going to move forward, which I do hope we move forward with a project such as this, that we do it in a very thoughtful manner. I think it's very important to the state of Nebraska that we put something like this in place. I think in rural Nebraska especially it will serve those of us out in the rural parts of the state very well. But I would have a few questions, if Senator Larson would yield, please. [LB305]

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SENATOR GLOOR: Senator Larson, would you yield to questions from Senator Dubas? [LB305]

SENATOR LARSON: Yes, I will. [LB305]

SENATOR DUBAS: Thank you, Senator Larson, and again thank you for bringing this bill and this amendment forward. Have we lost a lot of federal meat inspectors in the state of Nebraska? I think Senator Louden kind of alluded to that, but do you know specifically? [LB305]

SENATOR LARSON: I don't know the specific numbers on how many former plants have closed because of the inability to get USDA inspectors, but my office would be happy to find that information for you. [LB305]

SENATOR DUBAS: I think that would be a point that we could bring to the body to reinforce why this bill is particularly important. For a small processor, if they decided they wanted to go this route of state meat inspection, is there...I mean if they wanted to go USDA or if they wanted to go state, what would be the advantage for them to going the state inspection route? [LB305]

SENATOR LARSON: Well, talking to other states and, you know, and other small processors in other states, a lot of people feel that the state meat inspection is a lot more accessible than the feds and they're easier to work with. And you know we all know and love bureaucracy that we ourselves create, but it just...it really is a matter of an ease of doing business and an accessibility issue, and I think that's one of the big reasons that the people choose to go state over federal. They don't have to deal with so much red tape. And as I said or I'll allude later to the 2008 Farm Bill and how that allows...is really encouraging people more to move towards the...or, you know, a lot of smaller people to move towards the state. But I can talk about that on my own time. [LB305]

SENATOR DUBAS: I appreciate that answer and I was pretty certain that's the answer you were going to give me so I'm glad that you did and I think that, you know, we like to talk a lot on the floor about local control. Well, I think state control versus federal, and those state inspected facilities are going to be equal to if not better than a federal facility and so we are assured of the safety and all of those other things. So as far as cost to a local processor, would there be...would it be pretty much an equal cost of having a federal inspector versus a state inspector, but the advantage would be what you just stated, having more of that local, easier access. I mean it's not necessarily a less-expensive way to go. It's just that access. [LB305]

SENATOR LARSON: Yeah. I mean there...I wouldn't say that it would be less

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expensive, but I think that the idea of access is a big plus to moving to that. The federal guys, I mean we have to be equal to or greater than the federal guys, so whether it is more costly, I wouldn't say so by any means. I think there does...there is that just bureaucracy, red tape, and more access, friendlier people to work with, and that's a big advantage for especially small and local processors that aren't used to dealing with those types of people. [LB305]

SENATOR DUBAS: I think that is just a point so well taken and one that really needs to be reinforced. I know there are a lot of local processors out there who have great ideas and who would like to get more involved with niche marketing and just because for this reason are not able to. The more ways we can find for farmers... [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR DUBAS: ...and ranchers--thank you, Mr. President--to add value to their product, you know, as Senator Hansen and Loudon have said, cattle prices are at all-time highs right now, but they certainly aren't going to stay there. We are very appreciative of those highs. It's fun to be in the market right now, but when that market isn't where it's at, if we have ways, number one, to make a connection with consumers with a great tasting, high quality product, that helps us spread the word about how farming and ranching really does exist in our state. Number two, it gives that farmer and rancher that ability to add value to their product. It's just a win-win situation all the way around. So again, I support the bill and the amendment and I hope through the amendment we're going to be able to take the steps forward to making this type of a program a reality. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Dubas. Senator Schilz, you are recognized. [LB305]

SENATOR SCHILZ: Thank you, Mr. President. Members of the body, good morning. I'm excited today. I think that as we talk about opportunities in rural Nebraska, something like a state meat inspection program makes for huge opportunities for our communities, for our producers, for our economies around the state. I want to bring you a few numbers. This is Nebraska's rankings in agriculture: number one in red meat production; number two in cattle on feed; number three in corn for grain, all cattle and calves; number four in cash receipts from all livestock; and sixth, all hogs and pigs on farms; and tenth in table egg layers. Folks, Nebraska is an agricultural state. Nebraska has to move forward on rural economic development that uses what we have to give us opportunities. A state meat inspection will do that. I absolutely agree with Senator Carlson that we've got challenges out there from folks that don't have our best interests, to be kind, at the heart of what they're doing. We need to be ready for that. We need to strengthen our rural economies. We need to make sure that the people that are doing this work are building their communities up and providing the economic development

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that they need to stay strong and to keep agriculture at the center of what we're doing. One of the ways, one of the ways that we can do this, and this is basically moving into a new age of food production and food marketing, it's all about supply chain management. And with a new state meat inspection and starting from basically what you're going to give people the opportunity to do is build these programs and these plants from the beginning and take into advantage the opportunity to follow and provide information that is important to the consumer to derive value and put money back into the pockets of the producers and our rural communities. And this could be done and there are people out there every day, every day that want to pay for information. I've said for a long time that if you're a cattle producer, and I've fed cattle my whole life before I came to do this, in this day and age your most valuable asset is the information that you hold on what you've done with those cattle throughout their lives and it can apply to all livestock. It can apply to all sorts of produce and everything. And what that does, what that does is it gives producers power. It gives these facilities, the processing facilities the opportunity to partner up, use the niche markets, like Senator Dubas has said. She's worked hard on locally grown opportunities for folks. It fits right in with this, guys. This is the future of agriculture. This is the future of food marketing. And if we're smart, we'll use this state meat inspection to step aboard that train and leave everybody else in the dust. And to me, guys, folks, members of this body, that's an exciting opportunity. It's raising goose bumps on my arms right now. So with that, I want to commend Senator Larson for bringing the bill. I want to commend Senator Carlson... [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR SCHILZ: ...for his stance in promotion of agriculture, in defense of agriculture. And I want to thank the body when we get up there and we see a board full of green lights to move this state forward where we need to be. Thank you very much. [LB305]

SENATOR GLOOR: Thank you, Senator Schilz. Senators wishing to speak: Larson, Carlson, Ken Haar, Karpisek, Bloomfield, Conrad, and others. Senator Larson, you're recognized. [LB305]

SENATOR LARSON: Thank you, Mr. President, members of the body. I just wanted to address a few things and I'd like to thank my colleagues for the debate that's going on so far and the realization on how important a state meat inspection agency is to the state of Nebraska in economic development. I wanted to highlight a few things that have been alluded to. Yes, ten years ago there was a pilot program for a state meat inspection agency to be created within the state of Nebraska. That was vetoed by Governor Johanns but at that time state meat...state inspected meat cannot travel across state lines. And as I've said and has also been alluded to, the '08 Farm Bill does change that and the USDA are drawing up the rules and regs, and that will be a reality. So the reason that Governor Johanns vetoed it ten years ago has...we've addressed

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that or the feds have actually addressed that concern and it does bring an exciting opportunity for rural communities and the state of Nebraska in terms of food production. I wanted to talk a little bit real quick about the economic development that other states have seen through a state meat inspection agency, and I know members of the body have questions on whether or not this is going to be feasible or not and will we actually have any state inspected meat processors or is nobody going to be interested. And I mentioned that five of our neighboring states have a state meat inspection program. It is feasible in five other states. Why would it not be feasible here? Iowa has 38 state meat inspected small processors, 38. What does that do for small and local communities? It does a lot. Minnesota, in 1999, when they moved to a state meat inspection agency. In 1999 they only they only had one. They started a state meat inspection agency with one facility. Today they have 20. You know, Nebraska has this opportunity and right now we're falling behind, and if we don't step up soon we're going to continue to fall behind our neighbors. I think it is our duty as members...or elected officials and members of the Legislature to look to the future and decide what is good policy, and being such an agricultural heavy state we have to especially look at what's good for agriculture, what's good for the farmers, what's good for the ranchers. And LB305 is good for farmers and ranchers. It opens up the markets. It does increase food production and new ways to market food. I think that we have to continue to look towards the future and I know that's why I got involved in politics and I think this is a great bill for me to carry my first time because it does look so far ahead and to the economic development in the state. And I'd appreciate everybody's support. Thank you. [LB305]

SENATOR GLOOR: Thank you, Senator Larson. Senator Carlson, you're recognized. [LB305]

SENATOR CARLSON: Thank you, Mr. President and members of the Legislature. The Humane Society of the United States has some companion groups that they work closely with. One of them is PETA, People for the Ethical Treatment of Animals. Another is ASPCA, the American Society for the Prevention of Cruelty to Animals. But HSUS is the group primarily responsible for the sad, sad situation of abandoned horses in the United States. Horse processing was last allowed in the United States in 2007 when there was still federal funded meat inspection. The stoppage of horse processing didn't stop horses from getting old and sick and dying, and there are an estimated 100,000 horses each year that are now unwanted. So since January of 2008, that would indicate approximately 350,000 horses that are unwanted. The horse refuges are woefully inadequate to take care of these horses. HSUS doesn't want horses killed and HSUS has a lot of money that I think is obtained under false pretenses. HSUS takes no responsibility for the care of these abandoned horses. They arguably have millions and millions of dollars, but they will spend nothing on horse rescue and very, very little on animal rescue. Thus, they create a mandate for the states. They're largely responsible for the federal government refusing to allow USDA inspectors to inspect horse processing facilities. The result of this irresponsible behavior is a waste of a wonderful

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natural resource that could feed a lot of people in countries around the world. So we have abandoned horses. We have starving horses. We have the need to haul horses to Mexico and Canada for disposal. Therefore, we don't have a market for older horses. We have a disgraceful situation that could be remedied but there will be no help from the Humane Society of the United States. There will be no help from the sister organizations. We don't need a Nebraska and we don't want an outside group interrupting our system and way of life. Outside groups like the Humane Society of the United States don't share our values. They don't really care about our way of life. They don't care about the damage they do. They don't want to see us prosper. They don't like us. They'd like to destroy agriculture, destroy livestock production, change how we do things with no regard for consequences, stop the consumption of meat, make us all vegetarians. LB305 is a good bill and it sends a message to groups like the Humane Society of the United States. [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR CARLSON: It tells them that they aren't welcome here, that they won't be successful here, and that they will be defeated. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Carlson. Chair recognizes Senator Ken Haar. Senator Haar. [LB305]

SENATOR HAAR: Mr. President, members of the body, this is an emotional issue and I've got constituents on both sides. So, Senator Larson, if you'd be willing to answer some questions for me. Okay. First of all, and as you know, when people are talking about this it usually comes down to... [LB305]

SENATOR PRICE PRESIDING

SENATOR PRICE: Senator Larson, will you yield? [LB305]

SENATOR LARSON: Yes, I will. [LB305]

SENATOR HAAR: Oh, I'm sorry. It comes down to talking about horses so that it authorizes horse slaughter and horse meat processing. Is there a market for horse meat? [LB305]

SENATOR LARSON: Yes, very much so, there is a market for horse meat. It's considered a delicacy in Asia and Europe. Between 2000 and 2006 the United States exported over \$300 million worth of horse meat outside of the country. We are at zero now. [LB305]

SENATOR HAAR: Okay. And what are the procedures in place that will make sure that

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the horse meat is safe for consumption? [LB305]

SENATOR LARSON: Excellent question, thank you, Senator Haar. The same procedures that are in place to make sure that beef is safe for human consumption. A lot of people try to use the argument that, you know, horses are fed medicines that aren't safe for human consumption or right on the bottle they say not for human consumption. Well, we give our cattle those same medications. And the same processes are in place we give all our animals, that we continually...very similar if not the same medications. So that argument I think is blown out of proportion. [LB305]

SENATOR HAAR: Okay. Is it legal to actually consume horse meat in Nebraska or is right now the prohibition on slaughtering horses in Nebraska? [LB305]

SENATOR LARSON: Actually, there's no federal law or state law I know of that makes it illegal to consume horse meat and technically horse processing isn't illegal on the federal level. What the USDA or what the, as Senator Carlson has so eloquently put it, HSUS lobbied Congress in 2006 to cut off appropriations to USDA inspectors for the inspection of postmortem horses. So technically, it's not illegal. It's just that the USDA has chosen not to...Congress has chosen not to fund the inspectors. So nowhere is it illegal to eat horse meat or illegal to process them currently. [LB305]

SENATOR HAAR: Okay. Well, there are a couple places between my house and when I drive to Ceresco that you can buy elk and buffalo and all kinds of meat, but that would all be imported at this point, I take it. [LB305]

SENATOR LARSON: That would all...excuse me, what was your question? [LB305]

SENATOR HAAR: That there's a place that I drive by when I go from my home to Ceresco where they sell all different kinds of meat and I know for sure, I noticed elk on there and buffalo and so on, so at least some of that has to come in from other states. [LB305]

SENATOR LARSON: Yeah, I'm sure that, you know, it comes in from other states and whether it's alive or already processed, so... [LB305]

SENATOR HAAR: Okay. And then this is the big question, I guess. Why do we need a state meat inspection agency? And I know you've talked about that but would you talk about that again? [LB305]

SENATOR LARSON: Yeah. I think a lot of the body has talked about a state meat inspection agency and how crucial it is to economic development and how far we're falling behind not only states around the country but especially our neighboring states. When they're small... [LB305]

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SENATOR PRICE: One minute. [LB305]

SENATOR LARSON: ...and rural ag producers have an opportunity to process their animals and more niche market animals yet we don't, out ag producers fall behind. And that's the last thing we want in Nebraska. [LB305]

SENATOR HAAR: Okay. Well, I'll follow up with a few more questions on my next time on the mike. Thank you. [LB305]

SENATOR PRICE: Thank you, Senators Haar and Larson. Next in the queue is Senator Karpisek and you are recognized. [LB305]

SENATOR KARPISEK: Thank you, Mr. President. Members of the body, let me try to straighten a few things out that were getting off track. Senator Haar asked if that meat must have come from out of state. Absolutely that does not mean that it came from out of state. If it did come from out of state, if it was elk or buffalo or whatever it is, then it came from a USDA inspected plant. We have USDA inspected plants. Folks, we're spinning this baby, and I said I'm not going to get upset and I don't want to kill this bill, but stop the spin. We have USDA plants in this state that can slaughter. To be state meat inspected you have to be equal to or greater than federal inspection. What does equal to or greater than mean? I think we know that. I weight 215 pounds. If you weigh 216, you are greater than me. If you weigh 214, you are less than me. You have to be equal to or greater than. How do we know that? The federal inspectors will come in and inspect our inspectors. This is not a new idea. Senator Larson is right. They are...every state around us has it. But let's stick to the facts. Any USDA inspected plant can process buffalo, elk, ostrich, beef, pork. You name it, they can do it. Right now, the way the USDA is set up, if we started state meat inspection, these plants could not ship without the state of Nebraska's borders. Now they are working on that. It's in Congress and they are working on that. Will it come? It may. My point is let's not get the cart before the proverbial horse. We talked about USDA inspectors not being everywhere. I called Chuckwagon Meats out in Arthur, Nebraska. They are not USDA inspected but they are custom exempt. They have not heard of anyone not being able to get an inspector. They gave me another number to call and I will the next time I'm off the mike. I called Diller, Nebraska. They have not heard of anyone not being able to get a federal inspector. I will call more people when I'm off the mike. Please let's not say that that is true if we don't know that's true. If that is true, please tell me their names and numbers and I want to find that out. Now it may be tough, if these people are only under inspection one or two days a week, however, how would we fund that? How would we fund having one inspector out in Arthur, if that was the case, to do this? Senator Larson's idea is for a pay as you go, the people who would get cash funded. Thank you, I finally got the word. That's fine. Why, though, would they pay extra to slaughter beef or pork if the USDA will do it for free? Folks, that doesn't make sense. Am I going to pay

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whatever it's going to cost a year plus per head to have less inspection than I had before? I don't think so. Again, hey, it's not a horrible idea and I like the amendment, but I'm pretty sure I know what the state is... [LB305]

SENATOR GLOOR PRESIDING

SENATOR GLOOR: One minute. [LB305]

SENATOR KARPISEK: ...going to come back and say--not feasible. I could be wrong. I'm wrong a lot. The surrounding states have been in this a long time, folks. To say that this is just going to be so easy for someone to pop up and have a niche market or a boutique meat market, why aren't they doing it right now? They can. There is nothing saying that you can't do that. You can be USDA inspected. It is here. The next time I'm up, I'm going to run through a little scenario of how this would all work. Again, I don't mind the bill. I really like the amendment. Let's stick to the facts and let's not make this something that it's not. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Karpisek. (Visitors introduced.) Mr. Clerk, an announcement. [LB305]

ASSISTANT CLERK: Mr. President, the Judiciary Committee will hold an Executive Session in Room 2102 now.

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with floor debate, Senator Bloomfield, you are recognized. [LB305]

SENATOR BLOOMFIELD: Thank you, Mr. President. Members of the body, I stand in strong support of LB305 and AM1039. Most of what needs to be said here has already been said. I just want to point out and make anybody that is a little bit hesitant aware HSUS is not necessarily interested in what we do with horses. They are more concerned about what we do with beef, pork, and other ag products. And with that, I would yield my time to Senator Lathrop, if he would like to have it. [LB305]

SENATOR GLOOR: Senator Lathrop, you've been yielded 4 minutes and 15 seconds. [LB305]

SENATOR LATHROP: Thank you very much and thank you, Senator. I did...I think I'm next in the queue and I probably will not take advantage of that because I don't know that my remarks will go beyond the 4 minutes I've been provided. I did want to indicate my support for the bill and suggest to my colleagues that this state inspector has become an issue about horse meat, and that's unfortunate because I think it's a bigger issue than that. I will also say I'll give you a little perspective, and maybe some of you know this about me, I happen to own a horse. I kind of own one and somebody owes

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me some money for another one (laugh), which is how it works, and we're not talking about those kind of horses today but...so I got the perspective of a guy who has a saddle-bred horse that my daughter shows and my 16-year-old daughter loves that horse like crazy. They have a relationship that is like a pet. And I think a lot of us from the city look at horses and we romanticize that relationship or we view the relationship because we've seen Black Beauty and all those other shows and we think of the horse as a house pet. And in my time on the Ag Committee, I've come to appreciate that there is a different perspective in rural America, in the ag land that is part of the state of Nebraska, and that we must be careful as urban folks to not impose our romanticized view of this great animal on the ag community who sees it as a utility and sees it as inventory and that's not a bad thing. And I've also looked at this bill from the humane aspect of it and we can put these horses down or let them sit in a pasture and they become what we refer to in my world as a pasture ornament. They sit out there and eat grass and drink and they get old and they die and it's not a humane way to go. And this is really a nod to the reality of the circumstance of those out in greater Nebraska who have horses, who have cattle, who have elk and buffalo, and I hope my daughter didn't hear me say this (laugh) because she wouldn't be happy I'm standing here, but I'm going to tell you that I've learned a little bit from the Ag Committee and these are great animals we've had in this part of the country in particular, a great relationship with a horse, but it's important that those of us in urban Nebraska not impose our view of...the romanticized view and the relationship that my daughter might have with her horse upon those who raise these animals and need to move them through the inventory as they do with their cattle and so forth. So just a little perspective from somebody who owns a horse that will probably end up a pasture ornament someday... [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR LATHROP: ...and somebody who's been on the Ag Committee. I appreciate Senator Larson's work on this bill. I also appreciate the concerns of Senator Karpisek, who has a great deal of knowledge when it comes to this industry. And so I would encourage your support of LB305. Thank you. [LB305]

SENATOR GLOOR: Thank you, Senator Lathrop. Senator Conrad, you're recognized. [LB305]

SENATOR CONRAD: Thank you. Thank you, Mr. President. Good morning, colleagues. I've been listening to the debate intently and am indeed more of a student than anywhere near an expert, at least to the level that Senator Karpisek, Senator Larson and others are, and I just had a couple of questions about the pending amendment and I was hopeful that Senator Larson would yield to some questions. [LB305]

SENATOR GLOOR: Senator Larson, would you yield? [LB305]

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SENATOR LARSON: Yes. [LB305]

SENATOR CONRAD: Thank you, Senator. I see anticipated in the amendment that you have filed, which essentially removes the initial objectives of the bill and, instead, puts this into a study posture for the next year, that it will be funded with some existing cash funds. Is that right? [LB305]

SENATOR LARSON: Yes, we...it's the same cash fund that we were looking at in the underlying bill. It's the Commercial Feed Fund. [LB305]

SENATOR CONRAD: And if you would, if you know, what's the existing balance on that fund now? [LB305]

SENATOR LARSON: It is right around \$309,000, if my page is correct. [LB305]

SENATOR CONRAD: Okay. And have you had a chance to visit with the Fiscal Office or the Department of Agriculture about how that specific cash fund cash flows? [LB305]

SENATOR LARSON: Yes. [LB305]

SENATOR CONRAD: And is it your understanding that existing obligations of this cash fund will not be implicated if this additional expenditure of approximately \$25,000 is authorized? [LB305]

SENATOR LARSON: No. Yeah, well, yes, it will still be able to serve its function if we do authorize the \$25,000. [LB305]

SENATOR CONRAD: Okay. [LB305]

SENATOR LARSON: Is that what you're getting at? I'm sorry. [LB305]

SENATOR CONRAD: Yeah, that's exactly my question. [LB305]

SENATOR LARSON: Okay. [LB305]

SENATOR CONRAD: Thank you. And then a couple other questions I had about the pending amendment, I think a study is a good way to move forward on what has clearly become an emotional and controversial issue for many of our citizenry, but one thing that I don't see in the amendment that I think should be contemplated as part of the study would be potential litigation with the federal government if we do move forward on this topic and also a careful and close examination of the potential duplication issues in terms of initiating a state program and how that would either be separate and distinct or in direct competition and duplicative of the existing federal program. Would you be open

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to changing this amendment to specify the study should address those issues? [LB305]

SENATOR LARSON: You know, that's interesting. I'm sure the Department of Agriculture, within their study, because of how the amendment reads, will address the possible litigation side of it because they are...we're directing them to a feasibility study of what it would take and I guess that would include that, but I guess I wouldn't be opposed to it. I'm just not sure if it's completely necessary but I wouldn't be necessarily opposed at the same time. [LB305]

SENATOR CONRAD: Okay. And maybe that's something we can work on from General to Select. Because as I read the amendment in Section 2, basically this says the study will determine how to move forward in creating a state inspection program and I think there's still a big question about "if" that should be fairly addressed if we're expending state resources to go in this direction. And then finally, I was listening carefully to your dialogue with Senator Christensen about who would or wouldn't be exempt from additional licenses or fees or regulation and I guess that just was puzzling to me because I thought that the purpose of AM1039 was a study, so how could you conceivably know who's going to be exempt or who's going to be required to comply with those regulations. [LB305]

SENATOR LARSON: A good question. Actually, we were discussing a lot more... [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR LARSON: ...on the custom exempt side. And knowing from what other states and what custom exempt is compared to state and USDA inspected, custom exempt, as Senator Karpisek lined out, is a different set of...he'd actually be better to explain, but it's a different set of inspections. You know, we aren't covering the custom exempt people and that's what Senator Christensen was getting at so that's how I felt comfortable answering his questions at that time. [LB305]

