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Floor Debate
March 08, 2018

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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the thirty-ninth day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Senator Williams. Please rise.

SENATOR WILLIAMS: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Senator Williams. I call to order the thirty-ninth day of the One Hundred Fifth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT FOLEY: Thank you, sir. Any messages, reports, or announcements?

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

PRESIDENT FOLEY: Thank you, sir. (Doctor of the day introduced.) Let us proceed to the agenda, General File 2018 senator priority bills. Mr. Clerk.

CLERK: LB42 is a bill by Senator Hilkemann. (Read title.) Introduced on January 5 of last year, at that time referred to the Transportation Committee. The bill was reported to General File. There are Transportation Committee amendments, Mr. President. (AM1965, Legislative Journal page 700.) [LB42]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Hilkemann, you're recognized to open on LB42. [LB42]

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SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. I bring to your attention LB42, an important piece of legislation regarding child passenger safety. I would like to thank the members of the Transportation and Telecommunications Committee for advancing this bill to General File and a special thanks to Senator Hilgers for working with me to improve the language of this bill, which is reflected in AM1965. LB42 with the amendment attached would make three changes. Currently when children reach their sixth birthday, state law allows them to ride with only a seat belt in a motor vehicle. This bill would change that to their eighth birthday, so until that time we would ask that these young people remain in an approved booster seat. Secondly, the bill states that infants shall ride in a rear-facing car seat until the age of two unless the child outgrows the manufacturer's maximum allowable weight or height requirements. Thirdly, the bill would require children under the age of eight to be seated in a seat other than a front seat if such seat or seats are so equipped with such a passenger restraint system and such seat or seats are not already occupied by a child or children under the age of eight. Now I'm going to take each of these points one at a time; but before I do that, I want you each to ponder this question: How do parents determine that a child could ride without a booster seat at the age of six? Now do you think the majority of parents researched the height and weight requirements established by the National Highway Transportation Safety Administration or the American Academy of Pediatrics? I'm sure there are some that do, but some simply put their trust in the laws of the state of Nebraska. They accept and comply by...based on what this body determines is safe. We are to set the standards. And, friends, with today's laws we are doing them a disservice. We can do better. Let's talk about the history of how the Legislature's taken action to protect child passengers. It was in 1982 that the first car seat law was put into Nebraska statute. We required persons licensed to provide foster care to transport children either in an approved child passenger restraint system for each child or for children older than age one to be secured by a seat safety belt. In 1983, we required all children under age four to be secured in a child passenger restraint system or use a seat safety belt for children over age one. Did you hear that? If you're hearing this right, then you realize that a child was one year and one day old could legally ride in only a seat belt in the state of Nebraska. Doesn't that seem overwhelming when we think about...knowing what we do today about keeping our infants and toddler passengers safe? In 1990, we added to the definition of children required to be transported in child passenger restraint systems as a child weighing 40 pounds or less, so under four years old or 40 pounds had to ride in a child seat. We also added that children younger than five years of age should use a seat belt. Now in 2000, the new requirement was that all children the age of 5 use a child passenger restraint system, and all children under the age of 16 use a seat belt. In 2002, we set the laws that currently reads that all children up to six years of age be in a child passenger restraint system. Children age 6-18 must wear a seat belt. Over the course of 20 years, improvements in child passenger safety went from having a newborn in a car seat to having a 6-year-old in a car seat, and from having a 1-year-old in a seat belt to having a 17-year-old in a seat belt. Now this brings me to the reasons why in 2018 it is time to once again improve the way child passengers are safely transported. On a child's sixth birthday, we say that the child no

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longer is required to ride in a car seat. That child was most likely riding in a booster safety seat and according to the law could move from being transported with only a seat belt, but seat belts in cars are designed for the safety of a 165-pound male adult. Now that's much bigger than the average six-year-old. Changing the law to have children through age seven safely transported in an approved booster safety seat will keep those children safer. From the materials that I've provided for you on the floor today, I want to quote: When children are moved into a seat belt before it fits properly--here's the real reason why we need to do this and why we need to use these booster seats--is that the lap belt can ride up against the abdomen. And during a crash, the soft tissue of the abdomen allows the lap belt to actually compress into the body, causing internal abdominal and spinal fracture injuries. The shoulder belt, if positioned improperly behind the back or on the neck, can cause head and neck injuries. If we don't do this, children, young children, will take that shoulder belt and they'll flip it behind because they don't like it right underneath their neck. So "According to the Children's Hospital of Philadelphia, among children 4-8 years of age, those who were in a seat belt at the time of a crash were more than three times as likely to sustain an abdominal injury compared with children in a belt-positioning booster." Colleagues, we are protecting our four- and five-year-olds, but our six- and seven-year-olds need and deserve the same protection. And we have the data, and the time to act is now. Number two of this bill is the second provision which contained in LB42 and AM1965 states that all children up to two years of age shall use a rear-facing child passenger restraint system until the child outgrows the child passenger restraint system manufacturer's maximum allowable height or weight. Again, from the information provided to you in the handouts, I quote: The American Academy of Pediatrics states that all infants and toddlers should ride in a rear-facing seat until they are at least two years of age or, preferably, until they reach the height and weight allowed by their car seat manufacturers. Research shows children up to two years of age are placed in forward-facing child safety seats are significantly more likely to be seriously injured in a crash than children of the same age in rear-facing child safety seats. Since the American Association of Pediatrics' two-year rear-facing requirement recommendation in 2011, nine states have updated their laws to meet today's standards. The goal of rear-facing child restraints is to protect the child's head, neck, and spinal cord. The bones in the neck of children under age two are not developed enough to protect the spinal cord in a crash. When a child is involved in a car crash in a forward-facing car seat, the weight of the head combined with the immature skeleton can cause the spinal cord to stretch up to two inches. If the spinal cord stretches just a half an inch, it will snap. This is known as an internal decapitation and causes paralysis or death. [LB42]

PRESIDENT FOLEY: One minute. [LB42]

SENATOR HILKEMANN: The third provision in LB42 states that all children up to eight years of age shall occupy a seat or seats other than a front seat if such seat or seats are so equipped with such passenger restraint system and such seat or seats are not already occupied by a child or children under eight years of age. That's definitely a mouthful, so let me give you some

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examples. Example number one: Dad is transporting two children in a standard sedan-type vehicle. The children are two and six years of age. Both of the children need to ride in the backseat of a car. Dad cannot, however, be hauling groceries home in the backseat and allow one of the children to ride in the front seat. The kids go in the back; the groceries go in the front. Example, number two: Mother is transporting four children in the sedan... [LB42]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Hilkemann. (Visitors introduced.) As the Clerk indicated, there are amendments from the Transportation and Telecommunications Committee. Senator Friesen, you're recognized to open on the committee amendments. [LB42]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Mr. President, members of the Legislature, AM750 (sic--AM1965) provides clarification that riders under the age of eight years are to ride in the backseats if, (a) the seats are equipped with a qualified, correctly installed passenger restraint system; and, (b) the seats are not already occupied by a child under the age of eight. The language relating to when children up to two years of age are no longer required to use rear-facing child passenger restraint system because of a child's height or weight is also clarified. And I urge you to adopt the Transportation Committee's amendment to LB42. Thank you, Mr. Lieutenant Governor. [LB42]

PRESIDENT FOLEY: Thank you, Senator Friesen. Mr. Clerk for announcements. [LB42]

CLERK: Excuse me, Mr. President. Two announcements: The Natural Resources Committee will meet in Executive Session at 9:30; Natural Resources at 9:30. And then Appropriations will meet at 10:30, both in Room 2022. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. (Visitors introduced.) Debate is now open on LB42 and the pending committee amendment. Senator Krist. [LB42]

SENATOR KRIST: Good morning, Mr. President and colleagues, as well as good morning to Nebraska. Wondered if Senator Friesen would yield to a couple of questions. [LB42]

PRESIDENT FOLEY: Senator Friesen, would you yield to questions, please? [LB42]

SENATOR FRIESEN: Yes, I would. [LB42]

SENATOR KRIST: Senator, how many bills are in the committee that actually address the wearing of seat belts in a vehicle for adults? [LB42]

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SENATOR FRIESEN: There could be three or four. [LB42]

SENATOR KRIST: Okay. And I want to be clear this morning, colleagues. I support Senator Hilkemann in his bill, LB42, and the committee amendment, AM1965. But you've heard from the committee Chair that there's been an effort to try to readdress the seat belt issue in our vehicles in the state of Nebraska. At least six times in the ten years that I've been here, I've taken a bill to Transportation and never have I gotten one out of there that addresses seat belts for occupants in vehicles. I find that interesting because as we talk about a safety of our children we're also talking about the safety of adults and seat belts in our vehicles. Did you know that there is no law in the state of Nebraska that requires the people in the backseat of a vehicle to wear a seat belt? Are you as shocked and appalled as I am? No law says that the people in the backseat of a vehicle in the state of Nebraska have to wear a seat belt. And there have been several members of that committee that have been consistent throughout the six years that I've been here...ten years that I've been here, six times in trying to get a bill out of that committee that addresses that issue. Yet we're going to raise the speed limit. So I want to be very clear again. I support LB42. I support AM1965. But what I don't support is what happened in my district to three Bennington High School students, all females, driving down a road, a country road. Something unfortunate happened to the vehicle and the young woman in the backseat became a flying projectile. One of them will never have the cognitive ability to recover from where she had been before or what the accident actually did to her. Had she been restrained, I'll leave that to your imagination, whether or not she would have the serious head injuries that she has. I don't intend to try to attach that to any bill. I don't intend to try to muster any support for that effort. But for those of you who are here, listen to the national safety and the Nebraska safety folks about what it would actually take to put a law in place that would require the people in the backseat of the vehicle to wear a seat belt. I'm not even talking about making it a primary offense. We need to take care of our children, and this bill is a good bill; but we also need to pay particular attention to the safety of the other folks in the state, the adults. With that I'd yield the balance of my time to Senator Hilkemann if he'd want it. [LB42]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Hilkemann, 1:20, and then you're next in the queue, Senator, so you may just continue for 6:20. [LB42]

SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. Thank you, Senator Krist. I was just finishing up my close. I just said of all the things to do in opening and we have Coach Cook here, so at either rate, I'll try to overcome that excitement here with this. I was just finishing up my closing and I used a couple of illustrations. The second illustration is a mom is transporting four children in a sedan. There are three seats in the backseat. The children are age seven, four, two and a newborn. All of these children are under the age of eight. However, if all three of the seats in the back are occupied by one of the other three children, the language allows for the fourth child to occupy the front seat. Now Senator Harr said yesterday he was renting...he