SENATOR CONRAD: But fairly, those issues are yet to be determined through the course of the study and then later examination by this body. We really have no idea at this point in time, by the bill and pending amendment as proposed. Is that correct? [LB305]

SENATOR LARSON: I'd have to say with confidence that the custom exempt would still...would have nothing to do with this, with LB305. [LB305]

SENATOR CONRAD: Well, I guess that poses more questions for me than I had when I originally started, Senator Larson, and... [LB305]

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SENATOR GLOOR: Time, Senators. [LB305]

SENATOR CONRAD: I'm sorry? [LB305]

SENATOR GLOOR: Time. [LB305]

SENATOR CONRAD: Okay. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Conrad and Larson. Senators wishing to be heard: Hansen, Dubas, Pirsch, Ken Haar, Larson, Karpisek, and Conrad. Senator Hansen, you're recognized. [LB305]

SENATOR HANSEN: Thank you, Mr. President. I can't run like some of the other senators so I walked as fast as I could, but walking faster now than I used to. Senator Carlson started a discussion on some of the detractors from the meat industry in general. Senator Bloomfield mentioned it too, that maybe HSUS is not worried about horses but they're worried about all livestock. And if you question that, if you go to the HSUS Web site and go down to climate...statement on climate change, it's...I mean I can read from it and you can read from it too, but the production of animals for meat, eggs and milk is a major contributor to climate change, accounting for 18 percent of all greenhouse gases emissions, according to the United Nations food and agricultural organization. A share...that share of the greenhouse gas emission of the world's is greater than the whole entire transportation sector. I really would doubt that because at one time the United States had a domestic animal that was native to the United States and those were buffalo. There were millions and millions of buffalo so we've replaced them with cattle, we've replaced them with hogs and a more gentile group of animals to work with. This statement on climate change goes on to state that the annual production of more than 11 billion animals in the United States and more than 70 billion nationwide for meat, eggs, milk is simply not sustainable. I think it is sustainable, especially since we have a hungry world and we continue to have people starving to death, and animal agriculture is certainly a big part of Nebraska's economy and it's a big part of the world economy. It's a big part of the picture. And I just want to switch gears just a moment about the Humane Society of the United States has a literature called...and teachers can subscribe to this, "KIND News," and it sponsors...sponsored at the school through adopt-a-classroom program. And this is through the HSUS. And in April 2010 the junior edition of "KIND News" was pulled from the Lincoln Public School System because of its content. The front page showed a child wearing a gas mask and posed the question to 3rd and 4th graders: What if you had to wear a gas mask to play in your yard? This is not the things we need in Lincoln, Nebraska. Dr. Barbara Jacobson, Lincoln Public Schools director of curriculum, said no. She pulled it and I applaud her for doing that. We need to be rational in this discussion and rationalize the whole picture, the big picture. And all the niche markets, the horse processing plant, there was a huge one in North Platte operated up until 2007, the meat was exported. It was a \$300 million a year

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plant and employed a lot of people, so it was an economic hit when North Platte took that and that came from the federal government just because they said no interstate movement of horses for human consumption. There are people in the world that eat horse meat. If we have horses and we think it's a humane way to take care of them, then we need to be able to get that horse meat to people who would enjoy it because we need...still, I go back, this is a humane way to dispose of our animals that are not good enough to use... [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR HANSEN: ...on a daily basis like we do on our ranch. We used to raise horses and we would raise at least six colts to get one good horse, and I don't know if that's changed anymore. We quit doing that because we got tired of raising so many horses that we'd only get one good colt from. We started buying horses. Right now it's very hard to buy a ranch horse because people just aren't producing them. If the demand is not there, they won't produce them. So let's stay...like Senator Larson says, it's a process, let's work through that process. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Hansen. Senator Dubas, you're recognized. [LB305]

SENATOR DUBAS: Thank you, Mr. President. I'd like to pick up a little bit on some of the comments that have been made about those organizations that are coming into our state undermining and attacking ag and livestock producers. We are three to four generations removed from the farm and ranch right now. You know, in days gone by everybody's grandma or aunt or uncle lived on the farm if they didn't themselves. So by losing that connection we are losing that ability for people to understand just exactly how farms and ranches operate in our state. The best way for us to counter those organizations that want to paint farmers and ranchers with a broad brush and portray our practices in a negative light, especially those practices of family farmers and ranchers, is by making that direct connection with our consumers, by helping them understand how we raise our livestock, how we grow our crops, putting that grandma and grandpa back in the picture. And if can't actually be through a blood relative, then it's through those of us who have such a passion for the work that we do. No one else can tell our story better than we can. No one else can understand exactly what it takes to get, you know, a live calf on the ground, up and running, healthy and raised to go to market. No one else can understand what that means. I received a phone call from my little six-year-old granddaughter the other night. Mya called to tell me she had just talked with her papa and she called to tell me, Grandma, did you know that Papa has a baby calf in your kitchen? And I said, well, yeah, probably. I said, it's really cold outside and snowy and wet and that baby calf probably got really cold and wet, and in order for it to get so that it wouldn't die, Papa brought it in the house so he could get it all dried off and give it a bottle of milk and give it some strength so that it can go back to its mama so

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that it's mama can take care of it. But even my granddaughter, who has grandma on the farm, that was my opportunity to help her understand this is what we do, this is how we take care of our livelihood, this is how we take care of our livestock. Again, those are the stories that we have to get out to the general public who don't understand what it means for us and what it takes for us to protect that livestock. That's our livelihood. We are not going to do anything that puts those critters in any kind of jeopardy. And so again, it's just we're the ones that have to tell that story and we're the ones that have to make that connection with the consumer, and I think through this bill and the amendment, it gives us that opportunity to put that story together and to put it out to the public and to make that connection. I think, you know, by virtue of the fact that we're talking about this today, recognizes the challenges that we face in having access to the types of processing that we need to take advantage of those niche markets and that value added. I think Senator Karpisek has raised some very valid points and I'm hoping that through this study we're going to be able to recognize those points. If we have federal inspectors out there, would a state meat inspection program be a duplication? Do we have enough inspectors to go around? If we had more of these local processors who wanted to take advantage and have an inspector on site, you know, there are only certain days that you can process if you're relying on an inspector to be on site, so these things are very important questions. The whole issue is critical, again, to supporting the ag industry in our state and helping us put our message out there and make that connection... [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR DUBAS: ...with our consumers so that they understand that our interests, our financial interests are best served by the way we take care of our livestock and by the practices that we use on our farm. And so I appreciate this discussion and the opportunities to make these public and put them into the record. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Dubas. Chair recognizes Senator Pirsch. [LB305]

SENATOR PIRSCH: Members of the body, I want to thank Senator Larson for bringing this bill forward, LB305, and the other underlying amendment. As we have historically always been an agricultural state in terms of our economy and when you look at the role that beef cattle has played in our economy, it's the largest segments. We're talking about billions and billions and billions of dollars every year. And so I think that whatever we can do proactively to look at how do we take our strategic competitive advantage in relation to other states and make sure that this industry continues to flourish, I think that's a wise thing. And so bills like this really bring us towards that goal. To that end, I would yield the balance of my time to Senator Larson, should he want to make some more comments. [LB305]

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SENATOR GLOOR: Senator Larson, 3 minutes 50 seconds. [LB305]

SENATOR LARSON: Thank you, Mr. President and Senator Pirsch, for yielding me his time. I'll be real quick. I just wanted to say a few things as the debate continues to go. Senator Karpisek brought up the 2008 Farm Bill and I wanted to clear up one misconception real quick. It passed Congress. It's no longer in Congress. It's actually within USDA. And with my office's conversation with them, they are working with getting the rules and regs in place and they hope to have them there by June. So it's not so much a matter of maybe as it will happen very soon. And again, I mean the question has been raised, we already have USDA, why do we need this state meat inspection agency. You know, but we also have to look at, you know, Iowa had USDA inspectors too, Minnesota had USDA inspectors, South Dakota had USDA inspectors and they all went to a state meat inspection agency as well because they saw the economic benefits as well as the fact that they're just easier to work with than the USDA. I mean why do we want to continue to put ourselves at a competitive disadvantage when we have the opportunity to help our rural ag producers? Yes, we have USDA, but does that mean we shouldn't look for other opportunities? Does that mean we shouldn't give our small and local producers other opportunities? No. I think we have to continue to look, we have to continue to grow, we have to continue to grow agriculture in the state of Nebraska, and that's what a state meat inspection agency does. You know, this is a feasibility study that we want to work toward because we want to work towards this goal, and I think it's a very good goal for Nebraska and agriculture. Thank you. [LB305]

SENATOR GLOOR: Thank you, Senator Larson. Senator Ken Haar, you're recognized. This is your third time, Senator. [LB305]

SENATOR HAAR: Mr. President, members of the body, thank you very much. I'd like to ask Senator Larson a couple questions, if he... [LB305]

SENATOR GLOOR: Senator Larson, would you yield? [LB305]

SENATOR LARSON: Yes. [LB305]

SENATOR HAAR: Okay. Again, going back to some questions raised by my constituents and I...by the way, I think Senator Lathrop is right on with his comments, I appreciate that. What protection are there for owners who do not want their horses slaughtered? [LB305]

SENATOR LARSON: Don't sell them. They have a choice to sell their horse or not. If they choose to, if you choose to sell your property, you know, at that point you no longer have your property. If they don't want their horse to be processed then they could choose not to sell them or donate them to a rescue if there's room. It's really up to them.

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It's their property and they themselves can ensure that a horse doesn't end up in a processing facility. [LB305]

SENATOR HAAR: Okay. There's no requirement here, in other words, that in terms of eventually disposing of an animal of any kind. [LB305]

SENATOR LARSON: No. If once...I think, you know, once I sell a cow, if it was my bucket calf, growing up on 4-H, you know once I sell that cow, you know, I had great times with you, bucket calf, but you know I don't know what happens to that. It's no longer my property. So I think if you don't want your horse to be processed then make sure it finds a good home, a rescue, or keep it yourself. [LB305]

SENATOR HAAR: Okay. Another question. If, you know, this processing begins to happen in Nebraska, will that increase like the horse thieves and that sort of thing, or what kind of protections are in place for that? [LB305]

SENATOR LARSON: You know, I don't think it will lead to horse thieves. I think I can move back to the cattle market. Nebraska is a huge cattle state and is there every once in a while theft of cattle and sold to market? Yeah. But I think we can look at the other markets that we currently have and understand that there won't be a proliferation of horse thieves because there's horse processing now in the state of Nebraska. I mean...and there are repercussions. There are repercussions for those that steal personal property, but I do not think that there will be a proliferation of horse thieves just, you know, because we can look at the cattle markets and poultry and, you know, we're not having a huge problem with those either though. [LB305]

SENATOR HAAR: Okay. Thank you very much. I was going to open my time at the mike by saying to Senator Karpisek, I am less than you but not by a lot. (Laugh) There was a movie called The Gods Must Be Crazy, and I don't know how many of you remember that, a great comedy about the Bushmen in Africa. And one of the things that I like very much is he went...a Bushman went out to hunt down an animal and he killed the animal and he leaned over and he whispered to that animal and said thank you. So I believe this all fits within the context that we have to treat all creatures with respect and this whole issue again is...has sort of boiled down to horses in a lot of ways but I think if we...that's the thing we have to treat...that we have to teach to city folk, is this is a reality of life that we kill animals and we eat them for food. And so I thank Senator Larson for bringing this bill. [LB305]

SENATOR GLOOR: Thank you, Senator Haar. Senator Karpisek, you are recognized, and this is your third time, Senator. [LB305]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. Would Senator Larson yield to a question, please? [LB305]

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SENATOR GLOOR: Senator Larson, would you yield? [LB305]

SENATOR LARSON: Yes. [LB305]

SENATOR KARPISEK: Thank you, Senator Larson. Real quickly--I've been out of the meat business two and a half years now. In my contract I had a "do not compete" clause for five years. And I really miss it, and I really want to get back in. And that is the truth. So my question is, what kind of a plant do I want to get back into? Now, I wanted to be federal before. It was a lot of paperwork, as you said, but what would the state inspection do for me? If I'm going to do this, why would I do state rather than federal? [LB305]

SENATOR LARSON: I think we covered that earlier with Senator Dubas' questions. I think there is a sense of ease of working with the state guys, more accessibility, easier to work with, more opportunities, things like that that move people towards a state meat inspection in other states. [LB305]

SENATOR KARPISEK: Okay, well, let's talk about that accessibility. Why would there be more accessibility? Right now, federal inspectors have to be at your plant if you ask. [LB305]

SENATOR LARSON: Correct, they do have to be at your plant if you ask, but you still have to, you know, get them there. And they have to come, but it doesn't mean that they--if they don't have enough to come every Tuesday, then I don't think they can come every Tuesday. If I'm--my understanding is they have to--you have to work with them to find dates that work. [LB305]

SENATOR KARPISEK: Okay, but why would the state inspector be any different than if it's not feasible for the federal inspector? [LB305]

SENATOR LARSON: I think one reason that state and federal inspectors work so well together is because it does allow for more inspectors to get out there in the field and... [LB305]

SENATOR KARPISEK: Okay, wait, I'm sorry, but why does it allow that? Why--who's going to pay for these inspectors? Why are we going to have more? [LB305]

SENATOR LARSON: Because I think there's a demand for more, and it would continue to increase ag production in small and niche markets. [LB305]

SENATOR KARPISEK: Okay, thank you, Senator Larson. There goes the spin again. And I don't want to hear that, because right now, folks, the Nebraska Association of

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Meat Processors has 69 members. That includes Super Savers and some other duplicative places. Now, I'm not saying everyone that has a meat market belongs--69. When I was president we had, I think, 120. They are falling off. Is that because they don't have meat inspection--or state meat inspection? No, folks, that is not the reason why. It's due to money. And to have a state meat inspection that does nothing more right now than federal--except cost you more money--I can't see that it is going to help. Now, I do want to touch again...and Senator Larson is right: FSIS is in the planning stages--they're trying to see how this all would work. We don't know how it will work yet because they don't know how it will work yet--again, why I think maybe we're getting ahead of ourselves. But with the amendment, that does help that out. I do want to say again--the horses, to me, would be the only reason to vote for this bill. Now, how many horse plants will there be? Will your local shop, meat guy--will he slaughter horses? I kind of doubt it. I can't see that. Maybe I'm wrong. I can't see it. I don't know that they would even be equipped to do that. But if we have a horse plant, wonderful. I agree, there's a problem with the horses. Right now they're being shipped to Canada or Mexico--talk about cruelty, being loaded up and taken. Now, that is inhumane. [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR KARPISEK: Thank you, Mr. President. So I don't have any problem at all having a horse plant in the state. Now, I think there's 29 other states that have state meat inspection, but none of them slaughter horses. That makes me believe that there is a federal issue. Now, Senator Larson and Senator Carlson have brought up a states' rights issue. If that is the case, I'll be behind them 100 percent pushing for states' rights. And I have no problem with that. Again, folks, I don't think this is a horrible idea; the amendment makes it much more palatable. I am still concerned--is this a study, or is this how we're going to do it when it's implemented? I think a study would be the way to go: look at it, make sure this is where we want to go and if it's going to work. Senator Larson and I have disagreed on that issue. Again, he knows the issue as well as I. [LB305]

SENATOR GLOOR: Time, Senator. [LB305]

SENATOR LARSON: We just disagree on that. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Conrad, you are recognized. [LB305]

SENATOR CONRAD: Thank you, Mr. President. And thank you again for a good debate on this bill. I'm still listening intently and had a chance to visit a little bit with Senator Larson off the mike about some of the questions in my first go-round. And let me be clear, I think that this amendment is an honest attempt at a way to move forward and address this issue in a more comprehensive way. But, again, in regard to the dialogue

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that's already been on the record this morning, I'm concerned. I'm concerned that the amendment is being proposed as: "Go ahead and vote for this, because the amendment makes it just the study." And, colleagues, is it indeed a study, or is it a foregone conclusion? Because if it's a foregone conclusion, then is that an appropriate utilization of state funds to conduct this study? That's just a question, an honest question, that I have, without weighing in on any of the other issues that have been mentioned on the floor here today or the substantive nature of the underlying bill. Additionally, in regard to if this is going to be a comprehensive study that utilizes state resources, I don't see anything in the amendment that would guarantee a process for public input. And that's something that I think that is important as we move forward, so that all of the competing interests that have a stake in this legislation have an ability to weigh in at each stage of the study as it moves forward. I don't know if that can be accomplished by requiring hearings in each congressional district or--that's just one idea off the top of my head--or if there's other ways to do that. But we're committing state funds to conceivably study something, with no guaranteed input from the public. So that's something that I'm a little bit worried about, because that seems to indicate that indeed this might not be a study and this is, again, a foregone conclusion. And if that's the case, that's fine, but let's be clear about what we're selling and what we're not. I guess I'm also unclear about some of the fiscal impacts, and that's just more from an appropriations-perspective standpoint. I understand that there used to be a General Fund component of this cash fund but that was eliminated due to budget cuts. No one came to the Department of Agriculture hearing to request this funding be restored. And this bill is the avenue used to get funding for the program, I guess. So my questions would be...also this implicates the Market News program in the Department of Ag. Why is the Market News provision in the bill? How much will that cost per year? Were the general funds ever devoted to this program? Was it requested this year in the budget process? And will there be an A bill introduced in the near future? Because I think it's unclear how this works out over the biennium. The first year of this bill seems to have a \$50,000 cost: \$25,000 for the study and \$25,000 for the Market News program. And after that, there's an ongoing obligation of \$25,000 to the cash fund. So I'm hopeful Senator Larson will work diligently with the fiscal staff to address some of those very real funding problems that are associated with the bill and the amendment in its current form, so that he can move forward in the most appropriate way to try and meet his objectives. And, again, I'm very concerned that...we've already made comments on the floor about who's going to pay fees and who's not going to pay fees after this new program is initiated. Well, I thought the whole point was to determine whether or not a market existed, in terms of who will be regulated and who will be paying fees to ensure this program is self-sustaining into the future so it doesn't become a General Fund program. So do we say... [LB305]

SENATOR GLOOR: One minute. [LB305]

SENATOR CONRAD: ...at this point in time that certain classes of folks will

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automatically be exempt and others will not? I think it's just not real clear, because those things should all be subject to the study, and I'm hopeful that they will be. Thank you, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Senator Conrad. Senators remaining in the queue are Hadley, Louden, and Schumacher. Senator Hadley, you're recognized. [LB305]

SENATOR HADLEY: Mr. President, question. [LB305]

SENATOR GLOOR: Question has been called. Do I see five hands? The question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB305]

ASSISTANT CLERK: 29 ayes, 0 nays to cease debate, Mr. President. [LB305]

SENATOR GLOOR: Thank you, Mr. Clerk. Debate does cease. Senator Larson, you're recognized to close on your amendment. [LB305]

SENATOR LARSON: Thank you, Mr. President and members of the body. And I appreciate the discussion we had today, and I appreciate Senator Karpisek and Senator Conrad raising questions. And I think I've--we'll continue to work on this between General and Select. If Senator Conrad has more questions, I'd be happy to answer them and work with her as we move forward. I guess I'll keep it short in terms of the closing, you know. I think this is an economic development tool; I think this is good for Nebraska; I think this does open up opportunities for small and rural communities. As Senator Karpisek has stated, we disagree on that issue; he doesn't see it. While I think I see the opportunity, I'm happy that he admits that this would be good for horse processing because it would open the door. I wanted to focus a lot more on the merits of a state meat inspection program, though, and its benefits for all of rural Nebraska. And I hope the members understand and see what's happened in other states. Like I said, Iowa has 38 state meat inspected facilities, and Minnesota had none in 1999 when they started and have 20. It shows that people do choose to go into the state meat inspection programs. And I think we do have to take a long, hard look at it. And that's what LB305 does, and I'd appreciate everybody's support. Thank you. [LB305]

SENATOR GLOOR: Thank you, Senator Larson. The question is, shall the amendment to LB305 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB305]

ASSISTANT CLERK: 40 ayes, 0 nays on the adoption of the amendment, Mr. President. [LB305]

SENATOR GLOOR: The amendment is adopted. Discussion now continues on the

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underlying bill, LB305. Senator Louden, you are recognized. Senator Louden waives. There are no additional senators in the queue. Senator Larson, you're recognized to close on LB305. Senator Larson waives. Members, the question is the advancement of LB305 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB305]

ASSISTANT CLERK: 35 ayes, 1 nay on the motion to advance the bill, Mr. President. [LB305]

SENATOR GLOOR: The bill advances. Mr. Clerk, items for the record. [LB305]

ASSISTANT CLERK: Two items, Mr. President. Senator Langemeier would print an amendment to LB366. LR144 by Senator Council; that will be laid over. (Legislative Journal pages 1016-1017.) [LB366 LR144]

SENATOR GLOOR: Thank you, Mr. Clerk. Continuing with General File, Mr. Clerk.