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had a rental, and that happens to be a 2018 standard cab pickup. There's no seat other than a front seat, so that would be equipped with a passenger restraint system. Therefore, Senator Harr could transport a child in the seat of the cab, the only seat available. The same would apply to a two-seater car such as a Smart car, for example. So, colleagues, the facts are clear. Children sitting in a rear-seating position of a vehicle reduce fatal entry risk by three quarters for children up to age three and almost by half the children ages four to eight. A recent study finds that children are 40 percent safer in the backseat than the front seat in car crashes. The risk of injury drops to less than 2 percent when safety seats and seat belts are used in the backseat. Fourth, the vehicle and child restraint manufacturers are required to include warnings in their instructions and on labels to keep children in the rear-seat positions until the age actually of 13. The enforcement of this section remains a secondary offense. The fine of \$25 does not change. It does raise the bar and give parents and caregivers a better guideline for safely transporting their children. I urge that we adopt AM1965 and advance LB42. Thank you, Mr. Lieutenant Governor. [LB42]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Baker. [LB42]

SENATOR BAKER: Thank you, Mr. President. I would yield my time to Senator Hilkemann if he needs it. [LB42]

PRESIDENT FOLEY: Senator Hilkemann, five minutes if you'd like it. [LB42]

SENATOR HILKEMANN: Thank you, Senator Baker. I think at this time I would like to hear from other people in the body. I think I've said my piece on this. It's very common sense. All we're doing is we're taking the age of now from six up to eight. We're adding two years on to that. Rear facing is a huge issue here for children, particularly when you think about the neck injuries that we're going to be preventing with those children rear facing over having them front facing in a child safety seat. And, of course, it only makes common sense if we can keep young children out of the front of the vehicle in the car because of the air bags, so that's why we're putting that eight-year restriction there. So with that, thank you, Senator Baker. [LB42]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Continuing discussion, Senator Thibodeau. [LB42]

SENATOR THIBODEAU: Thank you, Lieutenant Governor. Good morning, colleagues; good morning, Nebraska. I stand in support of this bill, LB42, and I thank Senator Hilkemann for bringing it to the body. I also stand in support of the committee amendments. As a lot of us know, a child's brain...90 percent of child's brain development occurs before age five. Having them rear facing until the age of two helps that in a car accident, as Senator Hilkemann stated,

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there is not as much of an impact and as much as a movement on the brain. And protecting those brains in the earliest development is very important so that a child does not suffer a brain injury or a spinal cord injury. In fact, until 18 months of age, a child still has a soft spot on their head which allows for more movement of the brain. So keeping that child rear facing until two is very beneficial for the children and their brains as well as keeping children in the backseat until age eight; I'm very supportive of that. Children's bones are not...they don't fully develop and they're not strong enough to hold the impact of an air bag actually until they've gone through puberty and their bones have strengthened. So actually in my house my children did not get to ride in the front seat until age 12, much to them complaining and unfortunately our youngest still doesn't get to ride in the front seat, and she will be 10 soon. We joke that hopefully she can ride in the front seat by the time she can drive. However, I just want to say that this is a good commonsense law. It protects our children of our state. It protects the most vulnerable. And, again, Senator Hilkemann, thank you for bringing this bill. And with that, I would like to give the rest of my time to Senator Hilkemann if he so chooses. [LB42]

PRESIDENT FOLEY: Thank you, Senator Thibodeau. Senator Hilkemann, three minutes if you care to use it. [LB42]

SENATOR HILKEMANN: Thank you, Senator Thibodeau. I appreciate those comments. At this point I'll forgo using the rest of that time. I'd like to hear if there are any other senators that would like to speak on this issue. Thank you. [LB42]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Erdman. [LB42]

SENATOR ERDMAN: Thank you, Lieutenant Governor Foley. Good morning. I listened to Senator Hilkemann's opening and I wonder if he'd yield to a question. [LB42]

PRESIDENT FOLEY: Senator Hilkemann, would you yield, please? [LB42]

SENATOR HILKEMANN: Certainly. [LB42]

SENATOR ERDMAN: Senator, I don't have a great memory, but it is kind of coming back to me. I believe we, in this body or people in this body before us, have discussed this issue, very similar or maybe exactly like this. Is that true? Do you know? [LB42]

SENATOR HILKEMANN: I've not been a part of any of those discussions, Senator. [LB42]

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SENATOR ERDMAN: It seems to me that when my son Philip was here that the discussion was something along this same avenue and then they pulled it back and we have...and they decided to do what we currently have. That's my understanding of it. So what you're saying is parents don't know how they should take care of their kids, and so we need to make sure that we put these restrictions in place so that they can understand what the state requires them to do. We already have an opportunity to restrain our kids according to the law that we currently have, and you've read all that information into the record as to the safety of doing this and why we need to do this. And driving in a car is dangerous. I mean, there are things that happen when you drive. So maybe we should have an amendment to attach this that say they need to wear helmets. I'm not sure how safe you can keep people. But if you want to be safe, stay on the porch and surround yourself with pillows. But parents need to be able to make decisions for their own children. We continue to pass laws here to try to protect people. We cannot protect people from everything. If we want to have people wear seat belts, have the manufacturer of the automobile make it so that unless the seat belt is fastened the car doesn't function. But the problem with that is perhaps you click your seat belt, start your car, you're driving down the road, remove your seat belt, the car stops, and it's over. There's all kinds of things we can try to do to force people to protect themselves. Sometimes people have to make their own decisions, and I believe that is my approach to life is you make decisions and then the consequences are what they are. So I'm in a quandary as to whether I should support LB42. It looks like it's more government regulations, and I'm definitely not for more government regulations. So at this point I haven't been convinced yet that I'm going to put a green vote on LB42. Thank you. [LB42]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Brasch. [LB42]

SENATOR BRASCH: Thank you, Mr. President, and good morning, colleagues, and good morning to those who are watching. I stand in support of LB42 and the underlying amendment. Yesterday my staff and I were discussing this bill; and not only did I go look at the car seat that was in his office, but we were looking on-line. I strongly support the amendment that indicates that as long as the manufacturer of that car seat is able to support a rear facing, and the discussion went into how much does...how many pounds does a one-year-old or a two-year-old or what are the weights? And it's been a while since I have been weighing in children, and so I called my daughter, mother of five, and asked her; and she knew right away what the weights were. And she said, without knowing the bill we're discussing, and children should be rear facing in a car seat as long as possible. I believe that safety for our children, especially in dangerous situations--riding in a vehicle, whether it's on the back of a motorcycle--that we do need to protect them and remind citizens of how vulnerable they are to injury and ensure lifelong that, you know, they can abide by laws that protect them. And when it comes to adults in a backseat, I buckle up regardless, law or not law. I do. I do believe that good common sense will tell individuals that they, as adults, make a decision; and my decision is to side on the side of safety from injury. So I do want to thank Senator Hilkemann for this bill and for the underlying

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amendment and for those that came here to demonstrate the car seats and shared information with everyone on what a good bill this is. So thank you, colleagues, and thank you, Mr. President. [LB42]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Groene. [LB42]

SENATOR GROENE: Thank you, Mr. President. I support the bill, but I do have a concern about one part of it. I've got seven- and eight-year-old grandkids or have, and we do things outside. My grandson will jump out of the pickup and open the gate. They're ornery. They got a little bit of me in them. And I'm not real sure I want a seven- or eight-year-old sitting in the backseat of my pickup and not beside me so I can carry on a conversation. They do know how to speak by then. And I'm not so sure I want them back there where I can (sic) see what they're doing. Plus, I'm not sure I want them jumping out when I can't see them jumping out when I come to a stop and there's livestock around or vehicles around because they will do that. That part of this bill I'm not real sure about in rural Nebraska, that seven- or eight-year-olds need to be in the backseat. Restraint, yes, safety restraint. Senator Hilkemann, would you take a question? [LB42]

PRESIDENT FOLEY: Senator Hilkemann, would you yield, please? [LB42]

SENATOR HILKEMANN: I will. [LB42]

SENATOR GROENE: What safety factors are involved about putting that age of a child in the front seat versus rear seat? [LB42]

SENATOR HILKEMANN: The biggest concern, Senator Groene, is because of the air bags. In a front-end collision, the deployment of an air bag can come back into a small child and can actually, in some cases, has been fatal. [LB42]

SENATOR GROENE: But you can disconnect an air bag, is that not correct? [LB42]

SENATOR HILKEMANN: Well... [LB42]

SENATOR GROENE: On a newer vehicle... [LB42]

SENATOR HILKEMANN: I've heard that. I've never participated. [LB42]

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SENATOR GROENE: ...from the passenger's side I think you can. All right, I understand that. [LB42]

SENATOR HILKEMANN: Okay. [LB42]

SENATOR GROENE: It still concerns me. A child can get in more dangerous situations when...you can overprotect them sometimes. But anyway, I'll see what happens on the bill, but I did...overall I like it because Senator Hilkemann and the proponents of it made it clear that this won't cost a single mother or family struggling that they'll have to go out and buy a bunch of \$200 seats, that existing ones will work, and I take their word for that. Thank you. [LB42]

PRESIDENT FOLEY: Thank you, Senator Groene. Is there any further discussion on the bill or the amendment? Senator Friesen, you're recognized to close on the committee amendment. Senator Friesen? You're recognized to close on the committee amendment. He waives close. The question before the body is the adoption of AM1965 committee amendment. Those in favor vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB42]

CLERK: 24 ayes, 2 nays to place the house under call. [LB42]

PRESIDENT FOLEY: Members, the house is under call. Please return to your desk and check in. The house is under call. Senator Hilkemann, you'll accept call-in votes? We'll wait for the members to show and then we'll take the call-in votes, please. Question before the body is the adoption of AM1965. Senator Hilkemann has authorized call-in votes. [LB42]

CLERK: Senator Murante voting yes; Senator Harr voting yes; Senator Hansen voting yes; Senator McCollister voting yes; Senator Kolowski voting yes. [LB42]

PRESIDENT FOLEY: Record, please. [LB42]

CLERK: 25 ayes, 0 nays, Mr. President, on the adoption of committee amendments. [LB42]