ASSISTANT CLERK: Mr. President, LB70 was introduced by Senator Pahls. (Read title.) The bill was read for the first time on January 6 of this year, referred to the Banking, Commerce and Insurance Committee. That committee placed the bill on General File, with committee amendments attached. (AM82, Legislative Journal page 615.) [LB70]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Pahls, you're recognized to open. [LB70]

SENATOR PAHLS: Thank you. Good morning, Mr. President and members of the body. LB70 was introduced at the request of our Director of Insurance. Enactment of this bill is a matter of some urgency in order to preserve our surplus lines premium tax base. Our surplus lines law was thrown into disarray by the requirements of the federal Nonadmitted and Reinsurance Reform Act passed as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Surplus lines insurance policies are typically purchased by large commercial entities with a need for specialized insurance coverage. Usually the policies are procured for the insured by a surplus lines broker licensed by the state from an insurer that is not domiciled or admitted to do business in Nebraska. Currently, the broker remits to our Department of Insurance a tax of 3 percent of the premiums and also a small fire insurance tax when applicable. Current surplus lines taxes are levied on the basis of risk located in Nebraska. Dodd-Frank upends that; it says that surplus lines taxes are permissible only on the basis of the home state of the insured. Since Dodd-Frank was enacted, the National Association of Insurance Commissioners has been scrambling to develop a response for the states to adopt. That process has continued right up through and past the time when LB70 was finalized and introduced. The provisions of LB70 are based on recommended language

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developed by NAIC. Those provisions rewrite the current Nebraska Surplus Lines Insurance Act to respond to Dodd-Frank. The final critical pieces of the NAIC's response to Dodd-Frank have been submitted to the Banking, Commerce and Insurance Committee, and they are contained in the committee amendments in LB70. At this time I would conclude my opening and go to the committee amendments. [LB70]

SENATOR GLOOR: Thank you, Senator Pahls. As the Clerk and you stated, there are amendments from the Banking, Commerce and Insurance Committee. Senator Pahls, you're recognized to open on the committee amendment. [LB70]

SENATOR PAHLS: Thank you again, Mr. President. The committee amendments were recommended by the Director of Insurance. They represent the final piece of the NAIC's response to Dodd-Frank. Having changed the basis of surplus lines taxation, Dodd-Frank does allow the states to allocate surplus lines tax revenue among themselves by contract or compact and mimic the current distribution of tax revenue. When LB70 was introduced, the allocation vehicle was still being created by the NAIC. It has been a work in progress, but it is before us now. The committee amendments would authorize our Director of Insurance to sign the Nonadmitted Insurance Multistate Agreement, to be known as NIMA. NIMA will focus its attention on tax allocation, requiring surplus lines tax payments to be made to a central clearinghouse, which would then distribute the revenues back to the states. This will allow for more streamlined tax filings for surplus lines insurance brokers. NIMA is in the form of a contract, not a compact. The committee amendments would do two other things to make joining the NIMA allocation method possible. First, it makes all of our filing deadlines consistent. Second, it complies with the NIMA requirement that we have only one tax rate, by repealing a small fire tax on surplus lines policies. Dodd-Frank preempts a number of other provisions of the Nebraska Surplus Lines Insurance Act relating to eligibility criteria, licensing, and industrial insured. Changes to the existing provisions in these areas would be made to follow private sector parties easier to comply--to allow private sector parties easier to--for compliance. Therefore, the bill and amendments would provide provisions of the federal law on these points. To sum it up, let's go to the bottom line. Currently, surplus lines premium taxes come in at about \$3.9 million a year. If we pass LB70 with the committee amendments, we will preserve as much of that as possible. NIMA will allow states to allocate surplus lines taxes among themselves based on the location of the risk rather than on the basis of the home state of the insured as otherwise required by the new federal law. That will allow Nebraska to continue to collect surplus lines taxes on the existing basis to the fullest. If LB70 with the amendments is not passed and no changes are made, Nebraska will lose surplus lines tax revenue, because federal law would preempt a significant amount of the existing tax. Currently, Nebraska taxation is based on the location of the risk in Nebraska. Again, Dodd-Frank prohibits states from using location of risk as the basis for taxation, but it does allow states to use the home state of the insured instead. If the bill with the committee amendments is not passed, the Department of Insurance will not be able to

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collect taxes under the new federal standard. The department needs authorization to do that. This bill will accomplish that. It will bring us actually in full circle, to be back to where we are today. Now, we need to have these changes in place by July 21. Therefore the bill carries the emergency clause that has an effective operational date of July 21, 2011. Two key points I want you to think about. If LB70 as amended is enacted and the Director of Insurance signs the contract to join NIMA, then Nebraska--we get the surplus lines premium for risks located in Nebraska, both with the insured located in Nebraska and those located outside of Nebraska. If LB70 does not pass, then Nebraska would get the surplus lines tax for risks located in Nebraska only, when the insured is located in Nebraska. I urge the adoption of the amendments and to pass this bill to preserve our surplus lines insurance. And I think just to put a plug in for the Insurance Department, I just would like to add, the total premiums--and I'm going to use round figures--that we collect as a state is around \$69 million a year. And just so you have some idea of where this money goes, almost \$18 million goes to the CHIP fund to help support that program. Forty percent of these general funds goes to the General Fund, and that's around--between \$21 million and \$22 million. Now, these figures are a little over a year old. And a little over--between \$4 million and \$5 million actually goes to the rural and urban fire departments. Counties--they get a little over \$2 million. The cities--they get almost \$7 million. Education gets almost \$14 million. That is the total of all of the premiums. We are simply talking about \$3.9 million. We are trying to preserve that. Passing this bill with the amendments would allow us to keep as much of that \$3.9 million as possible. It's money that we collect now. If we do not pass it, there's a high potential that we would lose a goodly amount of that, because it would not be returned to our state. Thank you. [LB70]

SENATOR GLOOR: Thank you, Senator Pahls. (Visitors introduced.) Members, you have heard the opening on LB70 and the committee amendment. There are no senators wishing to be recognized. Senator Pahls, you're recognized to close on the committee amendment. He waives. The question is, shall the committee amendment to LB70 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB70]

ASSISTANT CLERK: 28 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB70]

SENATOR GLOOR: The amendment is adopted. There are no members wishing to be recognized. Senator Pahls waives. Members, the question is the advancement of LB70 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB70]

ASSISTANT CLERK: 28 ayes, 0 nays on the motion to advance the bill. [LB70]

SENATOR GLOOR: The bill advances. Continuing with General File, Mr. Clerk. [LB70]

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ASSISTANT CLERK: Next bill, Mr. President, is LB286, which was introduced by Senator Krist. (Read title.) The bill was read for the first time on January 12 of this year, referred to the General Affairs Committee, placed on General File with no committee amendments. [LB286]

SENATOR GLOOR: Senator Krist, you're recognized to open on LB286. [LB286]

SENATOR KRIST: Thank you, Mr. President and colleagues. Members of the body, LB286 advanced from the General Affairs Committee unanimously on an 8-0 vote, with no opposition testimony offered at the hearing. I want to first of all thank Chairman Karpisek and my fellow members of the General Affairs Committee for designating LB286 as one of our committee's priority bills this session. LB286 is a bill I introduced on behalf of the Nebraska Winery and Grape Growers Association in an effort to continue one of the most effective economic development investments the state of Nebraska has made. I say that because presently the funds from the sale of out-of-state direct shipping licenses, designated as S1 licenses, issued by the state of Nebraska Liquor Control Commission go to the Winery and Grape Producers Promotional Fund. Under present statute, this is set to sunset on April 30 of 2012. This bill, LB286, eliminates the sunset clause. As you may have seen from the report that I shared with you via e-mail...and those of you who have a hard copy, it was thick enough that I wanted to appease Senator Haar and not waste the paper sending them all to you. The University of Nebraska Bureau of Business Research has stated some very impressive statistics about the Nebraska grape and wine industry, including the following: The estimated 2008 economic impact of the industry on Nebraska in the whole is \$12.8 million. This breaks down to \$7.3 million in winemaking and grape growing sales, \$2.3 million in tourism. Sales of Nebraska wines grew sixfold from 2000 to 2008. It is estimated that over 155,000 people visited Nebraska wineries per year. Much of this success is based on the investment the state has made by funneling shipping fees paid by out-of-state wineries to the Nebraska wine and grape industry. This has provided a much-needed boost to the industry's growth efforts. In 2010 this amounted to approximately \$133,000. The use of these funds is closely supervised by the Nebraska Department of Agriculture. In closing, I want to thank the Nebraska Winery and Grape Growers Association for their meticulous management of this fund and their reinvestment into an existing and still emerging industry in our state. I also would like to thank those who testified at the hearing and my colleagues on the General Affairs Committee for their support of this bill. Thank you, Mr. President. [LB286]

SENATOR GLOOR: Thank you, Senator Krist. We now move to discussion. Senator Karpisek, you are recognized. [LB286]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I just want to rise in support of LB286. The wine and grape industry has taken great strides in the

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state of Nebraska. A lot of that is due to the money from the S1 shipping licenses that come in from out of state and then are funneled over to the wine and grape growers. They've done a great job. They're very good about advertising their product; they're very good about doing things to make themselves better known. They're doing tours; they're doing all sorts of things to make their product better and to be more knowledgeable. And, again, I think the advertising is just a great job that they've done so far. They have...I think they're almost endless for what they could do. Nebraska wine is not just always referred to or thought of as something inferior to California anymore. They're going to contests; they're winning awards. They're very involved with the Legislature. They know what's going on here with their industry and all over this state and all over the country and what's new and what's happening. I guess I just want to say I can't say enough good things about them, the way that they're going about their business, the way they're striving to make Nebraska a better place. Talk about agricultural opportunity and economic development, they really have done it. They've taken some farm ground that would probably be pretty hard to farm with our typical crops--hillsides, those sorts of things--and made vineyards, beautiful places and a destination to go. I would urge the body to support LB286. Thank you, Mr. President. [LB286]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Dubas, you are recognized. [LB286]

SENATOR DUBAS: Thank you, Mr. President. I rise in support of this bill, and I'd like to just take it a step farther as far as promoting the wine and grape-growing industry in our state. Yesterday those of us who attended the rural economic development luncheon had the opportunity to hear from one of our local grape growers and wine producers. They were able to take advantage of a value-added grant to help them develop the infrastructure that they needed to produce vineyard ice cream and sorbet and how they're growing their business in a local community. They're using Nebraska businesses to support their community, through printing and advertising and trucking and all of those types of things. And a young man went to college at the University of Pennsylvania and has returned to Nebraska, returned to small-town Nebraska to help his father grow and develop this business. And so, again, we talked about niche marketing on the previous bill; this is another great opportunity for us to provide value-added opportunities, bring people--either keep people in rural Nebraska or bring them back. The innovation of Nebraska citizens is there--that if they find opportunities and ways to take that innovation to reality, they're going to do it. And so for us to be able to find a dedicated funding source to help promote this particular industry I think will go a great way. As I said, they were able to take advantage of a value-added grant that's going to help them. Before the value-added grant and the money that they put into this business, they had to have their product processed in Florida. And then trying to figure out the logistics of transporting that product back to Nebraska as well as other places that they did business was just making it cost prohibitive. So, again, through the value-added grant and money that they were able to obtain, they were able to bring that

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processing home, do that in, again, rural Nebraska. Helped them with the logistics and the distribution of their product, promotion of their product, bringing people back to our small communities. I mean, it's just a win-win situation all the way around that's going to help our small communities. So I appreciate Senator Krist bringing this bill forward, another opportunity for us to support business, small business especially, in rural Nebraska. Thank you. [LB286]

SENATOR GLOOR: Thank you, Senator Dubas. Senator Heidemann, you are recognized. [LB286]

SENATOR HEIDEMANN: Thank you, Mr. President and fellow members of the body. I do stand in support of LB286. I think we've heard good testimony from Senator Dubas, Senator Krist, Senator Karpisek. I do support the concept. I think it was proper for me to stand up and say, though, that this program was supposed to sunset in, let's see here, April 30 of 2012. Because we are taking the sunset off, there will be a loss of general funds. I just wanted everybody to be aware of that. It would be \$22,000 the first year, \$132,000 the second year of the biennium budget. And then because the sunset would be taken off forever, it would affect the out-years also. That being said, I still--I know it's a tough budgeting time right now, but this is such a good program. I do support LB286 in what it accomplishes. If there are any questions, I would be happy to take them. Thank you. [LB286]

SENATOR GLOOR: Thank you, Senator Heidemann. There are no further senators in the queue. Senator Krist, you're recognized to close on LB286. [LB286]

SENATOR KRIST: Thank you for the support this morning. And thank you, Senator Heidemann. And I would point out to the body, not only is there meticulous management within their own accounting, but the reinvestment in the state is well worth our time, effort. I just want to quote to you one of the examples of what they do with this money: \$46,618 of the \$133,000, or basically one-third, was paid to the University of Nebraska for a viticultural program. This program helps develop grapes and the seeds and the activity that will keep our industry strong. And it's paid directly to the university for that process. I commend them again on their meticulous management of the fund. I don't know that we could manage \$22,000 this year or \$132,000 next year as well as they have and grow the industry, the emerging industry of grapes and wines in the state of Nebraska. With that, sir, I would ask for your green. Thank you. [LB286]

SENATOR GLOOR: Thank you, Senator Krist. Members, the question is the advancement of LB286 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB286]

ASSISTANT CLERK: 36 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB286]

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SENATOR GLOOR: The bill advances. Continuing with General File, Mr. Clerk. [LB286]

ASSISTANT CLERK: The next bill, Mr. President, is LB477, introduced by Senator Fischer. (Read title.) The bill was read for the first time on January 18, referred to the Transportation and Telecommunications Committee, placed on General File with committee amendments. (AM343, Legislative Journal page 578.) [LB477]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Fischer, you're recognized to open on LB477. [LB477]

SENATOR FISCHER: Thank you, Mr. President and members. LB477 is the continuation of a review of Nebraska's motor vehicle franchise laws and an update and response to industry changes. The bill is meant to add better protections in a relationship between motor vehicle manufacturers and their franchise dealers. The reason for this regulation is because of the lack of bargaining power of the dealers in relation to the manufacturers. This lack of power is evidenced by all 50 states having franchise laws. As a result of the volatility in the motor vehicle industry, seen by in the unilateral closing of dealerships across Nebraska and the United States in 2009, a further review of the statutes regulating the licensing of motor vehicle dealers and manufacturers in Nebraska was conducted. Sections 1 through 6 of the bill give a dealer the right to protest an attempt to unilaterally increase or decrease the size of a dealer's responsibility. Under current law, franchised new car and truck dealers and the manufacturers are required to establish an area of responsibility. The dealer is required to serve the public with both sales and service in that area. Sometimes a manufacturer will attempt to change the community territory of a dealer. LB477 ensures the dealer has a right to protest any such change and to have a "good cause" hearing by the Motor Vehicle Industry Licensing Board. Section 7 requires manufacturers to allow the return of unrequested parts by the dealer. Some manufacturers have engaged in the practice of sending unordered parts and accessories to the dealers and charging them to the dealers' accounts. This section also prohibits a manufacturer from requiring a dealer to make changes in the dealership which cannot be justified by current business conditions, prohibits manufacturers from requiring the dealer to give a customer's private information to the manufacturer, and restricts the ability of the manufacturer to control a dealer's property after termination of the franchise. Section 8 would require the manufacturer to disclose the method of distribution of its vehicles to all dealers handling the same line-make of vehicles. Additionally, this section prohibits the manufacturer from requiring that the dealer only sell the manufacturer's products. Finally, under current law, manufacturers are required to reimburse dealers for warranty parts and service at retail rates. Section 9 creates a uniform method of payment as well as a uniform method of determining and adjusting those amounts. I would like to stress that this bill is a result of discussions and agreements reached between the two parties affected by this legislation. Thank you, Mr. President. [LB477]

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SENATOR GLOOR: Thank you, Senator Fischer. As the Clerk stated, there are amendments from the Transportation and Telecommunications Committee. Senator Fischer, as Chairman of that committee, you're recognized to open on the committee amendment. [LB477]

SENATOR FISCHER: Thank you, Mr. President and members. The committee amendment, AM343, provides clarification to certain provisions of the bill, and they're not substantive in nature. The first change amends Section 3 of the original bill. Under the bill, the franchiser would have been required to file an application with the licensing board before changing the dealer's area of responsibility. The amendment waives the requirement if the dealer and franchiser have voluntarily agreed to the change. Section 7 of the original bill prohibited the franchiser from requiring the dealer to engage in the practice of sharing nonpublic customer information with the manufacturer. The amendment clarifies the fact that the dealer may simply refuse to share the customer's private information. The amendment strikes the original language in two places and replaces it with one specific provision. The amendment clarifies in (12) that a dealer is allowed to have an exclusive sales area within the dealership rather than an entirely separate sales facility for different line-makes. The new language restates the requirement that the dealer is obligated to meet reasonable standards regarding the dealership facilities and practices pursuant to the franchise agreement. Under (14) in Section 7 of the bill, the franchiser is not allowed to prevent the dealer from selling or renting the dealership property after termination. The amendment clarifies that the franchiser and the dealer may come to a separate agreement to restrict any such sale or lease if the dealer has entered into a separate and voluntary agreement. Finally, Section 9 of the bill requires the franchiser to pay legitimate warranty claims within 30 days. It further gives the franchiser the right to audit those claims for one year under routine circumstances and for four years for fraud. In the event of either type of audit, the franchiser has the right to charge back the amount of any improper payment from the dealer's account. The amendment clarifies the right of the franchiser to make the charge-back in either case but only after the dealer has been given the opportunity to exhaust all repeal rights regarding the disputed amounts. Again I would stress to you that this bill affects two entities, the dealer and the manufacturer, and both have agreed both to the amendment and to the bill. I ask for your advancement. Thank you, Mr. President. [LB477]

SENATOR GLOOR: Thank you, Senator Fischer. There are no senators wishing to be recognized. Senator Fischer, you're recognized to close on the amendment. Senator Fischer waives. The question is, shall the committee amendment to LB477 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB477]

ASSISTANT CLERK: 34 ayes, 0 nays on the adoption of committee amendments.

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[LB477]

SENATOR GLOOR: The amendment is adopted. Discussion on the advancement of LB477 to E&R Initial continues. There are no senators wishing to be recognized. Senator Fischer, you're recognized to close. Senator Fischer waives. The question, members, is the advancement of LB477 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB477]

ASSISTANT CLERK: 32 ayes, 0 nays on the motion to advance the bill. [LB477]

SENATOR GLOOR: The bill advances. Continuing with General File, Mr. Clerk. [LB477]

ASSISTANT CLERK: Mr. President, the next bill is LB499, introduced by Senator Price. (Read title.) The bill was read for the first time on January 18, referred to the Government Committee, placed on General File with committee amendments attached. (AM404, Legislative Journal page 618.) [LB499]

SENATOR GLOOR: Senator Price, you're recognized to open on LB499. [LB499]

SENATOR PRICE: Thank you, Mr. President and members of the body. LB499 was brought to me by the Secretary of State's Office and makes minor changes to the Election Act to address issues that have arisen in the past couple election cycles. LB499 was heard before the Government, Military and Veterans Affairs Committee on February 2 and was reported out to the Legislature with a committee amendment. The committee chose LB499 as one of its priority bills. LB499 has no fiscal impact. There are multiple sections within this bill. Section 1 probably contains the most complex issue of the bill, and it's really not that complex. What it does: It will prohibit the practice that has sometimes been termed as "term hopping" or "log rolling." This situation has occurred in some political subdivisions that elect at large and prohibits an elected official or officials running for the same office while they're in the middle of a term for the same office. For an example, board member Doe serves on the village board and was elected in 2008 for a four-year term. Board member Doe files for a seat on the same village board in 2010 and is elected. The board member Doe resigns the current seat he was elected to in 2008 and takes the seat he has been elected to in 2010 and then participates in the process of filling the vacancy caused by his own resignation. Section 1 does not apply to a filing for a different district, ward, subdistrict, or subdivision of the same governmental entity as the office held at the time of filing. This is for the purpose of redistricting, when candidates could be redistricted into the same district and one candidate would have to file in a different district than they are previously representing. Section 2 requires a candidate petitioning on the ballot to file a sample copy of the petition with the filing officer prior to circulating. By doing this, it would allow the filing officers to suggest corrections to blatant errors that might occur to a circulation effort. Under current law, the sample candidate petitions are not required and a candidate may

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go through a substantial effort in collecting signatures only to discover an error that may invalidate the petition. We did have Sections 3 and 4, and those were stricken within the committee; and we will talk about that in the amendment. Section 5 requires...and this is another one for careful attention. It says--requires affidavit to remove a person's name from a petition be submitted at the time the petition is submitted for verification. Filing officers generally would encourage petition to be submitted early, if possible. Now current law allows affidavit to be filed at the petition deadline and discourages early filing because it allows opponents to remove signatures after the petition has been filed. In one county in the 2010 election cycle, a candidate successfully petitioned to be on the ballot. The incumbent candidate asked persons who signed the petition to request an affidavit to remove their names from the petition. And while the incumbent was not successful, his actions highlighted a problem in the statute. Now, Section 5 of LB499 would fix this problem. Section 6 also makes a change to the military and overseas citizens voting process. The change brings military personnel that are stationed domestically but outside the state into the same program as overseas military voters. Section 7 changes the deadline for mailing registration applications for the persons who request an early ballot but are not registered, to the third Friday preceding the election. Currently the deadline is the second Friday preceding the election. Section 8 clarifies that a voter who is present in the county on election day must vote at their assigned polling site. There have been attempts from voters to vote at the county clerk or election commissioner's office on election day. With the various activities that occur within these offices on election day, it is not desirable to have voters use the office as an alternative polling site. And then, again, Section 9 repeals the original section. Now while LB499 does contain multiple sections and gives the appearance of what could be called a Christmas tree bill, these sections are of the same subject matter in relation to elections. LB499 addresses issues that arose during the last election cycle, and it was determined that the best course to address these issues was in one bill as opposed to introducing three or four bills. As I stated earlier, the Government, Military and Veterans Affairs Committee has filed an amendment, AM404, to LB499, and I respectfully request that the--for the body to support the amendment and advance the bill. Thank you, Mr. President. [LB499]

SENATOR GLOOR: Thank you, Senator Price. As the Clerk stated, there are amendments from the Government, Military and Veterans Affairs Committee. Senator Avery, as Chair of that committee, you're recognized to open on the committee amendment. [LB499]

SENATOR AVERY: Thank you, Mr. President. The committee amendment, AM404, eliminates two provisions from the original bill. First, the provision that each sheet of a petition contain signatures from the same county is eliminated. Most petitions already have this requirement, such as initiative and referendum petitions, but a few do not. Some committee members felt that this was burdensome for petition circulators, to require each sheet of a petition to contain signatures from only one county. By

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eliminating this provision of the bill, the petitions that currently require each sheet of petitions have signatures from one county would remain in effect. For those petitions that do not have specific language about signatures from the same county, petition circulators will be allowed to have signatures from different counties on the same petition sheet. Petitions that do not have these requirements include, for example, unaffiliated presidential petitions. The second provision that was eliminated is the provision that completed petitions be submitted to the election commissioner or county clerk as one document. Occasionally the Secretary of State will have a request from petitioners to submit part of their signatures early and then submit the rest at a later date. The committee felt that this was not an unreasonable burden on the Secretary of State to store the petition signatures until the rest of the signatures could be submitted. So we eliminated this provision of the bill. There were no opponents to LB499 at the hearing. And this did come to us from the Secretary of State's Office, and it conforms with the Secretary's ongoing desire to put into statute best practices in our election law. The committee moved this 7-0 with the amendment, with one member being present and not voting. With that, I would ask you to approve this amendment, AM404, and then advance the bill. Thank you. [LB499]

SENATOR GLOOR: Thank you, Senator Avery. Members, you have heard the opening on LB499 and AM404. We move to floor debate. Senator Nelson, you are recognized. [LB499]

SENATOR NELSON: Thank you, Mr. President, members of the body. I have a question for Senator Price, if he will yield. [LB499]

SENATOR GLOOR: Senator Price, would you yield? [LB499]

SENATOR PRICE: Absolutely. [LB499]

SENATOR NELSON: Thank you, Senator Price. I just want to clarify what I thought I heard you say. At the bottom of page 11 in the green bill, there--it's Section 8--it speaks about a registered voter present in the county "who chooses to vote on the day of election shall vote at the polling place." Now, did I understand you to say that this is an attempt to keep people from unduly burdening the election commissioner's office and voting there? Or could you just clarify this just a little bit more for me? [LB499]

SENATOR PRICE: Thank you, Senator Nelson. And that is exactly the case. Sometimes, you know, you have that election office or commissioner's office open for early voting. And then on the day of election they're very busy there doing a lot of things, and people show up there instead of at their precinct. And this would clarify that they need to show up at their precinct. [LB499]

SENATOR NELSON: But they can vote there--well, it doesn't make it much...if they're

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returning a ballot for early voting, what does that mean? [LB499]

SENATOR PRICE: Well, that is correct, sometimes people will get their early voting ballot in the mail. You can drop it off there but not stand at the kiosk and go through the whole voting process. That would be just dropping off the ballot. [LB499]

SENATOR NELSON: All right, thank you very much, Senator Price. I stand in support of the bill and the amendment. Thank you, Mr. President. [LB499]

SENATOR GLOOR: Thank you, Senator Nelson. There are no senators remaining in the queue. Senator Avery, you're recognized to close. Senator Avery waives. Members, the question is the adoption of the committee amendments to LB499. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB499]

ASSISTANT CLERK: 31 ayes, 0 nays on the adoption of committee amendments, Mr. President. [LB499]