PRESIDENT FOLEY: Committee amendment is adopted. We're still under call. Senator Hilkemann, you're recognized to close on LB42. [LB42]

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SENATOR HILKEMANN: Thank you, Mr. Lieutenant Governor. I want to just thank everyone for listening to this and thank you for advancing that amendment. Nebraskans look for us for guidance, and it's for what's right and wrong; what's safe and what's not. Nebraska's child safety seat use in 2017 was 97 percent for children ages 0-6. With the adoption of AM1965 and the passage of LB42, the usage rate will probably carry over. The proof is in the history of the legislative changes over the last 36 years. When the Legislature has said children are safer riding in a car seat at age one, four, five and six, parents and caregivers are followed and our children have been safer as a result. Looking back at the progression of the car seat and safety seat belt use over the course of my lifetime, it's absolutely amazing. I think about the family road trips that my three kids were...when they were young, and we didn't have them in any kind of safety apparatus. We just let them ride around in the backseat of the car. We were very fortunate that we didn't have a serious accident. Now that I travel with my grandchildren and they're all buckled up, I'm thinking, my gosh, I wish we would have had child restraints back there. They travel so much easier with our grandchildren than with our children. These recommendations are coming from the National Highway Traffic Safety Administration, the Centers for Disease Control, the American Academy of Pediatrics, the National Safety Council, Safe Kids Worldwide, the Nebraska Medical Association, AAA, the Nebraska Safety Council, and more. Many of you stopped by my office last week and thank you. You met with those child passenger safety instructors, and you got to see their demonstration. I want to thank Amy Borg, Kenzie Broders, Kristin Luethke, Amanda Ablott, and Dr. Laura Jana for taking time to help us better understand why LB42 is so important. Nebraska has 394 child passenger safety technicians across the state who are available to teach the proper installation and use of car seats. There are 21 inspection stations across the state where car seat checks/trainings are done on a monthly basis. If you have never been to one, I encourage you to go. It's very interesting. If a family is unable to afford a car seat, there are car seats available at either reduced or free for these families. This bill is about Nebraska taking the next step in ensuring our child passengers are being transported safely. We will be joining our neighboring states of Kansas, Missouri, Colorado, and Wyoming in requiring through age seven and will be joining other states as far as the rear facing. I ask you, again, to vote green on LB42 and thank you. [LB42]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Members, you heard the debate on LB42. The question before the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. A record vote has been requested. Have you all voted who care to? Record, please. [LB42]

CLERK: (Record vote read, Legislative Journal pages 863-864.) 36 ayes, 3 nays, Mr. President, on the advancement of the bill. [LB42]

PRESIDENT FOLEY: LB42 advances. I raise the call. We'll proceed to the next bill, General File, 2018 committee priority bills. Mr. Clerk. [LB42]

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CLERK: Mr. President, if I might, an announcement: The Transportation Committee will have an Executive Session at 12:30 today in Room 1113, and Banking Committee is going to have an Exec Session this morning at 10:00 in Room 2102.

Mr. President, LB1090 is a bill by Senator Smith. (Read title.) Introduced on January 18, referred to the Revenue Committee. The bill was advanced to General File. I do not have Revenue Committee amendments. I do have other amendments, Mr. President. [LB1090]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Smith, you're recognized to open on LB1090. [LB1090]

SENATOR SMITH: Thank you, Mr. President. And good morning, colleagues. LB1090 is one of three technical and conformity bills that the Revenue Committee advanced this year. This bill did advance out of committee unanimously. LB1090 is introduced in response to the federal Tax Cuts and Jobs Act of 2017. I will refer to that as the TCJA. I want to say at the onset the federal tax law is the federal law and deals with taxes on the federal level. LB1090 is an attempt to hold as many Nebraskans harmless as possible and prevent large tax increases due to what happened at the federal level. If you are expecting LB1090 to be perfect, to offset every provision of the federal law, you're going to be disappointed. Again, the purpose of LB1090 is to neutralize as much as possible the impact of the federal law and the impact it will have on Nebraska's taxpayers. Although the federal changes result in impacts on Nebraska's corporate and individual income tax receipts, both, LB1090 seeks only to address the most significant individual income tax changes. Additional time and understanding is needed before determining whether a similar bill as to LB1090 will be needed or necessary to address corporate income tax changes or other federal changes, for that matter. There are five primary areas of the Nebraska Tax Code that require change in order to keep Nebraska citizens and businesses whole. The first and largest change involves the federal repeal of the personal exemption credit. Under the Internal Revenue Code, individuals currently receive a deduction for each dependent in the household for which the taxpayer is providing more than 50 percent of their support. Nebraska has a 2018 personal exemption credit equal to \$134 times the number of personal exemptions on the federal return. Without the fed's personal exemption, Nebraska has no means of applying the Nebraska credit. LB1090 creates Nebraska's own credit to ensure Nebraska filers continue receiving the same credit amount. Without this adjustment, Nebraska citizens would have a \$209 million tax increase in the 2018 tax year. The second change relates to a gradual tax increase that would occur from changes to inflation adjustments. The federal law abandons use of the traditional method of calculating the CPI, Consumer Price Index, for inflation adjustments in favor of the chained CPI, which grows more slowly. Nebraska uses the IRC adjustment method to adjust the personal exemption credit, the standard deduction, and the income tax brackets. LB1090 would retain use of the traditional CPI for future adjustments instead of adopting the chained CPI process or method. Without LB1090 this federal change increases Nebraska's taxpayers' burden

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by \$8 million in the 2018 tax year, and these are very rough estimates. The final three changes addressed by LB1090 will be adjusted for with an increase in the standard deduction, which will be almost doubled under LB1090. Under the federal act, itemized deductions would no longer be phased out. This federal change reduces Nebraskans' tax burden by about \$11 million. The federal law allows for immediate expensing of most capital expenditures until 2027, affecting individual returns of sole proprietors and from pass-through entities, which includes ag and nonag industry participants. This federal change reduces the business tax burden by about \$10 million in the 2018 tax year. And then finally, of those three final changes we're talking about, the federal law nearly doubles the federal standard deduction to \$12,000 for single returns, \$24,000 for married filing jointly, and around \$18,000 for head of household. For Nebraska tax purposes, those who use federal standard deduction must also use the Nebraska standard deduction. Thus, many taxpayers who would be better off itemizing rather than claiming the lower Nebraska standard deduction will not have that opportunity, resulting in increases in Nebraska revenues of about \$11 million in the 2018 tax year. The TCJA also eliminates and limits certain itemized deductions, including those for property taxes, increasing Nebraska revenue by about \$22 million. You heard that discussion as SALT--state and local taxes. So again, you take those last three items that I went over and the federal changes relating to repeal of the phaseout of itemized deduction, increases to federal standard deductions, and immediate expensing have a net effect of increasing Nebraska's tax burdens by about \$12 million. To offset these final three items, we propose in LB1090 to adopt a higher standard deduction. And so together, those efforts will keep Nebraskans whole and prevent them from having unintended increases on their individual income taxes. Thank you, Mr. President. Thank you, colleagues. [LB1090]

PRESIDENT FOLEY: Thank you, Senator Smith. Mr. Clerk for an amendment. [LB1090]

CLERK: Mr. President, Senator Smith, yours is the first, AM1704. [LB1090]

PRESIDENT FOLEY: AM1704 is withdrawn. Is that correct, Senator Smith? [LB1090]

CLERK: Mr. President, Senator Krist would move to amend with AM2255. (Legislative Journal pages 864-866.) [LB1090]

PRESIDENT FOLEY: Senator Krist, you're recognized to open on AM2255. [LB1090]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. And in full disclosure, the first that I had a conversation with Senator Smith is after I filed this amendment this morning. However, this amendment is primarily based upon LB1048 which was heard in committee as Senator Harr's bill. I'm hoping that Senator Harr comes back to

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speaking to some of the reasons why he felt it important. I passed out to you an explanation of LB1090 and LB1048 in synopsis. I'd like to read just a few of those things and then a little bit about the overall intent in the macro level of my amendment. LB1090 decouples from IRC inflation calculations, chained CPI being adopted by the federal level, and instead uses a CPI for the state's income tax brackets. This maintains the current rate of indexing rather than chained CPI's slower rate of inflation adopted by the federal Tax Cuts and Jobs Act. And I think Senator Smith did a wonderful job of telling you why we need to do that. I would also highlight to you, according to the AP--now I'm quoting the AP--and Governor Ricketts is looking to avoid an estimated \$220 million state revenue windfall that would take place if Nebraska doesn't adjust its state taxes and account for new federal tax laws. However, the Department of Revenue's numbers on which the proposal is based are preliminary rough estimates and they're not completely accurate, as Senator Smith said. If you want this to be the be-all, end-all, then it is not what it may or may not appear to be. So basically, if you look at LB1048, the changed provisions related to personal exemption credits, this is Senator Harr's bill, the intent is to maintain a state-level personal exemption credit of \$134 per person as in current law and in LB1090 for lower- and middle-income families. And therein lies my concern with our lower-income families. This amendment, the intent, is to maintain...and let me stop there and just say this. You could probably talk circles around me on this particular issue, but I've done enough research on the time that these two bills spent in Revenue as well as conferring with OpenSky and several other notable experts in the area, and I believe that doing nothing and leaving LB1090 as it exists has some consequences for our middle- and low-income folks. So the intent is to keep the exemption credit at \$1.34 (sic--\$134) per person income families, capping the credits at \$100,000 AGI for singles and \$200,000 for those filing jointly. Senator Harr introduced LB1048, which included this provision. Again, I think a sound piece of Legislature (sic--legislation) that may or may not probably have been attached to LB1090 when it was brought forward to us and which is why I think this discussion is warranted within this AM. This would ensure that state doesn't raise state taxes on lower and middle income. I've said it and I'll say it again and I'll continue to say it. It also recognizes that high-income families are likely to see significant tax cuts, which has been, I guess, the mantra of this Governor in terms of lowering taxes on the higher end. That's a consequence of the federal law, and there's really nothing we can do about that. I caution that none of this really has played out in a tax year, so to take the modest change that is in AM2255 and combine it with what came out of committee in LB1090 I think is the prudent thing to do at this point so we can see what this federal tax change is actually going to do to the state of Nebraska. Thank you for listening. And I hope the discussion yields...I hope it yields a fantastic discussion on this subject matter. Thank you. [LB1090 LB1048]

PRESIDENT FOLEY: Thank you, Senator Krist. Debate is now open on LB1090 and the pending amendment. Senator Bolz. [LB1090]

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SENATOR BOLZ: Thank you, Mr. President. I appreciate the hard work of the Revenue Committee to bring forward this legislation. I think it's important to prevent Nebraskans from experiencing tax increases because of federal changes. But as someone who serves on the Appropriations Committee and thinks about long-term budget sustainability and stability, I just have a few questions for Senator Smith, if he would yield. [LB1090]

PRESIDENT FOLEY: Senator Smith, would you yield to some questions? [LB1090]

SENATOR SMITH: Yes. [LB1090]

SENATOR BOLZ: Thank you, Senator Smith. And I do appreciate the work that you and your committee have done on this important bill, but I do want to put a couple of questions on the record and have a little bit of dialogue about the implications of this legislation. We were briefed by the Department of Revenue earlier in the session, and I appreciated that. I thought that was important. At that point it was expressed, at least my takeaway was that there was some uncertainty about the implications and the impacts of all these changes. The federal legislation still was very new at that point in time. And I would just like to hear your take on how confident you are in the fiscal analysis at this point, given the uncertainty that we heard earlier in the session. [LB1090]

SENATOR SMITH: Thank you, Senator Bolz, for that question and for allowing us to get this on the record. Of course, tax policy impacts are not precise by any means, no matter whether it's this bill. Any time you make changes, it's difficult to arrive at precise numbers. But the very best tax minds in the state government have worked diligently to put together this bill and its response to the federal changes. When we met earlier this year with the Appropriations Committee and the Revenue Committee jointly, we had great confidence in what we were proposing in LB1090 as the individual adjustment to the federal changes. We did recognize that the adjustments to the corporate side, corporate income tax changes at the federal level, were still moving and not...we did not have a high level of confidence how to make those necessary adjustments. That's why we have deferred addressing the corporate side of this into next year until such time as we have more information. [LB1090]

SENATOR BOLZ: I appreciate that, and that's fair enough. It does still seem to me that there may be changes in taxpayer behavior and choices made in response to the federal legislation. What do you think our responsibilities as a body are if those...if the changes proposed in LB1090 end up having a larger fiscal impact than projected in this bill? Will it be our responsibility to take another look next year? [LB1090]

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SENATOR SMITH: I do believe that it is this Legislature's responsibility to observe what happens at the federal level with tax changes and policy changes and to make necessary adjustments to keep Nebraskans and hold Nebraskans harmless from what happens at the federal level. That's my opinion. [LB1090]

SENATOR BOLZ: I appreciate that, Senator Smith. From a budget-setting perspective, I think it's important to balance not only our responsibilities in response to federal-level changes and our responsibilities to prevent tax increases on all Nebraskans but particularly low- and moderate-income Nebraskans. But I also think it's our responsibility to make sure that the tax policy changes we're making don't have inappropriate effects on our long-term ability to budget. If there are things that we cannot predict now, if taxpayer behavior changes significantly or dramatically in response to the federal-level changes, I think it will be our responsibility to take a look at both sides of the ledger and make sure that the changes we've made this year or are making through the legislative process this year don't create instability in our budget over the long term. And so I wanted to make sure that we put on the record some dialogue about the importance of being flexible in the future and the recognition that, even though we are moving forward in dialogue and discussion with this legislation, there may be necessity to look at it again in the future years in the name of protecting our budget and the priorities in our budget ranging from higher education to healthcare to transportation. Thank you, Mr. President. [LB1090]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Harr. [LB1090]

SENATOR HARR: Thank you, Mr. President, members of the body. Remember last December? Everyone thought they got a Christmas present. Everyone thought, oh, my gosh, \$1.5 trillion in tax cuts, federal tax cuts. Everyone thought they were going to get their taxes cut. That's what I heard from Deb Fischer. That's what I heard from Ben Sasse, Don Bacon, Jeff Fortenberry, Adrian Smith. Look at this bill, folks. They raised your taxes. They raised your taxes by \$225 million, maybe more, we don't know. And then they expect us to come in here and clean up their mess. I'm sick of it. Tell the truth. Tell what this bill did on the federal level. You stuck it to the states. You raised my taxes on the state level; no if, ands, or buts about it. That's what this bill is telling us. We should be spitting bullets that the feds raised our taxes. Instead, we're kumbayaing around this saying isn't this wonderful, we're cutting taxes. And who did the feds raise the taxes on? Look at it. The majority of the people who had their taxes raised make less than \$25,000 a year. Great bill. Wonderful bill. We should be angry. I introduce what is now AM2255. I don't know if it's the solution. We don't know still how people are going to react from the Trump tax increase on the states. We don't. We don't know how behavior is going to change. AM2255 is a more conservative and measured approach so that we don't, as a reaction to the Trump tax increase, overspend and give back too much. LB1090 is a good bill. AM2255 is a good bill. I will support either one, whatever the body decides. I think they're good because we have to cut the tax increase that Trump imposed on the state, that our federal delegation imposed on us

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Nebraskans. We have to react to what they did. And I will tell you this. Even with LB1090, which is more liberal than Senator Krist's bill, there will still be Nebraskans who pay more in taxes, state taxes. And I can walk you through why that is, but there is. And that was the testimony in the hearing that there are Nebraskans who will pay more. If you were itemized before and you were pushed over to a standard deduction because of what happened on the fed level, the fed level, however you file on the fed, you have to file on the state level. We're not doubling the state deduction like the feds did. So there will be some who will pay more in taxes. And, folks, guess what? That's what tax reform is. I am in my eighth year here, six years on Revenue, and I constantly hear we got to fix our tax system. We need to update it. We need to modernize it. But we got to hold people harmless. No one can pay more in taxes than they do now. Well, guess what, folks? That's what happens when you modernize and change a tax system. There will be some who will pay more and there will be some who pay less. Even, even when you add \$1.5 trillion there will still be unintended, or maybe intended, maybe that was the intent, to raise the taxes on the poorest of Nebraskans. I don't know. [LB1090]

PRESIDENT FOLEY: One minute. [LB1090]

SENATOR HARR: I'm not going to impugn that. But what I will tell you is that's what it did in effect, and that tells you where the priorities were and what the priorities are of our federal delegation: huge cuts for corporations, large, billion-dollar corporations, but on the state level, stick it to the poorest of the poor. That, we should be angry right now. We should all be up here saying thank goodness we're doing this, but we should be...everyone should be writing a letter to their Congressman or their Senator saying, why did you raise the taxes on the poorest of the poor? Thank you. [LB1090]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Smith. [LB1090]

SENATOR SMITH: Thank you, Mr. President. And I just want to clarify. I'm not going to spend a lot of time on this, but you know I do appreciate the Revenue Committee for working so diligently over the former few months of this session to work through some of these policy issues. And the amendment that is up there, AM2255 that Senator Krist has brought, is very near, I think pretty much the same as the bill that Senator Harr did bring in committee. And we did have lengthy conversations around both Senator Harr's bill in committee as well as LB1090. And I do appreciate the hard work of the committee, including Senator Harr. We all know that states routinely have to adjust to changes in federal policy, and that's exactly what LB1090 is about. We are not cutting taxes in LB1090. We are attempting to hold Nebraskans harmless. It's as simple as that. AM2255, colleagues, does not go far enough to hold all Nebraskans harmless and, unfortunately, results in a tax increase on a segment of our Nebraska citizens. So, with that, colleagues, I do appreciate the discussion. I do appreciate Senator Krist wanting to have that

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discussion, similar to what we had had in committee. AM2255 is not the answer. I do ask for a red vote, a no vote on AM2255, and continued support for LB1090. Thank you, colleagues. Thank you, Mr. President. [LB1090]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Chambers. [LB1090]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I was entertaining the expectation that somebody--I didn't know it would be Senator Harr--would bring some reality into this discussion. I notice how calmly and in what measured tones people speak to persuade the Legislature not to look at the harm being done to those who really don't have a consistent voice on this floor. When I listened to the outrage expressed about three pennies yesterday, and the acceptance of what is being done now, and what the Governor has agreed to do to the poor people, and what Trump, on the other hand, is doing to ag, I see a balancing of forces in the universe. I'm glad that Trump is doing what he's doing with the tariffs. I'm a person who does not have to have severe pain to understand what other people are going through who have pain. And if there's something that I can do to alleviate their pain, I will do it. There's an expression, misery loves company. It comes from a literary piece, I believe it was Paradise Lost, and people were wondering why Satan would be so interested in trying to make others fall when it wouldn't do him any good. He was going to remain doomed. And the poet put it in words similar to this: It is a solace to the wretched to have companions in grief. And that has been popularized to "Misery loves company." I don't want to see other people miserable, who are miserable because they're being harmed by others who are being benefited and care not for the misery they inflict on others. I'm not in a position to do anything to hurt these big shots in agriculture; but their hero, Trump, and the one that the Governor worships, is in a position to do that. And now I can take some time on this bill as I've done on other bills this session. The door was opened. I have an article that appeared in this morning's paper, headlined...it's the Omaha World-Herald: Ricketts says he told Ag Secretary of his concerns. Then under that: As Nebraskans voice fears, White House says Canada, Mexico could get waivers. But what Trump says means nothing. You cannot count on that. So the ag people are worried. I'm going to read from this article. In Kearney they were having some kind of gathering of the whiners and complainers in agriculture. If you would get a container large enough to collect the tears that these big shots are shedding, you wouldn't have a water shortage problem anywhere in Nebraska. [LB1090]

PRESIDENT FOLEY: One minute. [LB1090]

SENATOR CHAMBERS: The space occupied with the aquifer would be filled to overflowing and they'd be trying to cut a channel into the Missouri River so that that water would run out of Nebraska, if you were able to collect these tears. None are more worthy of being squeezed than these big shots in Nebraska who are dumb enough to see that the five people who were

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supposedly representing Nebraska would go to Congress, three in the House, two in the Senate, and all five of them are not worth a quarter. But in this state, people are afraid to talk about those realities. You say you represent people, but you have no concern about those programs that actually hurt them. Thank you, Mr. President. [LB1090]

PRESIDENT FOLEY: Thank you, Senator Chambers. You're next in the queue. You may continue. [LB1090]