SENATOR GLOOR: The amendment is adopted. Discussion continues on the advancement of LB499 to E&R Initial. Senator Lautenbaugh, you are recognized. [LB499]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. I'll probably take this occasion to talk again about my priority bill, because my opportunities for that seem to be limited on a go-forward. But here we are again. Let's talk again about LB606. You heard last week that we were passing that bill, in the election area--so I guess this is germane to this bill--because that's going to increase transparency. I hope you're listening when I say this: The mailings that that bill was designed to address came out and said, "Paid for by Americans for Prosperity" on the bottom. We are now going to pass LB606, so Americans for Prosperity, if they want to do that again, will have to disclose their contributors. Well, guess what, folks, they're not idiots; they're not going to disclose their contributors. They're going to form an independent expenditure group of their own and call it "Citizens for Prosperity." And you'll have to go online to look and see: Oh, I guess Americans for Prosperity are the ones paying for Citizens for Prosperity. So in a very Orwellian sense, we stood here last week and talked about transparency and we've advanced a bill that is going to decrease public knowledge, decrease what we know. We now know who Americans for Prosperity is; you can go look it up on the Internet. You're going to have to work harder to find out who is behind the independent expenditure group that they will set up--under our laws, completely allowable--because we're passing that bill. So, again, I'll make my pitch: We need to do away with the CFLA. And if the bill comes out of committee, we'll have a more protracted discussion on that. But I appear to be struggling with that right now, so I guess I'll just talk about it on random election bills as they come up. But I'm hoping you understand what I'm saying. We are decreasing transparency with the bill

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we debated last week, and we're doing it in the name of transparency. I hope you understand that. And I hope you understand why I was so put out last week by that bill and why I think every time we try to do something in this area that isn't just a repeal we make it worse. And we can stand up here and say: Well, we've got to advance transparency; everybody wants transparency. Our actions don't follow through on that commitment; our actions take it the opposite way. And I wouldn't be doing my job if I didn't stand up here and say: Think about it; think about what we're doing. We are, again, as I argued, forcing money underground, decreasing transparency, and standing here and telling people we're increasing transparency. And we're told we can't repeal the CFLA because that will lead to cynicism. Well, again, that foursome has already teed off; we've got all the cynicism we can use right now if we're talking about transparency and our current laws. Thank you, Mr. President. [LB499 LB606]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. Senator Fulton, you are recognized. [LB499]

SENATOR FULTON: Thank you, Mr. President, members of the body. Would Senator Price yield to a question? [LB499]

SENATOR GLOOR: Senator Price, would you yield? [LB499]

SENATOR PRICE: Yes. [LB499]

SENATOR FULTON: Okay, thank you, Senator Price. This is...okay, LB499, the green copy of the bill--when I was reading this the other night, I didn't quite comprehend it, and I still don't understand it. So if it's not a problem, so be it, but I'd like the record to reflect--because I think it's at least hard to understand. So I'm on page 2, the green copy, lines 15 through 21: "A person shall not be eligible to file for an office if he or she holds the office and his or her term of office expires after the beginning of the term of office for which he or she would be filing." Does that--how would that apply to us? I mean, would I...not understanding this, I tried to come up with an example of my own experiential knowledge. If I'm going to run for office and I am--if I'm a state senator and I'm going to run for state senator to retain my office, then it appears, in my reading here, that I'd be disallowed from running for reelection. Am I reading this wrong? Or can--maybe you could explain this a little bit better. [LB499]

SENATOR PRICE: Thank you, Senator Fulton. And I will share with you...first let's talk about what it is doing, then we can concern ourselves on what it's not doing. What happens is, you have a board that meets, and--again, someone got elected in 2008; now they have an election in 2010. They run for that at-large seat, right? So they're already sitting in the seat. They run for one in two years, get elected, so now they have more time to run. And then they have a voice and a say on who is going to replace them when they have to fill the seat. Now, when you're talking about the fact--and we're

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talking about it here--about running for an office...if it's redistricting or something like that, you would still be allowed to run in the case of something of that nature. But, again, in the legislative scenario you said, I don't believe that that would even be a plausible one, that you would run for a seat when you're in your seat, because you'd have to move to another one; you'd have to meet all those requirements. [LB499]

SENATOR FULTON: Then who would this apply to? [LB499]

SENATOR PRICE: The bill is aimed at those subdivisions of government, like we said earlier, I believe, let me look here exactly--but "different district, ward, subdistrict, or subdivision of the same governmental entity" as held at the same time. So you could say, at the county or in a city or something of that nature. [LB499]

SENATOR FULTON: Okay, so if a city--let's say a city councilperson wants to run for his seat or her seat again. "A person shall not be eligible to file for an office if he or she holds the office." So that's where I'm getting this: "If he or she holds the office," then that person "shall not be eligible to file" for that office. Am I reading that incorrectly? That's just... [LB499]

SENATOR PRICE: No, you're reading it...let's take the analogy of at large, not a seat-specific one. Like, if you were running for Ward 3. Okay? And you want to file for Ward 3; that would come up in the normal business rhythm or cycle, okay? But if you were in an at-large body and you're running for another at-large seat within that body. And what you're saying is--let's just say there were term limits, even though there aren't, but let's just use that, and you don't want to have to run in four years; you decide to run--I'll run now, and then I won't have to worry about it for four more years. So you're just rolling it over. And then, say you do that and you want to get someone on the board who's preferential to your viewpoint. What you'd do is you'd run for that at-large seat--you already hold a seat for four years, you're at the two-year mark, you run for that at large. You win, and then you have the ability to impact the decision on who gets put in that empty seat you just vacated. [LB499]

SENATOR FULTON: Okay. [LB499]

SENATOR PRICE: And so--and what happens, Senator Fulton, is, I was told by the Secretary's office, just about every election cycle... [LB499]

SENATOR GLOOR: One minute, Senators. [LB499]

SENATOR PRICE: ...someone--thank you--someone tries to do this, and we're just trying to make sure that we have this written down in good fashion to say: No, you won't do this. [LB499]

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SENATOR FULTON: Okay. So this would--the case in which this would apply is in, say, a city council race--we have at-large seats. If someone is an at-large city council member and then decides to run for a district-specific seat, he or she would be disallowed from doing that under... [LB499]

SENATOR PRICE: Right. [LB499]

SENATOR FULTON: ...this scenario. [LB499]

SENATOR PRICE: Correct. [LB499]

SENATOR FULTON: Okay, so that's the intended end of the bill--of this part of the bill. Do we not--does this not have some unintended consequence? So for instance, a state senator that wants to run for reelection--as I read this, this prohibits him from filing for his own seat. And clearly that's not your intention, but that's what I'm reading here. Is my concern not warranted? [LB499]

SENATOR PRICE: Senator Fulton, I will, because of time... [LB499]

SENATOR GLOOR: Time, Senators. [LB499]

SENATOR FULTON: Okay. [LB499]

SENATOR PRICE: I'll get with you. [LB499]

SENATOR GLOOR: Senator Lautenbaugh, you are recognized. [LB499]

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And to be quite honest, I don't understand this either, and I would yield my time to Senator Fulton, if he would take it, to continue that discussion, because I'm as confused as he appears to be. [LB499]

SENATOR GLOOR: Senator Fulton, 4 minutes 46 seconds. [LB499]

SENATOR FULTON: Thank you, Senator Lautenbaugh. You are astute in recognizing that I appear confused, but then I'd say that that's not necessarily anything different than the norm. Yeah, I'd like to...I'll--we'll try to get this on the--over the microphone if Senator Price would yield to a question. [LB499]

SENATOR GLOOR: Senator Price, would you yield to a question from Senator Fulton? [LB499]

SENATOR FULTON: Yeah. [LB499]

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SENATOR PRICE: Yes. [LB499]

SENATOR FULTON: Okay, so back to the concern that I have. If an individual is an officeholder and wants to run for reelection, "a person shall not be eligible to file for an office if he or she holds the office and his or her term of office expires after the beginning of the term of office for which he or she would be filing." So the first part, "a person shall not be eligible to file for an office if he or she holds the office"--that by itself is problematic for the scenario that I'm trying to put forward here. But perhaps what disqualifies my concern is the word "and"--"and his or her term of office expires after the beginning of the term of office for which he or she would be filing." Is that a--am I explaining correctly now the language? Because if I file for an office that I want to...if I want to run for reelection and I file, the term of office would have to expire after the beginning of the term of office for which I would be filing, which would not be the case if I'm filing for reelection. [LB499]

SENATOR PRICE: That is correct. That's what I meant to say when I said you're already in the seat. The second part to that, I think, Senator Fulton, if you read the next few lines, does not apply to filing to an office "to represent a different district, ward, subdistrict, or subdivision of the same governmental entity." Okay? So that talks about the other part--like you were saying, if you're running for something different. If you're trying to run for your same seat again and your term wouldn't be over, that--and you're exactly right, your term is not over. [LB499]

SENATOR FULTON: Okay. Okay, so I think I've--we've outlined here what the intention of this language is. So for future reference, if this comes up, when this comes up--I'm sure it will come up, in elections in Nebraska--at least we have some record created here. So the next question is, is it appropriate for us to disallow people who otherwise would be qualified to run for an office from indeed running for that office? And so the point here...and I've just now wrapped my--after having this explanation, I have a better idea of what we're trying to accomplish here. So I don't know the answer to that question, but that's a legitimate question. If someone is serving, let's say, on a city council as an at-large candidate, then we would be saying that person while a sitting at-large city councilperson could not then run for a district-specific city council seat. We'd be disallowing that from happening. Is that correct, Senator? [LB499]

SENATOR PRICE: Senator Fulton, again, that is the intent of this legislation. I do bring to mind where we start on line 18. It says this subsection would not apply "to represent a different district, ward, subdistrict, or subdivision of the same governmental entity." So, actually, I think, when we look at that second part, if you were at the at-large and you're going to run for a numbered--that wouldn't apply to you, because you're running for a different seat, okay? What--again, Senator Fulton, as I look at your quizzical--and it's your time, but what happens is we have them--all the members are in a... [LB499]

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SENATOR GLOOR: One minute. [LB499]

SENATOR PRICE: ...at-large situation. So then you have that log rolling, or churning, within the same seats, so that it looks like a whole board that are at large--so that a person just keeps running and influencing the board in that manner. But as we look at the subsequent lines there: This subsection does not apply if you're in the same political subdivision--you're running for a different seat in that political subdivision. I wanted to clarify that with you, because I think we might have got a little bit off track there in your analogy. [LB499]

SENATOR FULTON: Okay. So I'm still having a hard time. So who is this targeted toward, then? [LB499]

SENATOR PRICE: Senator Fulton, this is targeted to those political subdivisions that are predominantly, like, an at-large body. [LB499]

SENATOR FULTON: Okay. Okay, I won't take up any more time. Thank you, Mr. President. [LB499]

SENATOR GLOOR: Thank you, Senator Fulton and Senator Price. Senator Council, you are recognized. [LB499]

SENATOR COUNCIL: Yes, thank you, Mr. President. And I appreciate the inquiry made by my colleague Senator Fulton, because I must confess that when I read that section of LB499, I labored under the same confusion. And I listened to Senator Price's explanation of what the intent of the language is, and I understand the intent. And perhaps Senator Price would be open to looking at perhaps a more artful way of stating the intent between now and Select File, because it is very confusing when you first read that section that deals with not being able to file if your office--if you're holding the office and the term expires after the filing. Perhaps--and no disrespect to the Drafters--perhaps that could be a little more artfully drafted so that the clear intent of that language appears on its face. But right now, I mean, you have to struggle to figure out what it is that this language is actually seeking to prohibit. So I would urge Senator Price to take a--sit down again with Bill Drafters and see if it could be a little more artfully drafted so the confusion that Senator Fulton and...like I say, admittedly, I read this three or four times and then went and asked some of my colleagues who are on the Government Committee what's the intent of this bill. So I think it could be clarified, and that could certainly be achieved between now and Select File. Thanks. [LB499]

SENATOR GLOOR: Thank you, Senator Council. Chair recognizes Senator Janssen. [LB499]

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SENATOR JANSSEN: Thank you, Mr. President and members. If I could ask Senator Price to yield. [LB499]

SENATOR GLOOR: Senator Price, would you yield? [LB499]

SENATOR PRICE: Absolutely. [LB499]

SENATOR JANSSEN: Senator Price, I just...and sitting in committee...I was going to get up--I actually pushed my button when Senator Fulton was speaking. And Senator Council had some of the same suggestions I had. But is--I just want to make sure we're clear on the intent and the...one of the intentions is to have elected officials actually face the voters? Is that an idea of this? [LB499]

SENATOR PRICE: I think that's a derivative of this. [LB499]

SENATOR JANSSEN: Yeah. [LB499]

SENATOR PRICE: But I don't believe that it's a primary reason for it. [LB499]

SENATOR JANSSEN: Right. Okay. Okay. So I brought up a scenario during the debate of this in our committee hearing, to what I thought this addressed, and maybe you can clear it up for me. In the city of Fremont, on the city council, each...we have four wards; there's two people elected in off-years to each ward. If one person...let's take, I'll just say, Ward 1. We have two council people in that ward. If one person should resign early in their term, the other person could then resign and be appointed by the mayor and the council to fill that seat, and then they would have three and a half years to serve. So they wouldn't face the electorate. And now the mayor and the council and this individual would have a chance to fill that seat. Would this address that issue from happening? That actually did come up in Fremont; it didn't play out that way, but it could have. [LB499]

SENATOR PRICE: Senator Janssen, no, I don't believe that, because what you said you have the multiple seat holders in the same one, and you would be resigning--you're not running--you're not filing for an election. See, it would apply to if you were filing for the election to that second seat. [LB499]

SENATOR JANSSEN: Okay. Okay, so that doesn't actually do exactly what I thought it did in that case, where, when I explained log rolling--a person in this case could resign their seat and then be appointed and continue on in that capacity. [LB499]

SENATOR PRICE: That is correct. [LB499]

SENATOR JANSSEN: Okay. And do you see this happen mostly with, maybe, like, your

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NRD boards, where there's a large number of people, there's many, there's a lot of vacancies that occur--they seem to happen a little bit more frequently on those boards? [LB499]

SENATOR PRICE: Senator Janssen, as it was brought to me by the Secretary of State's Office, this mainly happens at the very small political subdivision, some small school boards, things of that nature. So the much more smaller--the smaller ones, I should say, that are, you know, again, all, like, an at-large, not a district-, ward-specific... [LB499]

SENATOR JANSSEN: Yeah. Well, I do intend to support LB499, and I know you'll look at ways to make sure that the intent is clarified in the bill on final passage. I do like the derivative of it, of actually having people face the voters; I think that's a good thing. Thank you, Mr. President. [LB499]

SENATOR GLOOR: Thank you, Senator Janssen. Senator Fulton, you are recognized. [LB499]

SENATOR FULTON: Thank you, Mr. President, members of the body. I've seen the light; I've had a good explanation. Senator Bloomfield, thank you. So I kind of started all this question. And so, Senator Price, if I could, the way I understand this: we already have in statute--it's not possible for an individual to hold two elected offices. So you can't have an individual, let's say, in the Legislature who is senator for District 29 and District, you know, 27 at the same time. What this scenario is talking about, what the intention of this language on page 2 of the bill is talking about is if an individual is holding a term, let's say, on a county--a city board and before his term is up he runs against one of his colleagues and wins. He isn't technically holding both seats until he's sworn in. And so before he's sworn in to his colleague's seat, he resigns his old seat and then is sworn in to his colleague's seat and, additionally, has some influence over who it is that is going to be appointed, or maybe elected, to take his old seat. We would be disallowing that practice under the language of this bill. Would Senator Price yield to a question? [LB499]

SENATOR GLOOR: Senator Price, would you yield? [LB499]

SENATOR PRICE: Yes. [LB499]

SENATOR FULTON: Did I accurately describe the intention of the language? [LB499]

SENATOR PRICE: That is one of the intentions of that language, yes, sir. [LB499]

SENATOR FULTON: Okay. So thank you, Senator Price. I will be in support of the bill. And thank you, Mr. President. [LB499]

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SENATOR GLOOR: Thank you, Senator Fulton. Senator Lautenbaugh, you're recognized; this is your third time. [LB499]

SENATOR LAUTENBAUGH: Thank you, Mr. President. My, how time flies. I don't know how many of you know this, because it's a chapter in my life I don't bring up often, but I used to be an election commissioner. And in that context, I have to admit I was unaware of this as a problem until today. So I guess I would request Senator Price to yield to another question, if he would. [LB499]

SENATOR GLOOR: Senator Price, would you yield? [LB499]

SENATOR PRICE: Yes. [LB499]

SENATOR LAUTENBAUGH: Senator Price, very simply put--and I don't mean to be facetious about this or flippant, but--why do we care about this, the issue of log rolling? [LB499]

SENATOR PRICE: I think that the...for me, it became abundantly apparent once I understood it. And I will agree that understanding it takes more than one pass. But the idea that you could have individuals out there with undue influence on a board or some political subdivision...because they're having a say on who's going to be appointed in their district. So...and they're avoiding, as Senator Janssen said, avoiding, perhaps, election at a period of time when, let's say, they know something is coming up or there's something unpleasant. So, again, it...and, Senator Lautenbaugh, it's your time and I apologize, but you do serve in a--and you did serve in a much larger metropolitan area, which has a much more directive nature and the slots are all numbered. And in the smaller ones it isn't, so you wouldn't have run across it as often. [LB499]

SENATOR LAUTENBAUGH: Thank you, Senator Price. And I have to confess I understand what you're saying. And I'm just trying to be concerned about it, because I think in the end it does come down to what the voters want. And I'm not going to start ranting about CFLA again, but it would dovetail nicely at this point in the conversation. But I understand what we're trying to address. I went out and spoke to the deputy for elections from the Secretary of State's Office, and he explained this to me as well. I understand perfectly what we're trying to address; I'm just not sure that's a concern. I'm not rising in opposition; I'm rising more in confusion than anything else. Thank you, Mr. President. [LB499]

SENATOR GLOOR: Thank you, Senator Lautenbaugh. There are no additional senators wishing to be recognized. Members...Senator Price, you're recognized to close on LB499. [LB499]

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SENATOR PRICE: Thank you, Mr. President and members of the body; I appreciate the opportunity to close at this time. I would say to Senator Council's remarks, we will revisit that and look for a more artful way, if possible; and I will stay in contact with you, of course, throughout this. And I appreciate the discussion we had. This second section, or this section dealing with the churning or log rolling, is somewhat--not difficult, but it is tricky to understand, and I appreciate your patience on this. And I would ask for your advancement of the bill. Thank you. [LB499]

SENATOR GLOOR: Thank you, Senator Price. The question is the advancement of LB499 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB499]

ASSISTANT CLERK: 32 ayes, 0 nays on the motion to advance the bill, Mr. President. [LB499]

SENATOR GLOOR: LB499 advances. Mr. Clerk. [LB499]

ASSISTANT CLERK: Mr. President, some items. Your Committee on Judiciary reports LB15, LB17, and LB124 to General File, with amendments. Committee on Transportation reports LB589 and Judiciary would report LB612. (Legislative Journal pages 1018-1020.) [LB15 LB17 LB124 LB589 LB612]

Finally, Mr. President, a priority motion: Senator Cook would move to recess until 1:30 p.m.

SENATOR GLOOR: Members, you've heard the motion to recess until 1:30 today. All those in favor say aye. All those opposed say nay. We are recessed.

RECESS

SENATOR GLOOR PRESIDING

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

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

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

CLERK: I do. Enrollment and Review reports LB100, LB230, LB387, LB387A, and LB544 as correctly engrossed. I also have a Reference report regarding certain gubernatorial appointees for referral to standing committee for confirmation hearings.

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That's all that I have, Mr. President. (Legislative Journal page 1021.) [LB100 LB230 LB387 LB387A LB544]

SENATOR GLOOR: Thank you, Mr. Clerk. We will proceed to the first item on this afternoon's agenda, Mr. Clerk.

CLERK: Mr. President, LB229 was a bill originally introduced by Senator Fischer. (Read title.) Introduced in January, referred to Natural Resources Committee, advanced to General File. There are committee amendments pending, Mr. President. (AM281, Legislative Journal page 704.) [LB229]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Fischer, you're recognized to open on LB229. [LB229]

SENATOR FISCHER: Thank you, Mr. President and members of the body. Well, this is LB229 that you all have heard about and that I understand set the record for a committee hearing in Natural Resources Committee. So I thank them for their patience when we had that hearing at the beginning of session. I've often heard that water is the issue of the decade. And as many of you know, I believe managing our water resources must be a priority for this state. During my time in the Legislature I've introduced several bills dealing with water management. As a former member of the Natural Resources Committee, I've also listened to countless hours of testimony on proposed water policy. The bill we're discussing today, LB229, is in response to environmental, agriculture and other groups who have come before us discussing the need for financial resources to implement integrated management plans, update studies, and for other water projects. A group of us met yesterday and this morning and we've come to an agreement on the funding for Nebraska's needed water projects. You'll find the details of that agreement in the amendment that will be offered by Senator Langemeier. And I would like to thank Senator Langemeier, the members of the Natural Resources Committee, Senator Burke Harr, Senator Mello, and members of the conservation in agricultural communities for working to develop a partnership, a partnership that will address our water resources needs. All of us recognize the importance of this precious and this vital resource. I believe we've arrived at a good plan that makes the needed commitment of dedicated revenue for this resource. I thank the Environmental Trust Fund for bringing the initial proposal to our meeting and that provides the basis for this compromise that will be before you. You know, it was really nice to be in a room, yesterday and this morning, with a group of people who hold our water resources to be a priority for Nebraska. And one of the best comments came from a friend of mine in the conservation community as we left last night. He referred to LB229 and he smiled and then he said to me, you know, sometimes you need to shake people up in order to move forward on an important issue. Obviously, I agree with him. Again, Senator Langemeier will be introducing the amendment that outlines our compromise. And I ask you for your support. Thank you very much, Mr. President. [LB229]

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SENATOR GLOOR: Thank you, Senator Fischer. As the Clerk stated, there are amendments from the Natural Resources Committee. Senator Langemeier, as Chairman of that committee, you're recognized to open on that amendment. [LB229]

SENATOR LANGEMEIER: Mr. President, members of the body, thank you. Before we get to the compromise amendment, we have a little housecleaning to do, keeping, excuse me, with AM281. In the original copy of LB229 that was introduced by Senator Fischer there was a couple lines in there that we're going to take out. First of all, it takes out the line that says if the environmental trust money goes into the Water Cash Fund, at a later date, if it's not used, it could then lapse back into the General Fund. I don't think the conservation groups nor anyone else really had intended for money to come through the grant process to the Water Cash Fund and then end up in the General Fund. So it strikes that language that allows for that transfer back to the General Fund. The second thing is it changes an "and" to an "or" just to clarify how the funding uses can be done. And so with that, we'd ask, first of all, for the adoption of AM281 as the committee amendment. Thank you. [LB229]

SENATOR GLOOR: Thank you, Senator Langemeier. Mr. Clerk. [LB229]

CLERK: Senator Fischer, you have pending AM1000 as an amendment to the committee amendments. [LB229]

SENATOR FISCHER: I would like to withdraw that, Mr. Clerk. [LB229]

SENATOR GLOOR: Members, you have heard the opening on LB229 and the committee amendment. Are there those wishing to speak? Senator Schilz, you are recognized. [LB229]