SENATOR CHAMBERS: Thank you. Reading from this article: Expanding Nebraska's agricultural exports is essential to expanding the state's economy so the threat of a trade war is a serious concern, Governor Pete Ricketts told industry leaders gathered Wednesday at his annual Governor's ag conference. When have you ever seen that person in the Governor's Office convene anything for those people who are hurting in this state, the ones whom the Governor should be concerned about if he had an ounce of integrity, a quarter of an ounce of empathy, an eighth of an ounce of understanding? I won't even bring up the notion of compassion. If the Governor were to talk to such a group, you know what he would say because he's such a hypocrite? He's a Catholic, by the way, a man of faith. And whereas that Catholic wants to deprive women of the services they get in health clinics, Ricketts hates women. I don't know whether he's having a problem with the women in his life or what, but he is one of the most antiwomen persons who's been Governor since I've been in this Legislature. There's guy called George Pell, whose name will not ring a bell with most of you. Now if you're Catholics and you follow what's happening with your hierarchical persons, and I consider a cardinal to be in the Catholic hierarchy, you know what's happening with that sucker down in Australia? He's on trial for sexual abuse, sexual misconduct--a Catholic, one of those who wears the little red beanie, one of the twittering people in the Vatican when they're going to select a new Pope. Why doesn't somebody on the floor talk about the cardinal in Australia, sexual abuse? But you can't say too much about him because you have a President who is a serial sexual predator. And these Catholics don't talk about that. But you let a woman need healthcare and here comes the Catholic armies running--no, no, no. Why not? They worship a woman, unless Mary was a transgender male. Was Mary transgender? Now at the time that Mary came along, there could have been people who understood how to provide female organs to an erstwhile man and conception would be possible, but that wouldn't be necessary because God was the mama of...the daddy of Jesus. There was no sexual intercourse, based on what the Catholics say, between Joseph and Mary. So, Joseph, old Joe, burning with lust, looking at that fine young thing that was his wife, and he said, Mary, I just can't leave you alone. I feel the flame burning in me. You've got to be my fire extinguisher, Mary. [LB1090]

PRESIDENT FOLEY: One minute. [LB1090]

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SENATOR CHAMBERS: And Mary says, well, Joe, not tonight, not tomorrow night, not any night. So Joseph, grinding his teeth down to the gum line, says, well, Mary, what am I to do? And Mary looked at Joseph and she sang. This is one of the lyrics: (singing) That's what hands are for. That's what hands are for. You all don't like what I'm saying. You all are grown. I'm using words. My words bother you. Mary may have existed and maybe she didn't. What about the walking, talking "Marys" who are on this planet in this state right now who are going to be denied medical services that they need? [LB1090]

PRESIDENT FOLEY: Time, Senator, but you may continue on your third opportunity. [LB1090]

SENATOR CHAMBERS: That's the group of "Marys" I'm concerned about. Then you're going to tell me that that other Mary I'm talking about was wafted into heaven. And I'm supposed to believe that? And you know who's telling me that? These Catholic men who hate women. Somebody who is a Catholic finally put in writing what I said and have been saying, and the world is shocked that a Catholic would write it. The debasement of these nuns, how they are worked like servants, cheap labor, taking care of these rotten, no good, lazy, exploitative men who hate women but they love little boys. That's why these Catholic priests say don't have abortion because it reduces the number of little boys that they can have sex with. They bring the little boy, the altar boy, into the rectory so that they can go into the little altar boy's rectum. That's what's happening. It happens, and you don't want me to talk about it? Well, you stop those people from doing it. But how are you going to stop them from doing it when you will not acknowledge it? Then you can be so hateful toward women in this state. You wait till LB944 come out here...comes out here. I'm starting to craft my amendments now. I'm going to have an amendment to a number of sections in LB944. I've been warming up, getting ready for that, to show you all that I have some endurance, that I have a will of iron, that I will not get tired, I will not be hushed. And I will say what is on my mind. And the angrier you get, the better I feel I'm operating because anger rests in the bosom of a fool. Anger rests in the bosom of a fool. And this Chamber is going to be full of fools when we get to LB944. The Governor thought he was slick when he put that provision in dealing with Title X. You know the wonderful thing about having this bully pulpit? I don't have to just talk on one subject. I can range free. Now this is my third time speaking on what's before us in terms of an amendment. Can I have a drumroll? (Drumming on desk) I'll give it to myself. You all know what this is? Do you all know what this is? This is what I use. They say a pen is mightier than a sword. I've got three pens. How many swords have you got? The Speaker has already told you how long we're going to stay here. We're going to have some night sessions. Will the nights be dark and stormy literally or figuratively? Will I be able to stand up here at 80 years old and outlast you, who are sitting around here tired now? The old people are pulling for me. I am their example. The example is what is important. That's what made Castro and his revolution so successful, why Che Guevara became almost a secular saint, because of the example they set. They were not like politicians are. Castro's family was wealthy, and their land was treated like the land of every other wealthy person or group in Cuba. And the

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people thought that they had saviors because when those revolutionaries went into the mountainous areas,... [LB1090 LB944]

PRESIDENT FOLEY: One minute. [LB1090]

SENATOR CHAMBERS: ...the rural areas and they needed food, they would talk to the people from whom they were going to get food and gave what amounted to receipts to verify what would be owed to these people by way of compensation when the revolution was successful. It was successful. And unlike the American government, every debt was paid in full. And that's why there could be no revolution against Castro, despite what this Christian country and its CIA tried to do. You know what CIA stands for? Christians in Action. And they couldn't do it. And Castro ridiculed the American President. He said, I can go anywhere in Cuba in a t-shirt and the President cannot ride through Harlem in a bulletproof car. [LB1090]

PRESIDENT FOLEY: Time, Senator. [LB1090]

SENATOR CHAMBERS: Thank you, Mr. President. [LB1090]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Krist. [LB1090]

SENATOR KRIST: Thank you, Mr. President. And good morning again, colleagues and Nebraska. I just...I want you to know that if LB1090 passes General File and goes to Select, I will again repeat AM2255 on Select File. The reason that I will repeat it is that I want to make sure that we, in the long term, do not create a bigger hole in our General Fund by overreacting and not allowing the federal tax changes to come to fruition so that we can evaluate how much monies we do and do not have available, and how people will change their filing habits in order to adjust, given the federal requirements. It puts money into the Property Tax Relief Fund, which I think is an extremely important thing for people all over the state. The more money that's there, the more we can allocate in terms of the current system of lowering property taxes, which is very important to me and I know it's important to you. But more importantly, if you have any doubt in your mind that AM2255 is about the rich, read the amendment. It preserves the tax rate deductions for the lower- and middle-income folks. You go back to your district and drive through a neighborhood and tell those folks that you're concerned with them, and you knock on their door and ask them for a vote and you tell them you voted for AM2255 to make sure that the lower- and middle-income folks in this state have something dependable, have something that they can count on when they're filing their tax returns, regardless of what was done at the federal level. I'm not going to be as demonstrative as my colleague and good friend, Burke Harr. Senator Harr has some very opinionated ideas of what the Federal Tax Codes actually did. I might share some of those opinions but I won't be, again, as flamboyant as he was in bringing up his points.

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But I can tell you this. AM2255 is a modest change to LB1090. Senator Smith came up a few minutes ago on his mike time and said don't vote for AM2255; vote for LB1090. And I'm going to tell you that LB1090 becomes better with the amendment AM2255. AM2255 includes Senator Harr's LB1048, which never came out of committee, which was the intent is to maintain a state-level personal exemption credit of \$1.34 (sic--\$134) per person, as in the current law. That's the dependability I'm talking about for your constituents who are middle and low income. Further changes could be made in the Tax Codes in the next few years based upon what we actually see. But let's not overreact at this point. Let's not overreact not knowing what those estimates, if those estimates that came from the Department of Revenue are indeed accurate. You heard Senator Bolz on the mike earlier saying she's concerned about the out-years. You should be concerned about the out-years because LB1090, as it is, along with the Federal Code, is regressive. AM2255 does, in some ways, set a cap and, again, protects the lower- and middle-income population in the state of Nebraska. Go back and argue the point with those low- and middle-income people in your district that you could not support keeping them at the level that they currently enjoy. [LB1090 LB1048]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB1090]

SENATOR KRIST: I can't say it strongly enough. AM2255 makes LB1090 a better bill, a more palatable bill, moving forward. It's a reasonable approach. Thank you, Mr. President. [LB1090]

SPEAKER SCHEER: Thank you, Senator Krist. Senator Smith, you're recognized. [LB1090]

SENATOR SMITH: Thank you, Mr. President. And, colleagues, I know that there are some committees that are "execing" right now and there some folks out of the room; and I certainly hope that everyone is paying attention. This is an extremely important discussion we're having here, and do not be...and I'm not going to...I don't want to use the term "misled" because I don't think it's anyone's intention to mislead. However, I think there's some misinformation or a misunderstanding. One of my good colleagues came to me on the floor and said, can you explain this to me? So I'm here on the mike to explain this, that LB1090 holds Nebraskans or keeps Nebraskans whole from the changes at the federal level, all income earners: low income, middle income, high income. It keeps them whole. It does not increase their taxes. Every effort's been made to keep them whole. AM2255 does nothing more for low-and middle-income earners. The language in AM2255, as it relates to low- and middle-income earners, is the same language as is, is in LB1090. However, AM2255 does increase taxes on higher-income earners to the tune of \$66 million. The difference between AM2255 and LB1090 is in the neighborhood of about \$66 million of a tax increase on Nebraskans, no fault of their own. AM2255 should not advance.

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AM2255 also takes a one-time \$20 million out of that and puts it into the Property Tax Credit Relief Fund. I suppose that was perhaps intended to persuade certain folks to vote for AM2255. Not the way we should do tax policy in this state. AM2255, again, colleagues, is a tax increase on Nebraskans. LB1090 keeps everyone whole. AM2255 does not further benefit low- and middle-income tax earners more than LB1090. It does not. Please do not misunderstand. AM2255 should not advance. I do appreciate the discussion. It should not advance. It's a tax increase. Please support LB1090 without being amended. Thank you, colleagues. [LB1090]

SPEAKER SCHEER: Thank you, Senator Smith. Senator Krist, you're recognized, and this is your last at the mike other than your close. [LB1090]

SENATOR KRIST: Thank you, Mr. President. Wondered if Senator Smith would yield to a couple of questions. [LB1090]

SPEAKER SCHEER: Senator Smith, would you please yield? [LB1090]

SENATOR SMITH: Yes. [LB1090]

SENATOR KRIST: Have you read the amendment? [LB1090]

SENATOR SMITH: I did. [LB1090]

SENATOR KRIST: Okay. On page 3, line 28, the addition to your bill LB1090, anything that's underlined in a bill, after eight years you know and after ten years I know, is a change to the original, and this is underlined: An individual shall be eligible for a personal exemption credit allowed under subdivision (1)(b) of this section if the federal adjusted gross income is no more than (i) \$200,000 for individuals filing status jointly or \$100,000 for an individual with any other filing status. That is a decisive change between LB1090 and AM2255. So for you to stand up and say it doesn't protect, I'm just weary and...of people who stand up and say that it doesn't do what it does. Folks, it clearly says that there is a difference between LB1090 and AM2255. The change is clear. Drafters do not underline things that are the same in both. You're going to have to weigh this for yourself, and I believe honestly that when you get to a point where you look at the amendment as it exists...and maybe I need to spend more time describing the amendment between General and Select. But I don't think LB1090 needs to move forward without securing that middle- and low-income area. My argument is simply that when you get up on the mike and you say, this is the fact, that you should be able to look at a line, chapter, and verse of a bill and say, this is truly the change. I didn't start out the day to attack the Revenue Committee nor

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Senator Smith. But the fact is a fact. The underline is a change, and that's where we are. Thank you, Mr. President. [LB1090]

SPEAKER SCHEER: Thank you, Senator Krist. Senator Harr, you're recognized. [LB1090]

SENATOR HARR: Thank you. I'm going to go back to my earlier rant. Did you hear what Senator Smith said? If we pass AM2255, we will have a tax increase, a tax increase. And who will it impose that tax increase on us in Nebraska? Our federal delegation. Everyone in our federal delegation voted to raise your taxes in Nebraska. If we do nothing on LB1090, they will be raised by \$225 million. If we pass AM2255, they may or may not be raised. It's a little unclear because we don't know how future Nebraskans or Nebraskans will act in the future. But we do know if we do nothing on this bill, we will have a tax increase. And who will be paying those taxes? If you look at the handouts I think Senator Krist sent around, it's the most vulnerable in our society, handed us down by the feds a tax increase, eliminated personal exemptions. Who uses personal exemptions? In order to have it, you get one for yourself, you get one for your spouse, and then your kids. We've eliminated that personal exemption for your kids. I thought we were a pro-life state. I thought I heard that somewhere. And so we want everyone to have kids and we want to make sure that everyone who can does have kids. And yet, what did the federal bill do? Eliminated that personal exemption. And everyone in our constituency, Nebraska constituency, voted for that. Is that pro-family? Is that pro-life? LB1090 at least brings it back on the state level. AM2255 brings it back on the state level. That's pro-family. That's trying to make a change to make sure an understanding that if you have children--this may surprise some of you who don't have children--kids are expensive. They cost money. And the personal exemption you're getting on your state deduction, on your state tax form is nothing compared to the actual cost, trust me, nor was the federal that we had together. But it was something, and it was a way for us to say, we recognize the importance of the family. Eliminated on the federal level. What were they thinking? What were they doing? Charitable deductions? Reduced. The deduction for housing, reduced. I would make the argument you should get rid of the deduction for a second home. But, oh, no, our Congress, they have second homes out there. Most of them have homes in D.C. area, so we can't eliminate that. Let's eliminate how much can be deducted. Again, both of these, AM2255 and LB1090, are both good bills. I like them. But, folks, why are we even doing this? It's because of what the feds imposed on us. Imagine, imagine the uproar we would hear in here... [LB1090]

SPEAKER SCHEER: One minute. [LB1090]

SENATOR HARR: ...if President Obama had put a \$225 million tax increase on Nebraskans. We would be outraged. It would be the first bill out of committee and it would be the first bill and there would be a rush to the microphone to talk about how terrible, terrible President Obama and

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that Congress is that put a tax increase on us--the hardworking Nebraskans. And how antifamily to eliminate the personal exemption, how dare they. What we are doing here today? Well, we're talking on our phone. We're looking on our computers. We're having committee meetings. No one seems too concerned about it. Folks, think about what your federal government is doing to you. Thank goodness we have people like Senator Krist and Senator Smith who stand up and say, we aren't going to take that anymore. [LB1090]

SPEAKER SCHEER: Time, Senator. [LB1090]

SENATOR HARR: Thank you. [LB1090]

SPEAKER SCHEER: Thank you, Senator Harr. Senator Smith, you're recognized, and this is your third time at the mike. [LB1090]

SENATOR SMITH: Thank you, Mr. President. Such passion from Senator Harr. I'm going to miss that, Senator Harr. So Senator Krist a few minutes ago was back on the mike. And he asked me if I've read the amendment, and, yes, I've read the amendment. I have the amendment here in front of me again. And, you know, I'm sorry for Senator Krist's perhaps confusion. But in his amendment, there is language that's underlined. When that language is underlined, it means it's a change. That's absolutely correct, Senator Krist. What is underlined is a tax increase in the neighborhood of about \$66 million on high income. Your amendment modifies LB1090 with a very precise focus on higher-income earners, taking \$66 million additional taxes from them, putting \$20 million of that into a one-time gift to the Property Tax Credit Relief Fund to buy votes, and for what? We do not want to have an unintended increase of taxes on Nebraskans. Senator Krist's bill does nothing more to benefit...I've got the amendment. There's no underlines in the section related to other income earners. His amendment does nothing more to help low- and middle-class Nebraskans than does LB1090. AM2255, in the amendment, focuses on higher-income earners, taxes them to the tune of \$66 million, gives a one-time gift to the Property Tax Credit Relief Fund, and does no more for Nebraskans' benefits. Colleagues, please continue to listen to this discussion. It's very important. I do ask for a red vote on AM2255 and for your support of LB1090. Thank you, Mr. President. [LB1090]

SPEAKER SCHEER: Thank you, Senator Smith. Senator Schumacher, you're recognized. [LB1090]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. Were I in Washington, I would have had great hesitancy in voting for that tax cut in such haste, because a lot of it was not thought through. A lot of discussion that needed to be had with the states was not thought through. But Santa Claus had to come in time for Christmas. The consequence is

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kind of interesting. We're going to go into debt another \$1.5 trillion. They had to even fudge the language of the bill in order to get it under \$1.5, and now there's question whether it's going to be under \$1.5 trillion. And that supposedly put money and the desire to spend in people's pockets. Is it coincidental that on the heels of that last month our deficit of trade jumped way up? So follow that money through the system. Where did it end up? It's ending up in the hands of the people who export to us. Kind of interesting. But the bill that was passed had some consequences, whether we like it or not, we're going to have to deal with here. The big winner under the federal bill was the corporations, from like 35 percent tax rate down to 21 percent tax rate. The theory behind that was that these corporations had money parked overseas and they weren't going to bring it back if they had to pay 35 percent; and quite frankly I don't blame them, but they would at 20 percent. Now here's where the rub comes in for the state of Nebraska. The state of Nebraska has a 7.81 percent corporate tax. So to the extent any of that investment money is going to come back into the state, or the states, it's going to look for cheap tax rates to deploy it in. When you have a state that has a 7.81 percent corporate tax rate, vis-a-vis a 21 percent federal tax rate, you're not going there, just not going there. Whether we like it or not, whether our old rate was good or not, it's, at 7.81 percent, is outrageous in comparison to the federal rate. Some way or another you're going to have to deal with that. I don't think there's a pending bill this year to deal with it because we're not sure of the full implications, whether or not all that money is coming back from overseas. But you're going to have to deal with that. If we're going to compete for that repatriated money from overseas, that 7.81 percent rate is ridiculous. Going to have to find the money to finance it or just sit out any increase investment from overseas repatriation of revenues. The other thing that did is the things that we're discussing here. LB1090 was intended to be a kind of quick and fair fix, not perfect, and did that. Now we can begin to go into hypermode and try to dig into and pick at whether or not we should have limits on \$100,000 to \$200,000 and then they don't get the benefits of LB1090 and we get a \$60 million tax increase. But really, folks, if we're trying to build an economy, we're not going to build it off of low-end labor. We're going to build it off the people who are going to make more than \$100,000 a year, because we don't have any way else to build it. We're not going to import a bunch of people. We got to grow that wage. Now it isn't much. A hundred and thirty-five dollars isn't, you know, a decent meal for a family even at a fast-food restaurant some places. [LB1090]

SPEAKER SCHEER: One minute. [LB1090]

SENATOR SCHUMACHER: So what we're doing is fretting about a lot of nothing right now. In fairness, the people who are making more than \$100,000 a year have gotten hit hard on income taxes, because they used to be able to deduct a state tax and save about a third on their federal return. Now they can't. Big bite, big bad bite. How much that's offset by the other perks that the federal thing has we don't know yet. My suggestion quite simply would be at this point to do what is simple, adjust it next year, and that's just plain adopt LB1090. Thank you. [LB1090]

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SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Riepe, you're recognized.
[LB1090]

SENATOR RIEPE: Mr. President, colleagues, and Nebraskans, I rise in support of LB1090 to adjust personal exemptions and standard deductions. When Congress passed the Tax Cuts and Jobs Act, its clear intent was to provide middle-class families and job creators with meaningful tax relief. It now falls to us, the legislative body, to see that Nebraskans enjoy the full impact of these tax cuts. Nebraska families deserve every measure of tax relief we can provide. Should we fail to act, Nebraskans will not see the full impact of the relief we owe them; and our economy will not fully experience the growth that these cuts will fuel. Nebraska cannot miss this opportunity. Federal tax reform is not intended to be a windfall for the Legislature and is not a tool to help this body avoid difficult spending decisions. The revenue in question has never been ours to appropriate. These dollars are not revenue for spending and belong to the hardworking men and women of Nebraska, and I'm going to do all that I can to see they are able to keep these dollars. A tax increase is a tax increase, regardless of its cause. If we fail to act, this body will be responsible for a significant tax hike on Nebraskans already struggling under mounting state and local tax burdens. That is not acceptable. As state legislators, we must work to ensure state taxation does not impose an overwhelming burden on Nebraskans. LB1090 received significant support in the Revenue Committee. This bill takes into account the impact of recent federal tax reform and enables us to take action to protect Nebraskans. With federal tax reform, it is essential to protect all Nebraska and ensure all Nebraskans fully participate in the federal tax reform windfall. I urge my colleagues to support LB1090. Let's help the people of Nebraska keep more of what they earn. It is the taxpayers' money, and they know how best to spend and invest it in the pursuit of financial security and prosperity. Thank you, Mr. President. I would yield any balance of my time to Senator Smith. [LB1090]