SENATOR SCHILZ: Thank you, Mr. President and members of the body. Wow. Just to speak on this amendment for a little bit and to talk a little bit about the work that went into this. This amendment right here that you see is really, mostly technical in nature. It solves some issues that were brought up, up front. It clarifies exactly what Senator Langemeier said. And so with that, I'm for this amendment. I think that as we look at these issues what we find out is there are nuisances around everything and that in order to bring people together, people have to realize that they are on the same page. And I think that's a little bit of where...the history of this is that as you sit around and you listen to people's opinions and their needs and their interests, none of us were very far off on understanding the importance of the issue that we're talking about. All of us, I believe, were on the same page in the fact that we needed to find some way to fund this. And as you will see coming up, and I don't want to belabor it, I'll wait to talk on the main bill, but I think we've got a very good compromise that brings in all the interests or most of the interests in a sense in partnering to move forward together. So with that, I would urge

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your support for AM281 and subsequent amendments. Thank you. [LB229]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Conrad, you're recognized. [LB229]

SENATOR CONRAD: Thank you, Mr. President. Thank you, colleagues. I may have hit my light a little bit early. But as we're moving through some of the different pending amendments to this legislation I did just want to throw out there for response by any of the supporters some issues that we've already talked about off the mike. And to be clear, my hearty and sincere congratulations to all of the principles that were at the table for many, many hours working to find a pathway forward. And I understand that those ideas will be presented for votes later this afternoon. And again, I congratulate them on their hard work and finding common ground to address important issues as we move forward. My only questions are this, and I want to ensure that they're on the record and I'd be happy to hear responses from any supporters as we move forward now on this pending amendment or others or when we reach the bill as a whole. But have the related implications related to constitutional issues and respecting the will and vote of the people in two prior elections been fully explored? And by that, I'd be happy to hear any information related to informal or formal opinions that have been requested by the or from the Attorney General's Office or other legal counsel working on these issues. And I'd also like some additional discussion about some of the funding issues related to this proposal as it moves forward because I understand the compromise relies upon an increase in General Funds to be provided from the state perspective in order to match what is allotted through the Environmental Trust Grant process, which I appreciate this compromise protects the integrity of the Environmental Trust. And I think that's very important. But knowing what we know about our current economic conditions and how we move forward and other obligations, significant obligations that are on the horizon for competition in the next biennial budget, I think it's important that we're straightforward about whether or not those resources will exist. And I'm happy to listen to more debate. But those are just two issues that I wanted to make sure were clear on the record and hopefully will be addressed. And finally, because this compromise, which again I think is very strong and a very good step forward, is so new I'm sure many of you, like myself, have received countless e-mails, phone calls and communications from concerned voters about this. And I think it's a good thing if they have some time and others who maybe weren't at the table have some time to digest these changes and react and offer potential questions or ideas as we move forward. But again, bravo to all included in this very, very good and important work. Thank you, Mr. President. [LB229]

SENATOR GLOOR: Thank you, Senator Conrad. Seeing no senators wishing to be recognized, Senator Langemeier, you're recognized to close on the committee amendment. [LB229]

SENATOR LANGEMEIER: Mr. President, members of the body, and to Senator

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Conrad, I will try and address those when we get to the amendment. So I'm not going to slip away from that. Again, this is a housecleaning amendment. It makes sure that if there's any extra funds that NET is put into the Water Cash Fund, that they don't just slide back into our General Funds. And so I think that's an important step that we needed to do. So I'd ask for now to adopt the committee amendments and then we'll get to the next amendment which is the meat of it and we'll start to address some of those issues that Senator Conrad brought up. Thank you. [LB229]

SENATOR GLOOR: Thank you, Senator Langemeier. Members, the question is, shall the committee amendments to LB229 be adopted? All those in favor vote aye; all those opposed vote nay. Record, Mr. Clerk. [LB229]

CLERK: 33 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB229]

SENATOR GLOOR: The amendment is adopted. Mr. Clerk. [LB229]

CLERK: Mr. President, Senator Langemeier would move to amend with AM1060. (Legislative Journal pages 1021-1024.) [LB229]

SENATOR GLOOR: Senator Langemeier, you're recognized to open on your amendment. [LB229]

SENATOR LANGEMEIER: Mr. President, members of the body, I, first of all, want to start off by thanking all my colleagues. As LB229 was introduced and as you got the e-mails everybody came to me and said, Chris, I understand the importance of water, which I appreciate, it's kind of the world I live in, but many of you also shared that you are very pleased with what the Nebraska Environmental Trust does and I join you in that. We appreciate what they've done for the citizens of Nebraska, whether it's recycling water in many of their five efforts, listed efforts that the Environmental Trust works on. So I thank you for that. I thank the individuals that came on both sides of this issue to the table and they're going to continue to come to the table. And part of this compromise is that we're going to introduce a legislative resolution in the last ten days of session, when we're allowed to do that, and we're going to put a group together this summer. We're going to continue to look for more funding options for water. So that's yet to come. And so now to AM1060. And I'm kind of just going to go through it because it is important and I want you to understand what's going on here. Through our discussion with LB229 we asked for an informal Attorney General's Opinion on LB229 whether it was constitutional. They gave us an informal opinion and said, yes, it is. And so there were still concerns out there that the way LB229 came out in its original form we were just instructing the Environmental Trust to give us the money or as a taking, as some have said, and that it wasn't going through the grant process. So in our compromise as we talked about that we wanted to honor the integrity of the Nebraska

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Environmental Trust and that particular grant process. So we start off here with asking the Department of Natural Resources to apply for a grant through NET. And they will apply for a grant that will be expanded over three years, but it will be a one-time grant application, to fund up to \$3.3 million a year each year for three years. So we're honoring their process of going through the grant application. The next part of that is when they apply for grant projects NET is going to give 50 bonus points to any project that they apply for that also meets the criteria that the state of Nebraska match up to that \$3.3 million. So, yes, it's going to have some financial impact. And we'll get to that in a minute. Currently, the state of Nebraska puts in \$2.7 million into the Water Cash Fund. And it's not something just the Appropriations Committee does. It's something that's in state statute. Statute says we're going to start off the year by putting, when we're making a budget, we're going to put \$2.7 million into the Water Cash Fund. This bill ups that, it ups it from \$2.7 million to \$2.3 million (sic). So are we going to come up with \$600,000 to go into the Water Cash Fund on the state level? Yes, that's the challenge. And that is part of this. And in visits with Senator Heidemann, the Appropriations Chair, he felt we could get there. So, yes, there is an opportunity to increase spending towards water. But if we can increase our spending \$600,000 and get an additional \$3.3 million, I think that's a pretty good investment in today's economy. So part of the bill changes that statutory requirement of adding \$600,000 to match the...to add to the \$2.7 million that goes into the Water Cash Fund to meet our match of \$3.3 million with the Environmental Trust. The third component in the back states that this goes for three years with the option of looking at a possibility of extending it another three years with the Environmental Trust based on a criteria. And since we found out this was coming on General File Monday, we've been scrambling to get this compromise. And so what we have agreed to as a group is you will see in this particular amendment, on page 4, line 23, at criteria says XXX. And we have agreed to keep meeting before Select File to determine what that criteria is going to be. So in that XXX we add the additional three years and the criteria that has to be met for those three years to actually go in. So you're going to see me on Select File to try and deal with another three years. And the group has been very committed to make those discussions happen. And so we had a meeting just out of the blue yesterday, at 8:00 everybody showed up. I asked them to come back at 4:00, they all showed up. I asked them to come at 8:00 this morning, they all showed up including one individual who is not a resident of the state of Nebraska but has a lot of interest and we appreciate his input and willingness to participate in this. So it does have a fiscal impact. But I think it's a good leverage of our dollars to their dollars. I appreciate their willingness to come and try and solve this problem. I echo what Senator Fischer said. It was neat to sit in a room where everybody in the room understood and was very cognizant of the importance of water in Nebraska, whether it's quantity for municipal use or it's quantity for habitat and our wildlife or just quality for all of us. It was good to see that. So with that, I will close and ask for the adoption of AM1060 and more than happy to answer questions as they arise. Thank you, Mr. President. [LB229]

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SENATOR GLOOR: Thank you, Senator Langemeier. (Visitors introduced.) We now move to floor discussion. Senator Hadley, you are recognized. [LB229]

SENATOR HADLEY: Mr. President, members of the body, I went on the water tour last year along the North Platte out to Colorado, Wyoming and Nebraska. And one of the things I took away from it was that whisky was for drinking and water was for fighting. Well, I think it's great that we have reached a compromise between the two parties in this very difficult situation, both parties willing to come to the table, both parties making concessions, which I think is important. And I think that shows the people of the state of Nebraska that this body can compromise, this body can find neutral ground as we move ahead. Would Senator Langemeier yield to a question or two? [LB229]

SENATOR GLOOR: Senator Langemeier, would you yield? [LB229]

SENATOR LANGEMEIER: Yes. [LB229]

SENATOR HADLEY: Senator Langemeier, they talk about fully appropriated and overappropriated. Would you take just a minute and explain what that means. [LB229]

SENATOR LANGEMEIER: Oh, it's going to take more than a minute. Fully appropriated and overappropriated was the designation created by the passage of LB962 in 2004, and I'll be brief and you can ask more questions. We came up with that designation based on water uses set at 1997 levels. And so we have a number of NRD basins that are fully appropriated and we have a number that are overappropriated. And so that designation came by the use of water, the sustainable use of water back to the 1997 date. [LB229]

SENATOR HADLEY: Thank you, Senator. I want to put in a plug for the Platte River agreement, Platte River Recovery Implementation Program. If you look at the map of Nebraska in the fully appropriated and overappropriated surface water in Nebraska, basically, it runs along the Platte River, almost over to the...not quite to the eastern border. But this is an important agreement. And it is an important agreement from the standpoint that Nebraska has made some commitments but they have not made the financial commitments. And I hope that we can use the DNR and the other people that come to the table, take this into account as we're working through this. I realize we have problems in other river basins and they are significant problems. But I hope that this Platte River Implementation act, agreement does not escalate into the open warfare we've seen with other states in other agreements. So I hope that we could use this as a leverage so that we could keep that important project going. The Platte River, basically, spans Nebraska from the west to the east. I can't tell you how many senators in here have part of either the north or the south or the Platte River running through their district. So this is an important project. And I think this compromise gives us some ability to start addressing some of the problems along there. So again, I compliment the

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people who have come to the table, who have made concessions on both sides of this issue. It was going to be a difficult issue if we didn't. With that, Mr. President, I would approve AM1060 and LB229 and urge their adoption. Thank you, Mr. President.  
[LB229]

SENATOR GLOOR: Thank you, Senator Hadley. Chair recognizes Senator Krist.  
[LB229]

SENATOR KRIST: Thank you, Mr. President and members of the body. I read the paper this morning and found I didn't even have to come here today because all the problems had been solved. And I'm going to do a little bit of a Carlson trick here. Senator Carlson, this morning, talked about issues related to the bill. I know a little bit...something about water management. I've had ten years, almost a decade, a little over a decade of watching the United States Army Corps of Engineers revise the master river plan for the Missouri River, all the way from the Great Divide down to St. Louis. When I first started working for the Corps of Engineers and flying their airplane around and witnessed the public meetings and the fights over water, I was appalled. That was during, if you remember, in 2000 and 2002, our 100-year drought levels. When I first started working for them there were three lawsuits in place that had seven different states on different sides of the issue. Water management is a critical, critical thing in today's environment. Those of you who have been asked to come to the mike before, I won't ask Senator Dubas to justify all the water it takes to grow corn, I won't ask the farmers at the north end of the Republican or the south end of the Republican to decide on who gets to use the most water. I won't even talk about the money that's owed back to this body and to the state in loans that are out there for the Republican River. I will say this, if Senator Langemeier's comments should be understood to me that the body that will come together at the end of this session and through the summer will start a comprehensive, comprehensive plan to manage the water throughout the state, if this is the first step to getting to that point, I say bravo. Senator Fischer and I had comments...had a discussion off the mike last week when we were talking about this very bill. And I said, as a city kid I really think we need to start managing our water. And she said, now is not the right time because we don't have enough water to go around. I would argue, members, that this is the best time to talk about water management because it brings people to the table. We've seen several examples of that happening just this session where we've asked questions, we've tried to solve problems. But when the issue gets pushed, either because of a legislative action or because of a proposed action, we seem to get people to the table. Water management has to be within the next ten years our number one priority because it is our most precious resource in the state besides our people and our children. I'm very serious about water management. And I think that we will have to bring all of the interests to the table. We'll have to bring those people to the table that are worried about the Ogallala Aquifer, those that are worried about pipelines, those that are worried about having enough water for the next millennium, those that are really genuinely concerned about

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agriculture in this state because without God and water there is no agriculture. I would like to ask Senator Langemeier one question at this time on the mike, if he will yield. [LB229]

SENATOR GLOOR: Senator Langemeier, would you yield? [LB229]

SENATOR LANGEMEIER: I will. I may not know the answer. [LB229]

SENATOR GLOOR: One minute, Senator. [LB229]

SENATOR KRIST: It will be pretty easy. The current leverage of the Environmental Trust Fund has yielded at times a 10:1 match when the money was awarded, given the federal and the NRD and the other interests that may be involved. The current water management fund only yields a 40 percent match against the individual districts. Are we sure that we're going to match those as efficiently or as effectively as would currently be available in the Environmental Trust? [LB229]

SENATOR LANGEMEIER: Well, I don't want to talk about each individual project in a lot of detail. But, yes, you're right. There have been some projects and they're typically smaller projects. It seems like the bigger they get you don't have quite that great of a match as they get bigger because you get less participants. But in the little ones, yeah, they've had that experience. I think Ducks Unlimited would probably give you some of the best examples of where the... [LB229]

SENATOR GLOOR: Time, Senators. [LB229]

SENATOR KRIST: No "one minute?" [LB229]

SENATOR GLOOR: Thank you, Senator Krist and Senator Langemeier. Senator Harms, you are recognized. Other senators in the queue: Avery, Mello, Schilz, Council, and others. [LB229]

SENATOR HARMS: Thank you, Mr. President and colleagues. I rise in support of AM1060 that Senator Langemeier has submitted and the underlying bill, LB229. First, I want to thank Senator Langemeier and Senator Fischer and whoever else was involved in bringing a very diverse group to the middle to find a solution to this issue because I know that it wasn't easy. And the people that I've spoken to over the last three or four weeks, there's a lot of emotion involved in this. But, you know, colleagues, I've never argued that the state isn't guilty of neglecting the need to provide adequate money to retire cropland, to build dams, and to take other measures to make sure that we have a handle on the water issues of the future. And I know that as I watched this unfold I began to really realize that we have to find another solution to our water issues. And I'm happy to hear that Senator Langemeier is going to be looking at this summer and

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getting people together to start discussing this because I believe that it's extremely important that we do this. But when I look at the area of recreation and tourism I find that this great state spends very little compared to other states. There's probably only two or maybe three other states that might spend more than we do. And my fear was, as I was watching this unfold, that we might destroy the Environmental Trust who has played a very important role in the stewardship of our outdoor resources. And I'm happy that at least we're at the middle road here and that that will not happen. But when you go back and look at the Environmental Trust and the lottery dollars that helps fund this, you know, they come from large communities, they come from small communities, but they come from all over the state. So this just wasn't isolated in just several issues, I mean, several parts of our state. It's all across the state of Nebraska. You know, when the voters approved the Environmental Trust they approved it because they agree that this state needs to develop its hunting and its fishing and its hiking areas all throughout the state, they need to preserve those. And there are other things that this Environmental Trust has done historically for this great state. But my greatest exposure and experience of this is where I live in western Nebraska. The Environmental Trust has opened up land and ranches that are in absolutely beautiful areas. It's hard to believe that when you go there that you're still in Nebraska, it's actually got great beauty, it's got great history to it. But they've opened this up to my grandchildren and maybe their grandchildren. And when they build these trails and continue to develop this land for tourism it's going to be absolutely staggering and phenomenal. And that's why it's so important for us to bring these two groups together to make sure that we have to be together with this and that together we can win this battle and together we can deal with the water issues and together we can make sure that our resources are...we're going to continue to develop those for the future, for your grandchildren and my grandchildren and their grandchildren. That's why this is so important, this compromise is very exciting for me. It's a little bit of a relief because I was really concerned where we might be headed. I want to again thank Senator Fischer and Senator Langemeier and all those who were involved in this negotiation because it's important to Nebraska. Thank you, Mr. President. [LB229]

SENATOR GLOOR: Thank you, Senator Harms. (Visitors introduced.) Returning to discussion, Senator Avery, you are recognized. [LB229]

SENATOR AVERY: Thank you, Mr. President. I want to raise an uncomfortable issue. I'm going to suggest that this bill and this amendment break faith with the voters of our state. We, in November of 2004, took Amendment 4 to the voters, a constitutional amendment. The voters approved that by a vote of 55.6 percent and thereby established a solemn covenant between them and us. And in that amendment the voters said they wanted 44.5 percent of the lottery proceeds to go...44.5 percent of lottery proceeds to the Environmental Trust Fund to be used as provided in the Environmental Trust Act. And I am going to listen carefully. I want somebody to show me how and why this solemn covenant has not been violated. In that 2004 vote the

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voters indicated they wanted a portion of lottery proceeds to go to the environment. I will take you back to January 26, 2004. There is clear legislative intent established in the debate that took place on the resolution 209 that put Amendment 4 on the ballot. I'm going to quote from the transcript. There is a virtue to enshrine these important goals, referring to the goals of the amendment to earmark money for the environment, to enshrine these important goals in the constitution which would mean that the Legislature would not be able to change its mind on a late Friday afternoon and all of a sudden spend all of the money in some other different area. We've mapped out here these priorities and we raised these from their legislative status to constitutional status. Now that is a virtue. What was the intent here? The intent was quite clear. The Legislature intended that Amendment 4 would protect the Environmental Trust and it would protect the lottery money as specified in that amendment to go to environmental interests. I'll take you to the ballot, the ballot question itself. It reads, a vote against this proposal, that is a vote against proposed Amendment number 4, a vote against this proposal will retain the Legislature's authority to distribute state lottery proceeds. Are we doing that with this amendment and this bill? That's what the ballot question was about, whether or not the people would decide in their vote on November 2, 2004, whether they would decide how lottery funds would be used in environmental issues, not this Legislature. It specifically said a vote against this proposal will retain the Legislature's authority to distribute state lottery proceeds. I would be interested in hearing from anybody in this body that can convince me and show me how and why this bill and this amendment... [LB229]

SENATOR GLOOR: One minute. [LB229]

SENATOR AVERY: ...is consistent with what we were doing or what was being done in 2004. When the voters went to the polls and they voted on Amendment 4 they were voting not to retain legislative authority on how to use lottery proceeds. And I'm afraid that we are about to break that solemn covenant with this bill today. I haven't made up my mind what I'm going to do, but I am leaning against a no vote at this point. Somebody convince me. Thank you, Mr. President. [LB229]

SENATOR GLOOR: Thank you, Senator Avery. Senator Mello, you are recognized. [LB229]

SENATOR MELLO: Thank you, Mr. President, members of the Legislature. Originally as drafted, LB229, I expressed a lot of reservation to Senator Fischer and Senator Langemeier because I just didn't believe that it was good public policy and I questioned some of the issues that Senator Avery had mentioned in regards to whether or not, one, it was constitutional, and two, if it broke the voters trust. But in multiple conversations with Senator Langemeier and Senator Fischer and a good number with my Appropriations colleague, Senator Heidemann, I took more of an interest in the issue and put my faith in the sense of seeing Senator Langemeier as the leader of bringing

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opposing forces on this issue together. And while I'll be more of an outside participant in regards to, I think, some of the day in and day out struggles in regards to negotiating a compromise that Senator Langemeier, Fischer, the Natural Resources Committee and others worked on, I stand in support of AM1060 now. And the reason I come in support is because, as was mentioned earlier by Senator Hadley, this is a compromise. And usually in compromises no one wins. But to some extent I still think the voters who voted and created the Environmental Trust they do win under this proposal. I think those who have been working on water issues for a number of years also win under this issue. And the reason why is because this amendment, as Senator Langemeier stated, came from a synthesis, essentially, from the Environmental Trust in a host of ideas that were thrown out, the premise of what this amendment is came from them. And it was a way to ensure that the integrity of the Environmental Trust process, grant process was not changed or altered in the sense of what we heard earlier, of a quote, unquote taking of money or a sweeping of funds. We see that and deal with that issue all the time in the Appropriations Committee. What you see under AM1060 is that process is still the same. You see that the Department of Natural Resources has to apply for a grant like anyone else. Now granted, in the sense of trying to find common ground and trying to build that partnership that Senators Fischer and Langemeier discussed we've changed some of the criteria in regards to trying to revive a more targeted, streamlined way to ensure that our water priorities as a state matches up with those water priorities of the Environmental Trust. So in that sense it's a win-win. As discussed, the other main component of this amendment and the idea that got thrown out last night was the opportunity for a potential extension, that's if certain criteria is met, if certain benchmarks are achieved by the Department of Natural Resources and those partners working on this project that they might be able to, and it looks like in all likelihood deserve another chance to apply for another three-year grant round of process or of grant process and grant funds. That is something that, as discussed, we'll work out between now and Select File. But I think that's a fair way to look at ensuring that the dollars that we are spending from the state, the \$3.3 million match which currently resides in the Water Resources Cash Fund, that money is utilized appropriately in conjunction with a three-year grant from the Environmental Trust. And if done correctly and, as Senator Langemeier mentioned, if done appropriately and in conjunction and a partnership that the Department of Natural Resources lays out and we see that success in three years, there's no reason that the Department of Natural Resources shouldn't apply again. Once again, some of...the devil is in the details. And I'm convinced that we'll get there. And I think that it's just the matter of dotting some I's and crossing some Ts, of making sure that the environmental community, the conservation community, the agriculture community, as well as the Legislature as a whole comes together through what Senator Langemeier mentioned is not just this interim study to look at long-term financing options,... [LB229]

SENATOR GLOOR: One minute. [LB229]

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SENATOR MELLO: ...but also ensuring that these benchmarks that get established are achievable and appropriate for the use of the Environmental Trust and state dollars. With that, I'd yield the remainder of my time to Senator Heidemann. [LB229]

SENATOR GLOOR: Forty-five seconds, Senator Heidemann. [LB229]

SENATOR HEIDEMANN: Thank you, Senator Mello. Mr. President, fellow members of the body, in my short period of time I'm going to say what people are going to stand up and say, can we afford to do this? I will have to say that we can't afford not to do this. With that, thank you. [LB229]

SENATOR GLOOR: Thank you, Senator Heidemann. Senator Schilz, you're recognized. [LB229]

SENATOR SCHILZ: Thank you, Mr. President. As I sit here and listen to everybody's concerns, Senator Avery's concerns, others in the body I guess I just have to ask a couple of questions, rhetorical questions maybe. What are the important environmental issues that this state faces? Sustainable water use, is that an issue? Absolutely. Endangered species issues, are those important issues, environmental issues? Absolutely. Recreational issues, are those important environmental issues? Sure. Stream flow issues, we can go down the line. But as you see, when you start to talk about each one of these issues there's different constituencies that enter into the picture. And certain constituencies think that their issue is the most important of all. And that's okay. But what we've seen in the last two days, and really what a difference a day makes, huh? What we've seen in the last two days is everybody understanding and empathizing with the others interest and the others needs. We maintain the grant process throughout this amendment. It maintains that for the Environmental Trust. It maintains that that money goes for environmental issues, which is exactly what the people voted on. It maintains the integrity and the structure of the Environmental Trust going forward. And I think everyone that was involved in this should be commended on that. We aren't sweeping money away. We're entering into partnerships. And I have a good feeling that these are going to be long-term partnerships that help to bring many solutions to the issues, the water issues that we have been facing over the last 25 to 30 years. We've got a little bit of time on the water issues, about 20 years I've been working on them, on the Platte River and other basins. This is the first time the Legislature has brought up the idea of long-term funding for these issues. And I sure hope we don't let this opportunity get away. Thank you, Mr. President. [LB229]

SENATOR GLOOR: Thank you, Senator Schilz. Senator Council, you are recognized. [LB229]

SENATOR COUNCIL: Yes, thank you, Mr. President. I want to begin by acknowledging and stating my respect for those who got together, spent a number of hours arriving at

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what has been presented to this body as a compromise, a compromise to address the fact that there is a need to deal with water management issues in this state, and a need to identify and dedicate funding to address that. With that said, however, no compromise, in my opinion, can trump or override the will of the people of the state of Nebraska as evidenced by their vote on the amendment, Amendment 4, that dictated how lottery funds were to be distributed in this state. Now when you look at the Nebraska Environmental Trust Act, and I appreciate there's a lot of creativity evidenced in this compromise because the Nebraska Environmental Trust Act, in Section 81-15,174, says, except as otherwise provided in this section, the fund, the Nebraska Environmental Trust Fund, shall be used to carry out the purposes of the Nebraska Environmental Trust Act. And that act contains certain specific purposes. Now I'm mindful of the fact that it speaks to conserving, enhancing and restoring the natural, physical and biological environment of Nebraska including groundwater and surface water. But I commit...I direct your attention to the fact that if you look at the fund as created, the Nebraska Environmental Trust Fund, and I'm going to repeat that sentence that appears prominently in the section I referenced, except as otherwise provided in this section, the fund shall be used to carry out the purposes. And what is one of the exceptions? There is a one-time exception for a transfer of \$1 million from the Nebraska Environmental Trust Fund to the Water Resources Trust Fund which was to have occurred on July 1, 2004. So with the exception of that one-time transfer of \$1 million to the Water Resources Trust Fund, it is my opinion that the Nebraska Environmental Trust Fund does not permit that which is AM1060 because what AM1060 does is in a rather creative way appropriates money to the Water Resources Cash Fund. It does so by enabling the Department of Natural Resources to obtain a grant that then has to be turned over to the State Treasurer to be credited to the Water Resources Cash Fund. So it's a creative way to make a transfer from the Environmental Trust Fund to the Water Resources Cash Fund. But that creative method, colleagues, is in direct violation and contravention... [LB229]

SENATOR GLOOR: One minute. [LB229]

SENATOR COUNCIL: ...of 81-15,174 because, with the exception of that one-time \$1 million transfer, the act does not allow for Environmental Trust Fund dollars to be used to buttress the Water Resources Cash Fund. Now again, I'm not saying all of this because I'm opposed to trying to deal with the water issues in this state. I recognize how serious those water issues are. And while the Attorney General may have rendered an opinion that the statute that is being considered here, this bill, is constitutional, I take exception to that. But I dare say if the Nebraska Environmental Trust does follow through with this that the trust is engaging in unconstitutional... [LB229]

SENATOR GLOOR: Time, Senator. [LB229]

SENATOR COUNCIL: ...conduct. Thank you. [LB229]

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SENATOR GLOOR: Thank you, Senator Council. Senators wishing to be heard: Louden, Ken Haar, Dubas, Fulton, Sullivan, Pahls, Krist, Karpisek, and others. Senator Louden, you're recognized. [LB229]

SENATOR LOUDEN: Thank you, Mr. Speaker and members of the Legislature. I won't get involved in this mutual admiration society. But I will point out that I probably agree with Senator Avery and Senator Council that this money was a covenant, you might say, between the people and gambling in Nebraska when the lottery was brought about. And that was what came about was the Environmental Trust Fund. And that's what the lottery money was set aside for. And I question whether we should be digging into it. I guess, to me I would think that as long as that Environmental Trust has been in business, which is somewhere around 15 years as near as I can remember, it's sort of like grandma's purse. And that ought to be sacred to be digging into because as you dig into that we're not coming up with any new revenue to do anything. We're just taking out revenue that would be used in some other place. The Environmental Trust spends nearly their whole \$14 million every year with water policies and they spent a lot of money on vegetation control in the Republican River and also in the Platte River. And those of us that were involved with that were quite thankful that we had that Environmental Trust money to finish up the job that the USDA didn't want to pay for when we were spraying vegetation in the upper...in the North Platte River valley. In 2008, I introduced a bill, LB1040, that would have put a 1 cent tax on...excise tax on ethanol. And that was on the production of ethanol. And of course, at that time they estimated that by 2012 or so there could be as much as 2.5 billion gallons of ethanol produced. At that time we had a checkoff on corn in order to fund some of the ethanol projects and to fund LB701. And as time goes on now, as I look back on it, this last 2010, Nebraska actually produced 1.86 billion gallons of ethanol. At 1 cents a gallon, that's \$18 million right there of a tax such as that. Now as I said, I think now we need something like a severance tax or something and put some type of tax on ethanol that's exported. At the present time there's about 66 million gallons used in Nebraska. So we have somewhere around 1.775 billion gallons, which would total up to about \$17 million a year, \$17.75 million a year. And if you have it as a severance tax that's money that you get from someplace else, that's other people's money that you have. That's a stream that is going to bring it in and do some good. That isn't trading dollars and recycling dollars that we already have. There's better ways of funding this Platte River Recovery program than what we're trying to do here. This is a drop in a bucket to take a few million bucks from the Environmental Trust that's already using that money on some of the environmental issues and some of the water resources in the Platte River. You need to find a different source of revenue someplace. And there is that source, ethanol and water and irrigation all go hand in glove. Now if that cent is too high, go a half a cent, then you are still talking about \$9 million a year with a severance tax of some sort on your ethanol. And if anybody complains about it gives you a disadvantage for shipping it, think about the railroads. Now our railroads run east and west and north

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south, every bit of alcohol or... [LB229]

SENATOR GLOOR: One minute, Senator. [LB229]

SENATOR LOUDEN: ...of ethanol in Nebraska, for the most part, is either shipped west or it's shipped south. We have a freight advantage of about 2 to 3 cents on Iowa or Minnesota or any states to the east of us. In fact, there's a freight advantage on ethanol shipped out of Bridgeport as it goes west there. And it all has to go out of here on railroad cars. So the half cent or the quarter cent, whatever you want to choose, there is better ways of funding this Platte River Recovery program than what it is. When I was on Natural Resources Committee and when we were starting this there was a \$150 million price tag was going on the Platte River Recovery program. And in the meantime, Nebraska has been able to have some in-kind contributions over what some of the other states had to put up cash. And at the present time we don't have to come up with the whole \$150 million, but we do have to come up with some money in the future. Right now... [LB229]

SENATOR GLOOR: Time, Senator. [LB229]

SENATOR LOUDEN: ...I think we're designating...was that one minute, sir? [LB229]

SENATOR GLOOR: That was time. [LB229]

SENATOR LOUDEN: Okay, thank you, Mr. President. [LB229]

SENATOR GLOOR: Thank you, Senator Louden. Senator Ken Haar, you're recognized. [LB229]

SENATOR HAAR: Mr. President, members of the body, I was told when I got into the Legislature, whisky is for drinking, water is for fighting. And being on the Natural Resources Committee, that's been the case. I spent a whole lot of energy on LB229 and there is a lot of emotion here from a lot of people. I know all of us have gotten e-mails on both sides of the issue and there doesn't seem to be a middle. So as of yesterday, the troops are ready to go, the battle lines were drawn and now, I think, we're at least at a temporary truce. I'd like to talk about what I consider the good, the bad and the unknown about this compromise. First of all the bad. I'm not entirely happy and not entirely comfortable with this compromise. And there's some who would, shall we say, mistrust this compromise at this point. But...and I want to make it clear, too, that I don't agree that compromise is always necessary. We often strive for compromise in this body, but it's not absolutely necessary. Usually there's a vote count. If you have the votes you probably don't compromise. And if we would have had our battle today without the compromise, well, my prediction I'm just going to hold to myself, keep in my pocket. But the...I think the compromise brings some good things with it. And for now

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the troops are standing down. Let's talk about the good. First of all, it respects the NET process. Unlike just saying the money goes and here's how you have to do it, it goes through the NET grant process. And I use this word on purpose, this is a compromise from a confluence of various interests. And I want to talk about those for a minute. And not everybody in these groups I'm going to mention are totally happy with things, but agreed with the compromise; the ag groups, Nebraska Farmer Bureau, Department of Natural Resources, of course, which is our department, Nebraska Cattlemen, Nebraska Soybean Association, Nebraska Corn Growers, Nebraska Rural Electric Association. Then there are the hook and bullet groups and the conservationists I guess you could say and the environmentalists. And this includes the Nebraska Environmental Trust itself has agreed to this, Nebraska Chapter of the Sierra Club, the Wachiska Audubon Society, Nebraska Trout Unlimited, Nebraska League of Conservation Voters, Nebraska...the WasteCap Nebraska, Ducks Unlimited, City of Omaha, Nebraska Division of Izaak Walton League, Sportsmen Foundation, Nebraska Wildlife Federation, Pheasants Forever, Quail Forever, City of Lincoln, Nebraska Chapter of the American Fisheries Society, the Nature Conservancy and the Nebraska Land Trust. So again, there is a coming together, not on all water issues, but on some water issues and that's what this compromise is about. One of the things I want to say, I want to applaud the conservation and environmentalists groups for sticking together. Hopefully, more and more we, like on this issue, the conservation and environmental groups will be speaking with one voice on some issues. And that in itself is a powerful lobby not because of who's behind the glass... [LB229]

SENATOR GLOOR: One minute. [LB229]

SENATOR HAAR: ...but because of the thousands of people that belong to all of these groups across this great state. And on this issue, conservation and environmental groups are speaking with one voice. They're saying, yes, the compromise works. And I would like to take up from there on my next time at the mike. Thank you. [LB229]

SENATOR GLOOR: Thank you, Senator Haar. Senator Dubas, you are recognized. [LB229]

SENATOR DUBAS: Thank you very much, Mr. President. As Senator Haar just said, there were a lot of people involved in this issue. This was one of the longest hearings that I've participated in. We had well over 30 people coming in and testifying on all sides of the issue, all of them with very legitimate points to make, which only underscores the importance of the discussion and the bill we're talking about today. I was a cosigner onto LB229. And I didn't make that decision lightly because, while I certainly do understand the importance of water and water issues in our state, I was very concerned about the route we were taking with involving the Environmental Trust. And so I just didn't make that decision lightly. It has been referenced many times by many people that water is the issue of the decade. I think I've made that reference myself. We have

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some very, very serious short-term and long-term obligations that we are legally bound to meet. And if we don't, the consequences are costly and far-reaching. It's just so imperative that we find a long-term, dedicated funding source for our water issues. You know, the executive branch has said water is the issue of the decade. Past legislative branches have made similar comments. But yet we have never fully stepped up and put our money where our mouth is. And it's just kind of one of those things that we just keep talking about it and talking about it and talking about it but have never really taken strong, authoritative action on, okay, now how do we address those issues. We made, the Legislature made an additional...an initial commitment to the water in the creation of the Water Resources Cash Fund and making an annual contribution of \$2.7 million to that fund. But really, that is only a drop in the bucket to the resources that we need to address our water concerns. To me, the directive has been very clear from the public as well as others, raising taxes of any kind or fees is off the table, it's not a part of the discussion. So if that's not where we're going to go, where do we go? Where do we go to find the resources that we absolutely, positively need to put into this issue? I'm a huge advocate for the Nebraska Environmental Trust. I know what they've done in my district as well as every legislative district across the state. We have benefited from the work that they've done in the area of water as well as so many others. The trust has probably done as much, if not more, work in the area of water conservation and protection than any other group or agency or individuals that we could name to date. Their work speaks for itself. They have a huge and very well-deserved fan base. And I count myself among that fan base. And again, that's why, you know, I put my name on LB229 because I did it as an understanding of just how important this issue is. None of us on the committee I don't think wanted to do anything that would undermine the trust or the work of the trust. But the bill in the original form certainly had that potential to undermine the trust. We were basically targeting over half of their budget to take away from them. And that's not something any of us were very comfortable about. But I just can't stress to the body and to the public that our backs are against the wall on this. The types of work that needs to be done for us to meet our water obligations are not projects that you can just go out and do in a few months. They take a lot of time, a lot of planning, a lot of forethought... [LB229]

SENATOR GLOOR: One minute. [LB229]

SENATOR DUBAS: ...to get to where we need to go. The cost, I think, as Senator Heidemann so appropriately and eloquently put in a very few words, is, you know, we can't afford not to do it. The cost of inaction will cost this state really more than we can afford financially as well as in so many other ways. Water belongs to all of us. It belongs to the state. It's up to all of us to find ways to address the concerns and the problems that we have. I am fully committed to the study and the work that we'll be doing this summer on finding that dedicated funding source, finding a way to keep the trust and the wonderful work that the trust has done intact but yet getting us to where we need to go because again the consequences are just far too serious and far too... [LB229]

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SENATOR GLOOR: Time, Senator. [LB229]

SENATOR DUBAS: Thank you very much. [LB229]

SENATOR GLOOR: Thank you, Senator Dubas. Senator Fulton, you are recognized. [LB229]

SENATOR FULTON: Thank you, Mr. President, members of the body. I want to start by saying that I'd like to echo the thanks that has been brought forward on this floor. About this time yesterday I was fully prepared to do battle on this bill, as were a number of others. But there has been an accord struck and so that should merit at least our attention. Now I've had the ability to or the opportunity to read through this a little bit. And Senator Council brings forward a point, as does Senator Avery, points that I think deserve to be addressed. Not being a lawyer, I can come at this, I think, and say that I'm an average Joe reading through this logically. And here's what I've come up with. The vote that we took was to amend the constitution and the way the constitution reads then is, 44.50 percent of the money remaining after the payment of prizes and operating expenses and the initial transfer to the Compulsive Gamblers Assistance Fund, shall be transferred to the Nebraska Environmental Trust Fund to be used as provided in the Nebraska Environmental Trust Act. The act, if you go to the statutes, is defined, Sections 81-15,167 to 81-15,176, shall be known and may be cited as the Nebraska Environmental Trust Act. This amendment, AM1060, proposes to make changes to that act. And so according to the language of the constitution, we, in my, just this person's opinion, are acting in accord with that constitution because we are acting in conformance with this act. Now the point that Senator Council brought forward has some weight with me anyway. Except, this is 81-15,174, except as otherwise provided in this section, the fund shall be used to carry out the purposes of the Nebraska Environmental Trust Act. And then it goes on. The exception, as pointed out by Senator Council, exists here. There are actually two of them. There was a transfer on or after July 1, 2003 to the Water Issues Cash Fund, and then a transfer from the trust to the Water Resources Trust Fund on July 1, 2004. Those were the exceptions provided in this section. But the second part of that sentence is, the fund shall be used to carry out the purposes of the Nebraska Environmental Trust Act. And recall, that the entire act is defined as Sections 81-15,167 through 81-15,176. We are not going outside the confines of the process that was established. Okay? We're still going through the trust fund. There still has to be a grant application. To accomplish our end or hopefully to accomplish part of our end, Senator Langemeier's amendment proposes to amend the act. So I can look at this logically in two ways. If we breached the trust of the people who voted in favor of this in 2004 one would have to assume, well, let's put it this way, either we did breach the trust of the people or we didn't. If we did breach the trust, I submit that one would have to assume that we the Legislature would, after 2004, after that vote, never, we would never be able to amend the Nebraska Environmental Trust

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Act. If the argument is by making this amendment to the act we are going against the vote of the people,... [LB229]

SENATOR GLOOR: One minute. [LB229]

SENATOR FULTON: ...then one would have to contend, I believe, that the Legislature could never amend the trust, Nebraska Environmental Trust Act. And I don't think that's realistic. We in the Legislature have that authority, indeed I think folks would expect that we would amend the act. So the question is, are we amending the act outside the intention of the people who wanted to see these monies go toward the preservation of the environment, which also is defined in the act by the way? And my opinion is it is not. The waters of Nebraska are important for numerous reasons, not least of which is our environment. Indeed, that's one of the reasons why we have this obligation within the Platte. And we may have other obligations in the future. So that's my own opinion. Reading through this logically, I think that we are meeting what the constitution says, what the statutes say. And if we take it a step further, I don't think it's reasonable to think that we... [LB229]

SENATOR GLOOR: Time, Senator. [LB229]

SENATOR FULTON: ...would never...thank you, Mr. President. [LB229]

SENATOR GLOOR: Thank you, Senator Fulton. Senators wishing to be heard: Sullivan, Pahls, Krist, Karpisek, Langemeier, Carlson, and others. Senator Sullivan. [LB229]

SENATOR SULLIVAN: Thank you, Mr. President. And good afternoon, colleagues. As the discussion has continued this afternoon, I've been reminded of a comment that Senator Avery had made about the art of compromise and that leaves the sides maybe not getting everything that they want but liking some of what they have. And I think this is a situation that we have before us today. I was very concerned prior to the discussion and the compromise that was reached because I was torn. And now I'm somewhat relieved in what we...the compromise that we've achieved. And certainly I listened to Senators Council and Avery about their concern and also Senator Fulton's clarification of his interpretation of the intent and the covenant established with the trust. And, I guess, I'm thinking that first of all I don't want it to become a war of words and strict interpretation of the intent. I think we need to look at the broader intent of what is trying to be accomplished here. And I do think that as senators and legislators we have not only a responsibility but the opportunity to evaluate, continue to evaluate policy, taking into consideration the situations and conditions of the time. And I think that's what we're doing to a certain extent. So in my quest to understand exactly what we're doing with this compromise, I do have a couple questions that I'd like to ask Senator Langemeier, if he would yield. Senator Langemeier. [LB229]

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SENATOR GLOOR: Senator Langemeier, would you yield? [LB229]

SENATOR LANGEMEIER: Yes. [LB229]

SENATOR SULLIVAN: Thank you, Senator Langemeier, appreciate that. First of all, as I understand it, a request from DNR would have to come as a grant application to the trust and that it would give additional points if the project application benefits river basins that are fully or overappropriated. Is that correct? [LB229]

SENATOR LANGEMEIER: Correct. [LB229]

SENATOR SULLIVAN: Now do you have any insight as to, that being said, there could potentially be a wide range of projects. So how will DNR determine what kinds of projects will be submitted in those applications? [LB229]

SENATOR LANGEMEIER: Well, DNR is going to start looking at meeting the Platte River Recovery project, for one. And there are a number of projects that are already out there, whether it's the Central Platte Irrigation District free timing, whether it's the Elm Creek regulating reservoir, they have those projects out there. And so they're kind of established already what they can apply for to get money to participate in. [LB229]

SENATOR SULLIVAN: Refresh my memory, too, then on page 4 of your amendment what were the Xs? [LB229]

SENATOR LANGEMEIER: In this particular legislation it states that this is going to go for three years, one grant that expands over three years. And on page 4 it talks about the opportunity for the Department of Natural Resources to apply for another grant for another three-year period if a number of benchmarks, which we have to determine. So in those Xs it's going to...the additional three years will come but subject to benchmarks. And so... [LB229]

SENATOR SULLIVAN: Who establishes those benchmarks? [LB229]

SENATOR LANGEMEIER: We are going to establish those as a group, whether it's all the players that have been at the meetings or anybody else that wants to come, we've had that conversation with Senator Avery earlier this afternoon, to come and participate in determining what those benchmarks are. And then if we can agree to those benchmarks and how they're going to be met and who determines whether they're met, then it could open it up for another three years, one grant for three years. [LB229]

SENATOR SULLIVAN: So are you saying that those benchmarks that will be determined will be part of this amendment? [LB229]

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SENATOR LANGEMEIER: It will be part of a Select File amendment. There has to be benchmarks and the additional three years. [LB229]

SENATOR SULLIVAN: Okay. [LB229]

SENATOR LANGEMEIER: I mean, if you can't come up with benchmarks, you can't do another three years. [LB229]

SENATOR SULLIVAN: Gotcha. Okay. And then a little bit more information, if you will, on did I understand you that there's going to be an interim...a resolution for an interim study? [LB229]

SENATOR LANGEMEIER: Right. We drafted an interim... [LB229]

SENATOR GLOOR: One minute. [LB229]

SENATOR LANGEMEIER: ...study resolution to bring these individuals together over the summer and intensely look at how are we going to fund water into the future. [LB229]

SENATOR SULLIVAN: Okay. I know I'm going to run out of time so I'll hit my light again because I would like to comment a little bit more on the ideas and the intentions of that interim study. Thank you. [LB229]

SENATOR GLOOR: Thank you, Senator Sullivan. Senator Pahls, you are recognized. [LB229]

SENATOR PAHLS: Thank you, Mr. President, members of the body. You know, I've been sort of following along since we've been in this session. Have you noticed the number of bills that have been brought forth where we are redirecting monies. I just want you to think about whether it's from the Department of Economic Development, whether we're talking about safety programs and here is another example. I may need to take Senator Hadley's advice. He said there are times that we need to redirect ourselves. I'm just trying to grab ahold of...a number of senators, in the past, have had various reasons why they did certain things. And, I guess, we are a new group and we can again project our ideas or our thoughts or our vision because in a couple of years from now there will be another group of senators and they may redirect our ideas that we have come across this session. So I do take your advice, Senator Hadley. There are a couple of concerns I have again is voter intent, is this what this was all about? And I've picked up from a couple of people that they have a concern about that. I don't know but I'm listening for that, I need to find that out. And I also know we have done compromises, everybody, like they say, sort of plays the game and let's get together and let's make it work. I don't think the Environmental Trust were in the game initially.