SPEAKER SCHEER: Senator Smith, 2:30. [LB1090]

SENATOR SMITH: Thank you, Mr. President. Thank you, Senator Riepe, for your remarks and for yielding me time. I'm not going to take much here. I do appreciate Senator Schumacher's words. He laid out the issues very, very well. We do anticipate a repatriation of investments in the United States and Nebraska, and the region has to remain competitive, and of course we are not very competitive. And any adjustments that are necessary on corporate income taxes as related to the federal changes, I certainly hope this body takes those up next year, after we have a better understanding or after you all have a better understanding as to what the impacts of those changes are. And as Senator Schumacher mentioned, failure to pass LB1090 does impose a tax increase of over \$227 million on Nebraskans if it is not passed as is. Very important, we do need to move LB1090 as is to avoid any unintended tax increases on our Nebraskan families and citizens. So, thank you, Mr. President. [LB1090]

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SPEAKER SCHEER: Thank you, Senator Riepe and Senator Smith. Senator Linehan, you're recognized. [LB1090]

SENATOR LINEHAN: Thank you, Mr. President. Good morning, colleagues. I'm in support of LB1090 without any amendment, so I will be voting against the Krist amendment. I think the Revenue Committee has done an excellent job here of trying to figure out how to keep Nebraskans whole and not to kind of sneak a tax increase in on them. If we don't do this, if I understand it from the handout that I think most of us have received, we're going to raise taxes on Nebraskans without even having a hearing, without having a conversation with our second house? I don't know how we can possibly not pass this when doing so would mean that we automatically increase taxes on Nebraskans across the state without giving them any voice or any conversation. So this seems like a pretty simple decision to me. And I appreciate what Senator Schumacher said. You can mess around with it but you have...it's only fair to everyone that we don't sneak a tax increase in without their knowledge or their ability to speak to it. So I could yield my time to Senator Smith. I don't know if he wants it. He's waiving it. So thank you, Mr. President. [LB1090]

SPEAKER SCHEER: Thank you, Senator Linehan. Seeing no others in the queue, Senator Krist, you're welcome to close on AM2255. [LB1090]

SENATOR KRIST: Thank you, Mr. President. I don't sneak anything anywhere. I believe that AM2255 was a good attempt at trying to put a good bill, Senator Harr's bill, out of committee where it should have come out as a stand-alone or as a part of the bill. I believe that when we see the total implication of this federal tax change, you're going to see people on the...that are making a lot of money still doing very well. The OpenSky's estimate is that when the...in the balance between the federal tax system and the state tax system, those that will be least affected, least harmed will be those in the upper-income level. So when we really have a discussion about tax increases, really have a discussion about that, we'll see next year how the implications of this tax process has worked. I never took a stand against LB1090. I tried to make it a better bill. If there was any implication that I was trying raise taxes in total, then I think people are a little shortsighted about what the total tax implication is going to be with regards to the federal and state. But I guess time will tell. I'll be asking for a green vote on AM2255 to preserve that individual tax deduction for the middle and low income, and it is a change from LB1090. It ensures that it is moving forward. I ask for a call of the house and a roll call vote in regular order. [LB1090]

SPEAKER SCHEER: Thank you, Senator Krist. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor please vote aye; all those opposed vote nay. Please record. [LB1090]

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CLERK: 23 ayes, 3 nays to place the house under call. [LB1090]

SPEAKER SCHEER: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senator Groene, Senator Lindstrom, Senator Harr, Senator Wayne, would you check in, please? Senator Morfeld, would you check in, please? Senator Kolterman, the house is under call. Please return to the floor. Mr. Clerk, there's been a request for a roll call in regular order. [LB1090]

CLERK: (Roll call vote taken, Legislative Journal pages 866-867.) 12 ayes, 24 nays, Mr. President, on the amendment. [LB1090]

SPEAKER SCHEER: The amendment fails. Mr. Clerk for items? I raise the call. [LB1090]

CLERK: Yes, sir, I do. Thank you. Mr. President, before we proceed, Enrollment and Review reports LB439, LB439A, LB874 as correctly engrossed. Judiciary Committee reports LB826, LB977, LB982, LB1047, LB1082 to General File and LB811, LB990, and LB1112 to General File with amendments. Enrollment and Review also reports LB379, LB697 to Select File. And I have an amendment to LB944 to be printed by Senator Bolz. (Legislative Journal pages 867-876.) [LB439 LB439A LB874 LB826 LB977 LB982 LB1047 LB1082 LB811 LB990 LB1112 LB379 LB697 LB944]

Mr. President, Senator Chambers would move to reconsider the vote just taken with respect to AM2255. [LB1090]

SPEAKER SCHEER: Senator Chambers, you're welcome to open. [LB1090]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, this move indicates that I will attempt to bring before us again a matter that I did not originate. So my motion is to reconsider the vote taken against Senator Krist's motion...his amendment. Who among us can say with precision what effect any legislation we enact is going to have? How do you know that Congress will not do something to change what they've done already? How do you know that? I'd like to ask Senator Murante a question, if he would yield. [LB1090]

SPEAKER SCHEER: Senator Murante, would you please yield? [LB1090]

SENATOR MURANTE: Yes. [LB1090]

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SENATOR CHAMBERS: Senator Murante, what, other than the First National Bank, what's the next largest bank in Nebraska? [LB1090]

SENATOR MURANTE: I don't know the answer to that question. [LB1090]

SENATOR CHAMBERS: You don't have the answer to it? [LB1090]

SENATOR MURANTE: I don't. [LB1090]

SENATOR CHAMBERS: Nor do I. That's why I was asking. Thank you. That's all I was going to ask you. But by him not having the answer, there's a discussion I was going to have which I won't have at this point. Members of the Legislature, I was talking about your President. And with all the discussion about what Congress did, nobody other than me will talk at length about the psychopath in the White House. Were he not in the White House, everybody would see exactly what he is and say it. But he's a "Repelican" like the most of you are. Your personal integrity is gone. We know that the five people in the so-called Nebraska delegation in Congress are not too swift. Their name doesn't come up in any significant way when any matter of significance is before the House or the Senate. The only one who seems to have two or three brain cells working is that guy named Sasse. So I'm going to deal with what I think is important in this state at the state level. Minds are what need to be one. What America has found out, not the government but people who observe things, that there are so-called insurgent groups, terrorist groups, rogue countries which continue to flourish despite all the American propaganda about how wonderful democracy and the American way are. First of all, those groups see the American way and they don't want that. Even when there are battles, and the bad people, as they're called, they call them bad guys, are outgunned, America hasn't been willing to engage anybody in a military conflict who has an Air Force. America flies its airplanes against people who are on the ground, people who don't even have anti-aircraft artillery. So they are fighting against people who are virtually unarmed, and they do a lot of devastating of countries. They kill a lot of innocent civilians, far more than ISIS has killed. But because of the propaganda machine in America, Americans go along, swallow spit, and have no deep interest in anything that's happening anywhere else. When you have a person in the White House who can destabilize the world, a substantial part of the world, it's something that people should be paying attention to. There's nothing you can do about it. People like you, the majority of you in Nebraska, put him there. Even if you don't like him, you can't get rid of him. And I don't mean that in a sense of taking his life. You cannot get him out of the position he's in. If he decided to, in his deranged mind, have an attack launched against North Korea, I don't think the attack would be carried out. I think if he tried to give that order or gave the order, then the one-act, one-scene play that I've written would come into effect. There are military people who are more concerned about the welfare of "their country" than they are the President or their own life. The fact that they go into combat where

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they could die from hostile fire or even friendly fire or even incompetency indicates that they're prepared, whether they want it that way or not, to risk death. So in my one-act, one-scene play, we have a high-ranking general officer, stands ramrod straight, has all the paraphernalia of a war hero, all kinds of bits of ribbon, all kind of bits of metal called badges, as many stars on his shoulders by comparison as you find in the heavens. And he is facing a panel of military judges, and they are going to pronounce sentence on him. They know that what he did would be deemed a crime by any standard under any circumstances. And his defense is what I will tell you he offers in the early stages. Every one of you sitting there judging me is a military man as I am. Every one of you has tasted combat. Every one of you has killed other men, and in some cases women and children, as I'll confess that I have done. Each one of you took an oath that you would protect this country, not a political party, not those who comprise the government based on the individuals but this country against all enemies, foreign and domestic. "All" is inclusive of everything and everybody that or whom could comprise an enemy, whether they are foreign or domestic. Any threat to this country that occurs within the borders of this country could be considered domestic. Any person who by his or her action would endanger the welfare of this country is an enemy of this country. And if it is a person born in this country, even holding the highest office in the land, that person is an enemy, domestic enemy, of this country. And my oath that I took, I take very seriously. I am a military man under oath voluntarily given without mental reservation that I would do everything in my power to protect this country against all enemies, foreign and domestic, and I tell you, my brothers and fellow members in arms, under arms, I did what I did to protect this country from a domestic enemy whose action had I allowed it to go forth and be carried out would have led to the destruction of this country and this society as we know it. So you can pronounce on me any verdict you choose. [LB1090]

SPEAKER SCHEER: One minute. [LB1090]

SENATOR CHAMBERS: You can sentence me to any punishment. But as a military man and you as military men know that the threat of death is not something that in and of itself is going to determine my conduct. So the worst thing you can sentence me to based on the law and what people think is death, and I'm prepared to accept that. And because I die, millions of people in this country and around the world will live and the headline will be "General found guilty and sentenced to death for killing the President of the United States." That in a nutshell is the one-act, one-scene play that I have written; and I hope it's not prophetic. Thank you, Mr. President. [LB1090]

SPEAKER SCHEER: Thank you, Senator Krist. [LB1090]

SENATOR CHAMBERS: Chambers. [LB1090]

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SPEAKER SCHEER: Oh, excuse me, Senator Chambers. [LB1090]

SENATOR CHAMBERS: We look alike. [LB1090]

SPEAKER SCHEER: Well, not really because...but he is next. He's a little heavier than you are. (Visitors introduced.) Now I'd like to recognize my friend in the back, Senator Krist. [LB1090]