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They did have to come back and compromise because they...I'm sure they didn't say let's go in front of the Legislature and see if we can't renegotiate our funds. But I do know that they were in the compromise. If I would read some of the comments that I have received on e-mail you would think that what we're talking about is totally opposite of what a number of people want. One thing I will say with Senator Langemeier's leadership this is, to me, is a plus. I'll throw a couple of things your way before I ask questions, Senator Langemeier, because I have worked with the good senator on Banking Committee and I see how he has a vision. Now I will say that I know I think his thinking may be a little bit skewed because he represents the rural area, but I can handle that. But I do think that it's his intent to make this work. So I will give him that credit because, like with past experiences, he makes me feel a little bit more comfortable. With that, may I ask you a question, Senator Langemeier? [LB229]

SENATOR GLOOR: Senator Langemeier, would you yield? [LB229]

SENATOR LANGEMEIER: We're this close, what the heck. [LB229]

SENATOR PAHLS: (Laugh) Yeah, I can just talk about it across (inaudible). [LB229]

SENATOR LANGEMEIER: Please, no. [LB229]

SENATOR PAHLS: The concern I have is the additional money that will come from General Funds. Now would you just...could you just tell me how much that is again so I can grab ahold of that. [LB229]

SENATOR LANGEMEIER: \$600,000. [LB229]

SENATOR PAHLS: Okay. And I know you need that to make this work. And I'll keep our conversation going. But a little bit ago I heard the Appropriations Chair stand up and say, can we not afford not to do this? So that is leading me to the point of thinking if \$600,000 by the Chair can be that easy to move, maybe we ought to be thinking about some of these other bills that come in front of us that we will even argue a little bit about \$40,000. Do you see where I'm coming from? I don't know if you agree with that or not, but do you see how you get mixed messages there? [LB229]

SENATOR LANGEMEIER: Was that a question? [LB229]

SENATOR PAHLS: That's a question. [LB229]

SENATOR GLOOR: One minute. [LB229]

SENATOR LANGEMEIER: You know, I think over the years if you look at my comments on the floor of the Legislature I've been trying to make you all aware that water is an

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issue... [LB229]

SENATOR PAHLS: Yes. [LB229]

SENATOR LANGEMEIER: ...and that funding is going to be an issue. I know the Appropriations Committee, as they have looked at DNR's budget, have looked at options to shift money around within DNR and so funding to DNR has been an ongoing discussion within... [LB229]

SENATOR PAHLS: Right. [LB229]

SENATOR LANGEMEIER: ...the Appropriations and that I've brought to the floor. And so that's not a new subject. [LB229]

SENATOR PAHLS: Yeah, but the \$600,000 in this budget year is a, you would probably need to say that's a significant amount to dip into our budget. [LB229]

SENATOR LANGEMEIER: It definitely is a significant amount. [LB229]

SENATOR PAHLS: Okay. [LB229]

SENATOR LANGEMEIER: And I think you saw me stand up when I talked about angel investing and I happened to oppose that bill on General File. I think I brought up that there may be a better use for money and water at that point too. So I think I've been pretty consistent. [LB229]

SENATOR PAHLS: Okay, that's...and right and I agree. And that's why I have a basic trust in your leadership in this, and to make this compromise work if we can move it along. Thank you. [LB229]

SENATOR GLOOR: Thank you, Senator Pahls, Senator Langemeier. Mr. Clerk, announcement. [LB229]

ASSISTANT CLERK: Mr. President, the Revenue Committee will hold an Executive Session at 3:00 this afternoon in Room 2022. [LB229]

SENATOR GLOOR: Thank you, Mr. Clerk. Returning to floor debate, Senator Krist, you are recognized. [LB229]

SENATOR KRIST: Thank you, Mr. President and members of the body. I'd like to pick up where I left off with Senator Langemeier, just a few quick comments on my part. Remember, I'm for a comprehensive water management program throughout the state. I applaud the efforts of Senator Fischer and Senator Langemeier and those that have

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come together and tried to work this issue out. And I think it's the first step. I've heard many of you say, I've been here X number of years, no one is ever doing anything about comprehensive water management. I think we're on the road to getting in that direction. I do honestly believe that. Senator Langemeier, would you yield or, Mr. President, I'd like to address Senator Langemeier if I could, please. [LB229]

SENATOR GLOOR: Would you yield, Senator Langemeier? [LB229]

SENATOR LANGEMEIER: I would. [LB229]

SENATOR KRIST: So what we have here is the Environmental Trust Fund and our Water Cash Fund. And what we have done with your amendment, essentially, is allow the Water Cash Fund to approach the Environmental Trust for a grant of money. And additionally, they could be given or extended an extra credit of 50 points towards being approved for monies coming out of the Environmental Trust. Is that correct? [LB229]

SENATOR LANGEMEIER: Exactly. [LB229]

SENATOR KRIST: So in terms of the leveraging question that I asked you before, is it possible to get as much as a 10:1? You told me that you'll have to look at the smaller projects. Could I get a gavel, please. [LB229]

SENATOR GLOOR: (Gavel) [LB229]

SENATOR KRIST: Thanks. I think this is pretty important. When I asked you about could that money be leveraged then in terms of as much as 10:1, so we weren't losing the value of that money, you started to tell me yes and then tell me that a smaller group probably has more capability than others. Could you continue on with that dialogue for me, please. [LB229]

SENATOR LANGEMEIER: Well, what we started out there is you had talked about some of the Environmental Trust projects having a 10:1 match, and I started to talk about Ducks Unlimited. For example, they've brought a number of projects to Nebraska where they've gotten federal money, they've gotten donor money, they've gotten their money, they've gotten the Environmental Trust money and put it together and it's matched up very well. The purpose of this is we have a couple of things before us which, and I'm taking your time, but the Platte River Recovery project, for example. As we match up our money in our Water Cash Fund and the money from the Environmental Trust, and then with the 40 percent match from our NRDs, then goes into the participation with the Platte River Recovery project, which has a match from the Department of the Interior, from the state of Wyoming, from the state of Colorado. So as you start to put those together it starts to make a big matched project. And we're at the point now, with the Platte River Recovery project, that some big projects need to

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happen. For example, one is again Central Nebraska Public Power is reregulating another reservoir which is Lake McConaughy, Elm Creek reregulating project, and a number of groundwater recharge projects. So that's what we're going to do with the money. And if you don't mind, if I can keep going here, I'm going to borrow your...steal your time here a little bit. [LB229]

SENATOR KRIST: As long as he'll tell us when there's one minute left, you can go. [LB229]

SENATOR LANGEMEIER: Okay. When we talk about these projects and we make this investment into our--and I'm kind of losing track of my start where I thought I was going to go with this--but there's a lot of discussion about this water going into the Water Cash Fund. First of all, let's give you an example of what AM1060 does. AM1060 goes out and makes the Department of Natural Resources apply. Just like any little "Keep Schuyler Beautiful" or any other project that applies, they still have to follow the intent of the voters and they apply to the Environmental Trust. The Environmental Trust is going to grade everything like they normally do; then they're going to award grants. Now if Keep Schuyler Beautiful applied, they send the check out to Keep Schuyler Beautiful. If the Department of Natural Resources applies, now they're going to send the check to our Water Cash Fund. I don't think we need to...we shouldn't focus too much on the fact... [LB229]

SENATOR GLOOR: One minute. [LB229]

SENATOR LANGEMEIER: ...that it goes into the Water Cash Fund, because that's just the checkbook where it goes. It's still going to go for the project that they were applied for. [LB229]

SENATOR KRIST: Thank you, Senator. I want to make very clear I'm in support of AM1060 and I'm in support of LB229, and I am very, very much in support of a comprehensive water management plan that starts today and moves forward. And I also want to note for the record, in my time here in the Legislature, if I were texting Senator Heidemann, it would be OMG--oh my goodness. That's the first time I've ever heard him say, "We can't afford not to do this." A little pun. Thank you, Mr. President. [LB229]

SENATOR GLOOR: Thank you, Senator Krist and Senator Langemeier. Senator Karpisek, you're recognized. [LB229]

SENATOR KARPISEK: Thank you, Mr. President and members of the body. Would Senator Langemeier yield to a question, please? [LB229]

SENATOR GLOOR: Senator Langemeier, would you yield? [LB229]

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SENATOR LANGEMEIER: I would. [LB229]

SENATOR KARPSEK: Thank you, Senator Langemeier. What funds the Environmental Trust? [LB229]

SENATOR LANGEMEIER: Lottery. [LB229]

SENATOR KARPSEK: Yes, I'm going there. (Laughter) I'm just glad that we have some gambling revenues to fight over here, and I just wish we had a little bit more. Now I know everybody laughs, but I think it's fairly hypocritical here to fight over gambling money. We're fighting over it. How did this get out to the people to vote on? It surely wasn't through this Legislature, because we wouldn't have ever got it out to a vote of the people. And I know that it is a little bit funny, but I don't find it a whole lot funny. But, my goodness, would we have a Nebraska...would we even have a trust, Environmental Trust, had it not been for the lottery? No. People that are so against gambling and it rips families apart and it does all these things, why don't you run something to get rid of this? I think that would be honorable. Gambling is so bad--and I know you guys are looking at each other and smiling (laugh)--but let's think about that. Just the things I hear on the mike sometimes--and I know I'm no better because I really can get out there. But come on people, think about it a little bit: this is all gambling money. Senator Harms, you were so impressed with the Environmental Trust. What a great job it does. Yes, it does, I agree, and I'm very glad that we have that money there. I too would like to say that I'm happy about the compromise. I don't know that I'm still crazy about the idea, but it's a heck of a lot better than it was. And I know we were all holding our breath with this one coming down the pike. It was tough. I didn't know where I was going to be until I decided I was not going to be in favor of taking money out of the Environmental Trust. I think that money was put there; it was put there by the voters. And I'm still having a little trouble with it. I agree with Senator Avery. I'm trying to research as much as I can how this all worked out, what the people did when they did it. As I understand, it was 1992 that this went on the ballot, at that time--for the lottery. At that time, 440,973 for the lottery; 267,928 against. That sent a pretty strong message, but we still hear that the voters of this state have said no to gambling. That was in '93. In 2004, the Environmental Trust was created. Move this money, part of it, over--part of it goes to education. I do think we need to listen to the people. But we're changing things here, and I am...I'm listening. We need to do something for the water that is for sure. We need to. It's tough to take money out of the General Fund. It's tough to take money out of the Environmental Trust. I do think by them asking for some money out of the Environmental Trust, putting in for it is the way to go. I would think that the trust would be very smart to give them as much money as they think they would need. So I am being a little facetious, but I am also trying to point something out that I'm glad that that money is there. When we have these sort of debates, we need to think... [LB229]

SENATOR GLOOR: One minute. [LB229]

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SENATOR KARPISEK: ...about where it came from, where we're going forward, and how we're going to deal with this. How are we going to deal with this budget shortfall and how are we going to deal with it if it keeps going? I hope that it turns around, and it should, but we're going to have to think out of the box, folks, and sometimes maybe do things that we don't always like. But we sure do like this money for the Environmental Trust. Thank you, Mr. President. [LB229]

SENATOR GLOOR: Thank you, Senator Karpisek. Senator Langemeier, you are recognized. [LB229]

SENATOR LANGEMEIER: Mr. President and members of the body, I was going to address...Senator Fulton kind of addressed what I was going to talk about in my discussion with Senator Krist. If we look at this bill the way it's drafted, it's considerably different than the way LB229 started. LB229, I would say I would be right with Senator Avery and Senator Council and some of those arguments. It didn't have it go through the permitting process, the application process, the ranking process. But this does. And I don't want to get too hung up on what checkbook we put it in. There's going to be scrutiny to make sure that that money gets spent for the projects that are applied for. I think this is a fair way for the Environmental Trust to still be the recipient of applications, still be the group that ranks projects, and then that group has the opportunity to approve projects as they go. And so I think we need to keep that in mind that this is a part of that. In a conversation with Senator Conrad, earlier, she had concerns that attorneys have looked at this and we've kind of vented it. And let me tell you, from the environmental side, they've looked at it. They've looked at the constitution. They've looked at the things we've talked about. Over the last month and a half we've had a lot of discussions on whether LB229, in its original form, was constitutional, and how that money went. Now I can tell you that if you go back in history, we've taken money from the Environmental Trust just as a taking that LB229 started out as, several times. Whether it was with the university at their Mead project, or some others, they've done it. This steps away from that, just a taking, and goes back to the grant application process, which I think gives a lot of credibility back to the Environmental Trust and what they do and the good work that they do. And again I'd ask for your adoption of AM1060. Thank you. [LB229]

SENATOR GLOOR: Thank you, Senator Langemeier. Senator Carlson, you are recognized. [LB229]

SENATOR CARLSON: Mr. President and members of the Legislature, this is an opportunity for me to speak and attempt to show Senator Karpisek and Senator Avery the folly of their ways. Senator Avery talked about the Environmental Trust Act and read some things from the legislative debate in 2004. And he read in there that the intent of the Legislature was that these dollars that go to the Environmental Trust were not to be

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used in some other different area. Now what is some other different area? In the bill that we're talking about today there's been an agreement that the Environmental Trust would make a decision to allow some funds to be used on water issues, on water conservation, on water conveyance, on water savings, on water planning, on water allocation, on groundwater recharge, on water storage, on water transfers, and perhaps on intentional water seepage. I'd like to address Senator Avery if he would yield. [LB229]

SENATOR GLOOR: Senator Avery, would you yield? [LB229]

SENATOR AVERY: Certainly will. [LB229]

SENATOR CARLSON: Senator Avery, in talking about this idea of not to be used in some other different area, what's wrong with these areas that I have just mentioned? [LB229]

SENATOR AVERY: Actually I'm going to address that when my turn comes on the mike. There is nothing wrong with these issue areas. I mean they are certainly environmental issues. The question I raised is whether or not the Legislature has the authority in the constitution and in the statute to earmark any of the funds from the trust--and I contend they don't. [LB229]

SENATOR CARLSON: Okay. And I'm going to ask you to listen carefully to the next thing I'm going to say, and then if we have time I'd like your response to that. The whole idea of the Environmental Trust Act gives some duties, gives some responsibilities to the Environmental Trust Board. I would think in that act they have a certain amount of freedom on making decisions about projects and where the money goes and what it's used for. But I know that they are supposed to approve projects that have a positive effect on the environment. And I would argue that anything that we're talking about today is something that is going to have a positive effect on the environment. What about the freedoms, the duties, the responsibilities that the Environmental Trust has? What kind of leeway do they have, Senator Avery? [LB229]

SENATOR AVERY: The Environmental Trust has a pretty broad mandate under the constitutional amendment of 2004 to use their funds as specified in that constitutional amendment. It's very broad if you stay within the 44.5 and 44.5 distribution. Now the Legislature has the authority to have an input into how those funds are used with legislative intent, but we do not have the authority to mandate an earmark of any of that money for specific programs. [LB229]

SENATOR CARLSON: Okay. Thank you, Senator Avery. And I disagree with that. I think that we have the constitutional capability and we have the freedom as a Legislature to make these kinds of decisions,... [LB229]

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SENATOR GLOOR: One minute. [LB229]

SENATOR CARLSON: ...and I would hope that that's the kind of decision we're going to make today. Thank you, Mr. President. [LB229]

SENATOR GLOOR: Thank you, Senator Carlson and Senator Avery. Senator Campbell, you are recognized. [LB229]

SENATOR CAMPBELL: Thank you, Mr. President, and good afternoon, colleagues. I will quote Senator Hadley by saying, "I just have one brief comment." Those of us who spent the year in Transportation with Senator Hadley know that comment. My comment today has to do with the fact that I think a lot of us who live on the eastern part of the state used to look at this issue, we'd read the water issues in the paper and we'd go, golly, that's sort of out there--central and western Nebraska. And then, shortly after coming onto the Legislature, the Lower Platte NRD, which is my NRD, announced that our basin was fully appropriated. And, all of a sudden, people who lived on the eastern side of the state started going: water is a problem; we need to pay attention. Obviously we were trying to pay attention because of Lincoln's water supply, because of the growth that we had hoped to attain. I would say, colleagues, this issue, I much appreciate all the work that has gone to get us to AM1060 and the work that will follow, because I think all of us were in a very difficult situation wanting to protect the Environmental Trust and yet understanding how urgent it is to work on the state's water problems. So I just rise to thank the committee and to remind every senator here that water is an issue all across the state. Thank you, Mr. President. [LB229]

SENATOR GLOOR: Thank you, Senator Campbell. Senator Avery, you are recognized. [LB229]

SENATOR AVERY: Thank you, Mr. President. A lot of the discussion has been developing around this issue, the environmental nature of the proposal in AM1060. The issue here is not whether the amendment addresses the environmental problems. Clearly it does. And it addresses a very serious and important set of problems--water--and, frankly, it doesn't get more serious than that in Nebraska. It is one of the top issues of our time. But the issue for me, as I stated already on the mike, is whether or not we are keeping faith with the voters, more than 400,000 voters who voted against this Legislature deciding how lottery funds would be used. I have distributed a copy of a sample ballot from November 2, 2004. And if you look at Amendment 4, in the top left, you will see blocked out there at the bottom, these are instructions that the ballot provided for the voters. A plain and simple reading of the ballot instructions are this is an explanation of if you vote against, this is what you're doing; if you vote for, this is what you're doing. We always do that with constitutional issues and ballot issues. A plain and simple reading of the ballot instructions shows

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clearly that voters were told what a no vote meant. It meant that they would be retaining...no. A no vote, that is a vote against the proposal, would retain the Legislature's authority to distribute state lottery proceeds. In other words, if you voted no, you were saying that you did not want the Legislature to have the authority to decide how lottery proceeds would be distributed. Senator Schumacher and I had a conversation off the mike in which he reminded me of a 1992 ballot issue that was the one that approved the lottery system for the state. That involved a constitutional amendment. And in that election the voters were given an opportunity to vote for a lottery, and they voted to distribute the lottery funds, I believe it was 50 percent to education and 50 percent to the environment. Now the cynic in me would say that the pro-gambling forces felt that that was about the only way they could get approval by the voters was to tie it to two very popular issues in the state: the environment and education. Well, it worked, and the voters voted for it. But they also voted restrictions on how the money would be spent, and that put restrictions on this Legislature. That's why, in 2004, when the ballot instructions were drawn up, it was very clear that they were telling the voters, if you vote against Amendment 4, and that was the amendment that put 10 percent of lottery funds into the State Fair, so if you vote against this, you are voting to retain the Legislature's authority... [LB229]

SENATOR GLOOR: One minute. [LB229]

SENATOR AVERY: ...to distribute state lottery proceeds. So I think that the issue is a serious one. I am told that there was at least one example of where the Legislature did, in fact, transfer some money out of the trust into another...for another purpose. And I don't know the details of that but I would submit that was illegal. And for us to use an illegal act as the basis for arguing for what we're trying to do today, saying that if we got away with it then maybe we can get away with it now, I don't know if we can. I still haven't decided what I'm going to do, but I think that we have to be concerned about the legality of what we do in everything that we consider in this body. I am certain that the intent of the supporters of the green copy of LB229... [LB229]

SENATOR GLOOR: Time, Senator. [LB229]

SENATOR AVERY: Thank you, Mr. President. [LB229]

SENATOR GLOOR: Thank you, Senator Avery. Mr. Clerk, items for the record. [LB229]

CLERK: Thank you, Mr. President. Banking Committee reports LB73 to General File with amendments attached. Government Committee reports LB175 and LB234 to General File with amendments attached, those reports signed by respective Chairs. Notice of hearing from Health and Human Services for confirmation hearings, those signed by Senator Campbell. Senator Bloomfield has amendments to LB628 to be printed. That's all. Thank you, Mr. President. (Legislative Journal pages 1024-1026.)

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[LB73 LB175 LB234 LB628]

SENATOR GLOOR: Thank you, Mr. Clerk. Senator Council, you are recognized.  
[LB229]

SENATOR COUNCIL: Thank you, Mr. President. And I know there have been positions taken with regard to what the vote of the people meant in 2004, and it remains my position that the vote of the people was that the designated percentage of lottery funds were to be directed to the Nebraska Environmental Trust for the purposes set out in the Nebraska Environmental Trust Act. Now, if the argument is, is that the types of water projects that would be necessary to address the issues of overappropriation of groundwater sources or fully appropriated areas, then I question why we need this statute. If it is fully within the authority of the Environmental Trust to approve a grant application from the Nebraska Department of Natural Resources for these fully appropriated and overappropriated water issues, then I question why we need LB229. The Nebraska Environmental Trust, if you accept the position that we're acting fully and thoroughly within our constitutional boundaries, there's no need for LB229. The negotiations that occurred could have occurred. The body could have gotten...the Department of Natural Resources could have received some commitment from the Nebraska Environmental Trust to favorably consider an application for a three-year project at the amounts stated, without the necessity for this legislation. I submit to you that the reason LB229 was introduced in its original form and why the amendment is where it is, is because there is a recognition that the ability of the Nebraska Environmental Trust to award funds for purposes that don't fall squarely within the purposes set forth in the Nebraska Environmental Trust Act are questionable, at best, and unconstitutional, at worst. And if there is a question about whether or not, by virtue of the action taken by the voters in 2004, that they cemented what the purposes were on the Nebraska Environmental Trust Act, I submit to you that during that same election the voters said that this body could not amend, repeal, or modify an act...a law that was enacted as a result of an initiative without a two-thirds vote of this body. But the question becomes, we've had this issue of fully appropriated and overappropriated water issues for a number of years. The Nebraska Environmental Trust Fund has been receiving lottery funds since 2005, at a minimum, since the constitutional amendments was enacted in 2004. Yet, I'm unaware of any time... [LB229]

SENATOR GLOOR: One minute. [LB229]

SENATOR COUNCIL: ...that the Nebraska Department of Natural Resources has gone to the Nebraska Environmental Trust and made application for grant funds to be used for the purpose of buttressing the Water Resources Fund. And I do want to point again to the fact that as the law currently exists, there was an intent to provide a one-time \$1 million transfer from the Environmental Trust to the Water Resources Trust Fund, which occurred on July 1, 2004. I'm very troubled and have real concerns about LB229 and

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AM1060 in the context of the constitutionality of the action. But I also have a concern with regard... [LB229]

SENATOR GLOOR: Time, Senator. [LB229]

SENATOR COUNCIL: Thank you. [LB229]

SENATOR GLOOR: Thank you, Senator Council. The Chair recognizes Senator Louden. [LB229]

SENATOR LOUDEN: Thank you, Mr. President and members. We've had discussion on the legality of it and I won't go into that, but I would like to point out what the Environmental Trust has been doing and what they plan on doing this year. If you'll go into your machine and go into the Google there and find up the Nebraska Environmental Trust, you'll find the preliminary rank order list of what they intend to put their money out for, for this 2011. And as you look down them, why, there's Platte River Basin Environments--that's \$640,000 they're putting out for that; Snake Falls Ranch Acquisition--that's \$1.4 million. I'm wondering what effect that has on what we're doing. Twin Valley Weed Management, that's Eastern Republican Riparian Improvement Project--that's \$650,000; and also the Southwest Weed Management, that's the Western Republican Riparian--another \$460,000. In other words, they're putting a million dollars on their ranking in the Republican River Valley this year or as their ranking comes out. And this is their high rankings on there. There's recycling centers. And there's city of Omaha gets some Carter Lake rehabilitation. And as you go on down, I think as you look through the list you'll see some probably zebra mussels aquatic invasive species prevention--\$100,000 to the university--and that's the zebra mussels that are trying to get into our lakes and streams. So all of these...and as you look at that, I think there's seven pages there, and as you go down through them, after about, on page 3, all of sudden the zeros are across there on what they're going to be able to do. And so then you can look down on the zeros and see if there's anything in your district that's on the part where they're not going to be able to fund any of that. Now as we go in there, as we have, and start pulling some of this money out, your \$3 million and whatever it is we're trying to get out of there, that's going to probably either make the zeros go up a little bit higher on the list or someplace. So this is something that they're already...we're already using that money. We're using it well. And then we're going to go in there, and as I say, raid Grandma's purse, and pull some money out of there on something that was...they're already doing good work. There's better ways of funding this Platte River Recovery project than what we're doing here. This is going to take a lot of money and it's going to take a long time. I think we need to let the Environmental Trust go like they have been and do the work that they have been. They've been putting money into these weed managements and invasive species up and down these rivers now for over three years I think. So this is something that, if we aren't very careful, we're going to--what would you say?--kill the goose that laid the

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golden egg is what it looks like to me we're trying to do. Thank you, Mr. President.  
[LB229]

SENATOR COASH PRESIDING

SENATOR COASH: Thank you, Senator Louden. Senator Ken Haar, you are recognized. [LB229]

SENATOR HAAR: Mr. President and members of the body, of course I rise in support of AM1060 to LB229. I do believe that it fits the NET grant application process. And if there's...once a DNR applies for a project, if they change that project...if they would want to change that project, it would go through the same kind of process that anybody has to go through with NET to change a project. The other thing that hasn't been talked about a lot, but I think is really important, is that this sunsets after three years, and then there's a sunrise of sorts at the end of that three years. If the benchmarks are met, then there can be another three-year application by DNR. So we have a sunset, a sunrise, and a sunset, and I think that's an important part of this as well. And then, thirdly, a really important part of this is the study that will be forthcoming in terms of a resolution. And I guess people will say, well, why another study, and what do studies do anyway? Well, I would like to remind you that two years ago we had LR83, which was a wind study, also in the Natural Resources Committee. And Chairman Langemeier shepherded that whole process very well, and it wound up, last year, with LB1048, wind for export, which is a very important economic bill for Nebraska. This study I have the same hopes for, that it's going to provide substantive results. And there are two things that this study is going to have to address. One is: where's the sustainable money going to come from for water, and also, what are the specifics of the plan? Right now, that water money can be used for just about anything by DNR, and we want to know exactly what's the plan and what are all the phases going to cover. So I think the big unknown here, to get to the unknown part of this, is are there really sustainable funding for various sources other than the NET? And that's going to be really important. I would not support, in the future, anything that relied solely on the NET. And can we come up with benchmarks by selective file that, again, all of those groups, agriculture, the hook and bullet, the environmental groups can agree on? These benchmarks are going to be very, very important that have to be achieved by the end of the first three years. And once again I would end with how I've begun my discussion this time, by saying I believe that the process, that the compromise that has been agreed upon by all of these groups, respects the NET grant application process, and that's what I find very hopeful. Thank you very much. [LB229]

SENATOR COASH: Thank you, Senator Haar. Those wishing to speak: Senators Sullivan, Schumacher, Cook, Fischer, and others. Senator Sullivan, you are recognized. [LB229]

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SENATOR SULLIVAN: Thank you, Mr. President. I wonder if Senator Langemeier would yield for a couple questions, further questions? [LB229]

SENATOR COASH: Senator Langemeier, would you yield to questions from Senator Sullivan? [LB229]

SENATOR LANGEMEIER: Yes. [LB229]

SENATOR SULLIVAN: Thank you, Senator Langemeier. I'm still curious, a little, about these benchmarks, because you had mentioned the Platte River Recovery program and some emphasis being given to that. And we're talking about cash. But as I understand some of Nebraska's commitment to the Platte River Recovery program, it doesn't, for the next 13 years, have anything to do with cash input. So what are we talking about with respect to projects relative to the Platte River Recovery program? [LB229]

SENATOR LANGEMEIER: Well, first of all, when we entered into the Platte River Recovery project, at the beginning it was \$185 million to be put up by the Department of Interior. Wyoming and Colorado and Nebraska was...didn't have to. But we have to do like kind things. We have to put some more water back in the stream. We have to turn 10,000 acres into vegetation habitat. That takes cash. And so when it said we don't have to...when it talks about the money that was given to the Platte River Recovery, that was writing checks, giving it to the governance board. The governance board then did things with that money. We didn't have to do that--knock on wood. But to participate into the future, let's say the city of Kearney would like to grow. Right now, they're in a well moratorium as well. If they need to grow, they need more water. They have to do offsets. As the state of Nebraska participates in those endeavors financially, it gives them the opportunity to reap some benefits to allow an expansion of the well field for Kearney, Grand Island, just to name a few. [LB229]

SENATOR SULLIVAN: Okay. That's what I needed to hear as far as a clarification. Then a little bit more on who you expect to be involved in this interim study. [LB229]

SENATOR LANGEMEIER: You know, we put together a little draft list, and we'll get you that, and the Environmental Trust has asked us to add some other people. You know, we're going to treat this like LR83. I'm going to let anybody come that wants to come. We're going to start off, and as we introduce that we'll have our...we have NRDs, we have environmentalists, we have conservationists. I was...so pointed out today that we have environmentalists and then we have conservationists, two different groups. And we'll bring all those people in that want to participate, including yourself if you'd like to attend some meetings. [LB229]

SENATOR SULLIVAN: That's very encouraging, because I think this is so very important to have a lot of different people at the table, because it does involve a lot of

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different entities. And what we're striking...reaching for, is a balance, if you will, of all the parties involved. And I think that that's very important to have that, and I hope that that can be achieved. You know, one of the things that I think about, and it's been said several times, that water is the issue of the decade. No. I think it's the issue of the century. And if water flows, I think the issues on water are going to flow almost inevitably all of the time. But I do also think that we're going to need a vision of where we want water policy to go. And to that end, I think it's very important to have all the parties at the table. So I thank you for your time and I would yield the rest of my time, if he so chooses, to Senator Carlson. [LB229]

SENATOR COASH: Senator Carlson, 1 minute 35 seconds. [LB229]

SENATOR CARLSON: Thank you, Senator Sullivan. I simply asked for a little time because I stood up the other time and got concentrating on Senator Avery and a little bit on Senator Karpisek. But for the body, I want to make a few positive comments about the Environmental Trust. And I think back to when I came into the Legislature in 2007, and we started the projects for clearing vegetation out of the streambeds of the Republican and the Platte Rivers. After the first two years, it was the Environmental Trust and NRCS that allowed that process and project to continue, and it's continuing today. And Senator Loudon just read off... [LB229]

SENATOR COASH: One minute. [LB229]

SENATOR CARLSON: ...the grants that had been provided in the Republican for this year. And so I am very grateful to how the Environmental Trust has cooperated with requests that I've been interested in. I appreciate being able to work with Mark Brohman, and that is good work, and we need to be partners going forward in the best interests of the state. And I think that that's really what's happening here with LB229. Thank you. [LB229]

SENATOR COASH: Thank you, Senator Carlson and Senator Sullivan. Speaker Flood, for an announcement. [LB229]

SPEAKER FLOOD: Thank you, Mr. President, and, good afternoon, members, Again I appreciate the work that everybody has done outside of our actual in-debate hours here on the floor. I especially want to recognize Senator Langemeier and his committee. At this time, I want to make the announcement that I'm prepared to adjourn for the day, provided we move LB229 to E&R Select File. So again, we'll adjourn following LB229, packaged up and headed to Select File, which is my sense as to where we're going. Thank you, Mr. President.

SENATOR COASH: Thank you, Speaker Flood. Returning to discussion, Senator Schumacher, you are recognized. [LB229]

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SENATOR SCHUMACHER: Thank you, Mr. Chairman. You know you're getting old when you can remember history. The topic today seems to be centering around a lot of the opposition coming from the idea that this may break a trust with the people. Let's roll back history a little bit to 1992. People--and '90 to '92--people were flocking across the border to Iowa to buy lottery tickets. We were losing lots and lots of money. Lots of people with common sense were saying, you know, Nebraska should have a state lottery too. But every time you talk about an expansion of gambling in Nebraska, you can expect legions and legions of people predicting social Armageddon in the event there's any more gambling in Nebraska. So the Legislature passed a bill that basically said, here's what we will do or intend to do if the people pass this gambling measure called the state lottery. We intend to put 50 percent toward education and 50 percent we will put in a thing called the Environmental Trust Fund, and that money will be administered according to the--let me find the note here of what the thing actually was called--the Environmental Trust Act. Now there was no restrictions on what you could do and how you could amend the Environmental Trust Act at that particular point. It went to the vote of the people. The vote of the people said, yes, let's stop this money going to Iowa; and, you know, education and the environment are a pretty neat thing, so we'll go along with it. Now what did they mean and what was the intent of the Legislature, if there was a binding with the people at that point? And the Legislature was smart enough to write it down, and it wrote it down in 81-15,168, which has not been amended since 1992. So if it fits within this, it fits within the spirit, the intent, whatever was out there in 1992, besides stopping the money going to Iowa. It says, "It is the intent of the Legislature to establish the Nebraska Environmental Trust for the purpose of conserving, enhancing, and restoring the natural physical and biological environment in Nebraska, including the air, land, groundwater and surface water, flora and fauna, prairies and forests, wildlife and wildlife habitat, and natural areas of aesthetic or scenic values. The current and future well-being of the state and its citizens is vitally dependent on a safe and clean environment and requires a dynamic, proactive approach to address environmental needs. The trust shall complement existing governmental and private efforts by encouraging and leveraging the use of private resources on environmental needs with the greatest potential impact on future environmental quality in Nebraska. The trust shall develop a long-range environmental focus which encompasses the vision of all Nebraskans regarding the future of the environment and shall join public and private efforts in achieving the collective environmental goals of Nebraska's citizens." So to the extent there is a pact with the public, that is a pact that was passed in '92 prior to the election on which the folks voted. If the stuff we're doing today can fit within that language and fits within that spirit, then we're not breaking any pact with the people, and also, clearly, we have as we always have had, the ability to amend an act. So if it takes amending this act and it falls within what the Legislature, our forefathers, said in 1992, then it appears to me that issue has gone away. Thank you, Mr. President. [LB229]

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SENATOR COASH: Thank you, Senator Schumacher. Senator Fischer, you are recognized. [LB229]

SENATOR FISCHER: Thank you, Mr. President and members. I was on my way down front to thank Senator Schumacher for his comments and his interpretation of the ballot question and the act, because I agree with you. When you look at the constitution and the ballot, it says, as Senator Schumacher spoke so eloquently on, as provided in the Nebraska Environmental Trust Act. That act is in statute. It has been amended several times by the Legislature. We're not trying to break any promise made to voters. The promise was that a certain percentage of funds would go to the environment. It is still up to this body to do that. As Senator Langemeier said, the Attorney General's Office gave us his opinion on the original bill on LB229, that it was within the ability of this body to do this. You know, I said in my opening, my conversation with a friend in the conservation community when we left the meeting last night. And, you know, he got it. He got what I was trying to do and what my colleagues who signed onto the bill, and because we've had these discussions on how are we going to get money for this; how are we going to get money for water? Is it truly a priority in this state? And if you remember, I said that he told me, sometimes you have to shake things up in order to make changes and bring people together. And he was right. He was right, and that's what we were trying to do. And again, I thank the Environmental Trust for stepping up and working in partnership with us here in the Legislature. We want to work together. We don't want to have that heavy hammer and force things always. But I do want to make clear that it is my belief that this body at any time can pass laws on how that money is appropriated. There have been three previous transfers. That's been...that's also been brought up. We've had some discussion today, this afternoon, on the Platte River Recovery program. And that was a big part of the discussion at the hearing on this bill, and it was a big part of my presentation to the committee, because if Nebraska does not fulfill our side of that program, there will be consequences. You know, it's not just, oh gee, we won't be in the contract anymore. There are consequences if we don't fulfill our obligations. It's going to cost us money. There's going to be lawsuits. There's going to be court decisions, and those court decisions could adversely affect this state. So I'm glad that we were able to reach a compromise and I'm glad we're going to move forward. I appreciate the work, as I said, again with all of my colleagues involved in this and your attention to this, because we need to make the decisions. Senator Krist talked about it. He said he heard from people that they've been here for awhile and nothing had been done. That would have been my comment to him. You know, I've been here six years, and we talk about water is the issue of the decade. We agree with Senator Sullivan: it's the issue of the century. It's the issue for Nebraska. This is our greatest resource. And we talk about it and we talk about it, but we don't appropriate the money. And at least this is getting us started. [LB229]

SENATOR COASH: One minute. [LB229]

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SENATOR FISCHER: It's helping us meet our obligations, and we will move forward. Thank you, Mr. President. [LB229]

SENATOR COASH: Thank you, Senator Fischer. Those wishing to speak: Senators Larson, Avery, Council, and Price. Senator Larson, you're recognized. [LB229]

SENATOR LARSON: Thank you, Mr. President and members of the body. I rise today in support of LB229 and the amendment AM1060. You know, I prioritized LB229 because I realized how important it was for the state and the future of this state looking forward for future Nebraskans. And from my short time in the body, I hear a lot about, you know, investing in the future, looking towards the future, what are we going to do. And I think LB229 and this compromise puts those who follow us and the next generation of Nebraskans in a better place. It ensures the future generations greater economic security as well as assurances that Nebraska will continue to have sustainable water resources moving forward, and I'd urge the rest of the body to support LB229 and AM1060. Thank you. [LB229]

SENATOR COASH: Thank you, Senator Larson. Senator Avery, you are recognized and this is your third time. [LB229]

SENATOR AVERY: Thank you, Mr. President. When I was a young boy we used to drink fresh milk from the cow--unpasteurized, unfiltered, unprocessed. Good milk. And once in awhile the cow would get into wild onions. And if you've ever had raw cow's milk, you know what it tastes like when the cow has eaten onion. It's kind of sour but it won't make you sick. Well, I'm reminded of that story with this bill, and it makes me think back to some previous bills that we have debated. I drank the sour milk on the so-called compromise on the telecom occupation tax. Didn't taste good. Didn't make me sick but it was sour. I drank it again on the road funding bill. It didn't taste good but it didn't make me sick. Now I'm being asked to do it again: Drink the sour milk, Senator; it won't make you sick. It may not taste good but you'll be all right. I'm not sure that I can drink the sour milk three times. The Speaker is looking at me with an evil eye. (Laugh) This bill is giving me a tummy ache, folks, so I think I will just sit down and make up my mind how I'm going to vote. Thank you. [LB229]

SENATOR COASH: Thank you, Senator Avery. Senator Council, you are recognized and this is your third time. [LB229]

SENATOR COUNCIL: Thank you very much, Mr. President. Would Senator Fischer yield to a few questions? [LB229]

SENATOR COASH: Senator Fischer, would you yield? [LB229]

SENATOR FISCHER: Yes, I will. [LB229]

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SENATOR COUNCIL: Under AM1060, it provides for the Department of Natural Resources to seek a grant that would be \$3,300,000 annually, and it says, for the benefit...to benefit "any river basin determined to be fully appropriated or designated as overappropriated." What is your understanding of how those dollars will be used? [LB229]

SENATOR FISCHER: I would have to pull the transcript to give you the detailed outline that Director Dunnigan gave at the hearing on the number of projects that the Department of Natural Resources currently has waiting on that, Senator Council. [LB229]

SENATOR COUNCIL: Okay. But you...for example, you spoke about the Platte River Recovery project. I assume that that's something, the terms of which you're rather familiar with. [LB229]

SENATOR FISCHER: I am somewhat familiar. The expert on that would be Senator Schilz. That's because he's dealt with that in his basin. [LB229]

SENATOR COUNCIL: Okay. Thank you very much, Senator Fischer. Senator Schilz, would you be willing to yield to a question? [LB229]

SENATOR COASH: Senator Schilz, would you yield to a question? [LB229]

SENATOR SCHILZ: I'd try. Yes. [LB229]

SENATOR COUNCIL: What does the Platte River Recovery project entail? [LB229]

SENATOR SCHILZ: Oh. Okay. I don't want to take up all your time. The Platte River Recovery project is a project to deal with the endangered species issues that occur on the Central Platte and the Lower Platte and the...it's for four target species. It entails a land component. It entails a water component. It entails partnership with Wyoming, Nebraska, Colorado, and the federal government. And it has, basically at its core, the licenses for Kingsley and Gerald Gentleman plant, and those licenses are conditioned upon the program staying in force. It also contains Nebraska's what we call the new depletions policy, which basically has taken form in LB962, and that is to get us back to 1997 uses of water within each basin and NRD. [LB229]

SENATOR COUNCIL: Okay. So how...and I appreciate you giving me that, and it sounds very detailed. But how is the money utilized if, for example, to get us back to a 1997 level of appropriation? What does that entail? [LB229]

SENATOR SCHILZ: Right. The money can be used for various things. Money could be

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used for, first of all, reregulation reservoirs. The money could be used for recharge projects. The money could be used for buying out canals and returning the water to the river. The money could be used for incentives for best management practices on farms, and those are the things...those are the main things that I would think of that it could be used for. It could also be used for planning to go forward to make sure that, as we're spending these dollars, that we're spending them in the best way possible to get the most bang for the buck, if you will. [LB229]

SENATOR COUNCIL: Okay. And I appreciate that, because I go back and I look at the Environmental Trust Act and what the fund has identified and what the statute identified as the categories. Because, with all due respect to my learned colleague, Senator Schumacher, I don't disagree that we can change the statute, but what needs to be changed to bring it in compliance with the constitutional amendment is the purposes set forth in the act. And I submit again that there's nothing in LB229 or AM1060 that alters directly the purposes of the act. What it alters is the funding under the act. And the constitutional amendment said the funds would be used in accordance with the purposes of the act. Now if the intent is to make it clear that the purposes of the act include these fully appropriated and overappropriated water issues, then that's the action... [LB229]

SENATOR COASH: One minute. [LB229]

SENATOR COUNCIL: ...that needs to be taken, operating on the argument with which I don't take exception that the Legislature is free to change the act. But what the voters voted on was that the money would be used for the purposes set forth in the act. And if these types of projects don't fall within the purposes set forth in the act, then the act needs to be amended. And if you take the position that they do fall within the purposes, then my question is, why, if water appropriation issues are the issues of the century, hasn't the Department of Natural Resources been making application to the NET before now? And if it's the issue of the century, why are we so reluctant to appropriate from our General Funds the amount of money needed... [LB229]

SENATOR COASH: Time, Senator. [LB229]

SENATOR COUNCIL: Thank you. [LB229]

SENATOR COASH: Thank you, Senator Council. Senator Wallman, you are recognized. [LB229]

SENATOR WALLMAN: Thank you, Mr. President and members of the body. Ever since I've been in here, we've had water issues, and we will probably continue to have water issues: how we fund them, how we conserve water, how we protect our streambeds, underground water issues. All these are very complex and hard to figure out what to do

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next, because we signed this compact many, many years ago. And I agree with Senator Council on some of these issues that should have been a state issue to settle this a long time ago. I'm for this amendment and for this bill. But it is sad that we should have a water task force--we set that up years ago. Did we use some of their information? Probably not enough. So we're just going to keep struggling with this every year, I'm sure, and that is probably good. And we all use water. That's our most important resource besides children. And so I appreciate people working on this every year. It's not an easy issue and it's going to cost money, and it involves people, like farmers. And we are in the minority and that's all I'm going to say. But I appreciate people working on this. I know it's tough and I admire the Environmental Trust for doing this. I know it was tough. If I was on there, I don't know if I would have done it. Thank you, Mr. President. [LB229]

SENATOR COASH: Thank you, Senator Wallman. Seeing no other lights, Senator Langemeier, you're recognized to close on your amendment. [LB229]

SENATOR LANGEMEIER: Mr. President and members of the body, I thank everyone for their discussion. I think we've created a great record here and some great discussion. And again, we are going to work on those XXXs on page 4 of this amendment. As we move forward on this discussion we are going to have a lot of meetings and we'll make sure you all get invited to those that want to attend. And so with that, I ask for your adoption of AM1060 to LB229. Thank you, Mr. President. [LB229]

SENATOR COASH: Thank you, Senator Langemeier. You've heard the closing to AM1060. The question is, shall the amendment to LB229 be adopted? All those in favor vote aye; all those opposed vote nay. Have you all voted? Record, Mr. Clerk. [LB229]

CLERK: 41 ayes, 2 nays on adoption of the amendment. [LB229]

SENATOR COASH: The amendment is adopted. [LB229]

CLERK: I have nothing further on the bill, Mr. President. [LB229]

SENATOR COASH: Continuing discussion on LB229. Seeing no members wishing to speak, Senator Fischer, you are recognized to close on LB229. [LB229]

SENATOR FISCHER: Thank you, Mr. President and members. And thank you for the good debate this afternoon on this bill and the amendment. I would just like to reiterate that the amendment, and now the bill, it does honor the process of the Environmental Trust Fund. It has been a good experience, first of all, working for the last couple years with many members of the Natural Resources Committee to come up with a proposal so we could get off center, so we could move forward, so we can start to address the water

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issues that this state faces, so that we can meet our commitments when it comes to water. So I do offer my thanks to the Natural Resources Committee. It has been a pleasure to work with you. And hey, I miss you guys. It was always good to work with you in committee. This proposal now commits the state to also offer up resources for this state challenge, because it is a state challenge. It is...water is a state resource. So I would urge you to advance LB229 to Select. Thank you, Mr. President. [LB229]

SENATOR COASH: Thank you, Senator Fischer. You've heard the closing on LB229. The question is the advancement of LB229 to E&R Initial. All those in favor vote aye; all those opposed vote nay. Have all voted who wish? There's been a request for a record vote. Mr. Clerk. [LB229]

CLERK: (Record vote read, Legislative Journal page 1027.) 41 ayes, 3 nays on the advancement of the bill, Mr. President. [LB229]

SENATOR COASH: The bill is advanced. Mr. Clerk. [LB229]

CLERK: Mr. President, LB229A is a bill by Senator Fischer. (Read title.) Senator Fischer would move to amend her A bill with AM1062, Mr. President. (Legislative Journal page 1027.) [LB229A]

SENATOR COASH: Senator Fischer, you are recognized to open on LB229A. [LB229A]

SENATOR FISCHER: Thank you, Mr. President and members. This amendment to the A bill did come from Fiscal and it does align the A bill now with LB229, as we just amended it on General File. Thank you, Mr. President. [LB229A LB229]

SENATOR COASH: Thank you, Senator Fischer. You are recognized to open on AM1062. [LB229A]

SENATOR FISCHER: I think I just gave my opening for that, Mr. President, on the amendment. It does align the A bill to LB229 as we just passed it on General File. [LB229A LB229]

SENATOR COASH: Thank you, Senator Fischer. [LB229A]

SENATOR FISCHER: Thank you. [LB229A]

SENATOR COASH: Members, you've heard the opening to LB229A. Seeing no members wishing to speak, Senator Fischer, you are recognized to close. Senator Fischer waives closing. The question is the advancement of LB229A. All those in favor vote aye; those opposed vote nay to adopt the amendment to LB229A. Record, Mr. Clerk. [LB229A]

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CLERK: 41 ayes, 2 nays on adoption of the amendment, Mr. President. [LB229A]

SENATOR COASH: The amendment is adopted. [LB229A]

CLERK: I have nothing further on the bill, Mr. President. [LB229A]

SENATOR COASH: We will now return to discussion on LB229A. Seeing no members wishing to speak, Senator Fischer, you are recognized to close. Senator Fischer waives closing. The question is the advancement of LB229A. All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB229A]

CLERK: 41 ayes, 2 nays on the advancement of LB229A. [LB229A]

SENATOR COASH: LB229A does advance. Mr. Clerk. [LB229A]

CLERK: Mr. President, items for the record. The Revenue Committee reports LB359 to General File with amendments. Amendments to be printed: Senator Christensen to LB648; Senator Ashford, LB463; Senator Ashford, LB463A; Senator Mello, LB682. (Legislative Journal pages 1028-1029.) [LB359 LB648 LB463 LB463A LB682]

Priority motion. Senator Hadley would move to adjourn the body until Thursday morning at 9 a.m.

SENATOR COASH: Members, you've heard the motion to adjourn until Thursday at 9 a.m. All those in favor say aye. Those opposed say nay. We are adjourned.