SENATOR KRIST: Thank you, Mr. Speaker. I'm not heavy, I'm your bro. So we took a vote on this. It was not my intention to have a reconsider, but I do think I need to make sure that many of you understand what you just did in terms of not voting for AM2255 was not put money in our Property Tax Relief Fund. So I want you to go back and justify that one to your constituents. Secondly, I want to make sure that you understand that if you have a tax change at the federal level that has implications at the state level, and we don't know yet what those changes are going to precipitate in the future because the Department of Revenue has given us some rough numbers, and you automatically take that \$20 million and you give it back and say we're not going to use it for anything, and it's not \$20 million, you're going to have a regressive problem in years to come. I don't know how I could have put a tax increase into a bill when there was already a tax deduction increase based upon the way that the federal laws are written. I'm puzzled. I'm just puzzled how \$60 million of that money is a tax increase and how Senator Smith has turned it around and blamed me for proposing a tax increase. And I'm sure he'll get up and justify exactly how that happened. But if you never got it, it can't be an increase. If you never gave it away, it can't be a decrease. We're talking about something that we know nothing about in terms of what the implications are going to be. Senator Schumacher probably made the most sense this morning on the mike. I agree that LB1090, and I was supporting LB1090 even without AM2255, but we had to make it about a political issue of someone who wanted to raise your taxes. Not fair; bad form, Peter Pan; not fair. And sneaking it in has never been my way of doing business. Senator Murante likes to do that a lot, but that's not my way of doing business. I wanted a discussion on how to take care of middle and low income. Now Senator Smith says that already happens in LB1090. I disagree. I don't think explicitly it says that we are going to take care of them. But again, the Department of Revenue and the changes we will see will tell us if that is true as we see the fruition of a year full of what is now taxes within the next few years. The discussion on the mike this morning started out really good. It was a discussion about tax policy. It was a discussion about some things that were left unsaid and unbrought to us from the Revenue Committee. So let me say this, as long as we're taking the gloves off. Any one of you committees can have an Executive Session, Senator Briese, and you can get any bill out of a committee by having five votes. The Chairman of that committee does not have to call that Executive Session. I'd like to see your bill come out, Senator Briese. I'd like to have a discussion on this floor about taxes, about tax giveaways, about property taxes. I'm going to support LB1090 because I think the reasonableness of doing something is better than doing nothing at this point. But don't make this political, don't make it personal, and don't accuse someone of

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sneaking something on to a bill. We'll find out what the federal tax changes do for us in the near future, future, not near future. And you, not Senator Smith or I, are going to have to live with it in terms of a budget coming up. Your General Funds are going to be... [LB1090]

SPEAKER SCHEER: One minute. [LB1090]

SENATOR KRIST: ...regressively depleted if the federal system stays in place without LB1090, and we need to pass LB1090. That's the strongest recommendation I can give you. That's the green vote I hope you will give Senator Smith, regardless of the rhetoric and the garbage that we've been exposed to this morning. Thank you, Mr. President. [LB1090]

SPEAKER SCHEER: Thank you, Senator Krist. (Visitors introduced.) Senator Chambers, you're recognized. [LB1090]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, my lookalike, my alter ego for those of you all who are familiar with this term, my quasi-Doppelganger is capable of defending the proposition that is the subject of his amendment, that is the subject of my reconsideration motion. I have to finish an article that I started reading because I had indicated I was going to, this morning and probably have to go into the afternoon, inject some matters that involve federal policy and the deranged actions of a demented person who forgets from one moment to the next what he has said and is totally unmindful of the damage that his actions will cause to those he considers to be a part of his base. When Mr. Pence...by the way, I'd like to ask Senator Briese a question if he would respond. [LB1090]

SPEAKER SCHEER: Senator Briese, would you please yield? [LB1090]

SENATOR BRIESE: Yes, I will. [LB1090]

SENATOR CHAMBERS: Senator Briese, are you aware that I am 80 years old? [LB1090]

SENATOR BRIESE: Yes, I am. [LB1090]

SENATOR CHAMBERS: Are you aware that in any society that is considered old, unless maybe among elephants? [LB1090]

SENATOR BRIESE: Oh, I wouldn't want to go that far, no. [LB1090]

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SENATOR CHAMBERS: So you don't consider 80 being old? [LB1090]

SENATOR BRIESE: No, I don't. [LB1090]

SENATOR CHAMBERS: Would you consider a person of that age to be among that category referred to by the term "senior"? [LB1090]

SENATOR BRIESE: Yes, I would. [LB1090]

SENATOR CHAMBERS: Have seniors been known to slip mentally a little bit as age and its debilitating effects begin to be in evidence? [LB1090]

SENATOR BRIESE: Yes, unfortunately some have. [LB1090]

SENATOR CHAMBERS: How long have you been around me? [LB1090]

SENATOR BRIESE: Oh, only about a year and a half, year and a couple months. [LB1090]

SENATOR CHAMBERS: And that's long enough to detect any deterioration, wouldn't you say? [LB1090]

SENATOR BRIESE: That would be, yes. [LB1090]

SENATOR CHAMBERS: And a deterioration could be occurring and if a person was not mindful or paying attention, he or she could miss it. Would you agree with that? [LB1090]

SENATOR BRIESE: Yes. [LB1090]

SENATOR CHAMBERS: You do or don't? [LB1090]

SENATOR BRIESE: I agree with that. [LB1090]

SENATOR CHAMBERS: All right. Do you feel that you have paid sufficient attention to me during that entire time, every time I have spoken or done anything, to know whether or not there has been any deterioration? [LB1090]

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SENATOR BRIESE: I've heard you speak a time or two, yes. [LB1090]

SENATOR CHAMBERS: And there has been some deterioration. Do you agree? [LB1090]

SENATOR BRIESE: No, I don't. [LB1090]

SENATOR CHAMBERS: (Laugh) Senator Brewer knows that I caught a fish. I was fishing. But here's what I do want to ask you. Are you a member of the party that the President is a member of? [LB1090]

SENATOR BRIESE: Yes, I am. [LB1090]

SENATOR CHAMBERS: That's all I wanted to ask you, and I wanted to take the way around and give you a chance to take a shot at me if you wanted to. But you're too much of a gentleman to do that. Thank you, Sonny. I'm going to go on with this article because...oh, I forgot the question I wanted to ask Senator Briese, if he would respond to a question. [LB1090]

SPEAKER SCHEER: Senator Briese, would you please respond? [LB1090]

SENATOR BRIESE: Yes. [LB1090]

SENATOR CHAMBERS: Now, Senator Briese, if in that brief period of time I forgot what I intended to ask you, would that be a sign of deterioration? [LB1090]

SENATOR BRIESE: In your case, I don't believe so. [LB1090]

SENATOR CHAMBERS: So I deteriorated to the point where there could be no more deterioration unless I died. [LB1090]

SENATOR BRIESE: You said it. You bet. [LB1090]

SENATOR CHAMBERS: See? Let me ask you, what is the Vice President's last name? [LB1090]

SENATOR BRIESE: Pence. [LB1090]

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SENATOR CHAMBERS: Are you aware of a denomination of currency in a European country that shares its name with the name of the Vice President? [LB1090]

SENATOR BRIESE: Oh, I think that's vaguely familiar, but I don't know what country, what currency particularly. [LB1090]

SENATOR CHAMBERS: Well, what is that... [LB1090]

SPEAKER SCHEER: One minute. [LB1090]

SENATOR CHAMBERS: ...what is that piece of currency called if it shares the name with the Vice President? [LB1090]

SENATOR BRIESE: I don't want to hazard a guess but I will, pence. [LB1090]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I would like to ask Senator "Professor" Schumacher a question. [LB1090]

SPEAKER SCHEER: Senator Schumacher, would you please yield? [LB1090]

SENATOR SCHUMACHER: Sure will. [LB1090]

SENATOR CHAMBERS: Senator, what is the country where pence is a piece of money, the name of a piece of money? [LB1090]

SENATOR SCHUMACHER: You know, I really don't know. Someplace in Europe? [LB1090]

SENATOR CHAMBERS: Yes. Is it a large denomination or a small one, based on your understanding of it? [LB1090]

SENATOR SCHUMACHER: Based on my understanding it's a itty-bitty one. [LB1090]

SPEAKER SCHEER: Time, Senator. [LB1090]

SENATOR CHAMBERS: Thank you very much. [LB1090]

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SPEAKER SCHEER: Thank you, Senator Chambers, Senator Briese, and Senator Schumacher. Senator Chambers, you're recognized. [LB1090]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, sometimes fate contrives to give us messages if we are attuned and attentive enough to pick them up. Pence, who is your Vice President, is worth the amount that a pence is worth. He came to your state and railed about how great the Governor of this state is, which indicates he obviously knows nothing about this Governor. He gave the canned speech that he is given and told to deliver in any, what they call, red state, especially if a lot of the President's base, as it is called, occupy territory in that state. So everyplace where he put Mr. Ricketts' name, he could have put the name of any Governor of any so-called red state and he would have said the same thing: how great this person has done, how much he's done for the state, not only at the state level but the federal level. What has he ever done that impacted the federal level at all? I'm talking about the Governor of Nebraska. In fact, as I pointed out, his family was denigrated by now President Trump, ridiculed, threatened, and they backed away from being opposed to him and became his strongest supporters. And this article that I'm going to read mentions that your Governor is a supporter of this guy. It has to do with the worry that people in Nebraska who are involved in agriculture are experiencing because of the tariffs that your President has said he's going to put in place. I'm going to read from the article: Ricketts said he spoke Monday with U.S. Secretary of Agriculture Sonny Perdue relaying his concern that countries harmed by President Donald Trump's proposed steel and aluminum tariffs could retaliate in ways that would cut their imports of U.S. food and commodities. "We have to make sure that as we're looking at the overall trade strategy, that we are mindful of how this would impact other industries," said Ricketts, who has been a Trump supporter. Everything Trump does has to be all right with the Governor. He supported him. What the Governor (sic--President) wants, Ricketts wants. You think Sonny Perdue is going to give any weight to anything that Ricketts has to say when Ricketts' own father didn't want him in his business and told him go into politics; I'll spend whatever it takes to get you elected? All you can do is damage the state and all those ignorant Nebraskans, but you won't be allowed to hurt my business of Ameritrade, I'll tell you that much. And you're not going to sit on any board that has anything to do with what the Chicago Cubs are doing. Your toys will come out of the toy box of politics. Go sit in whatever office they give you in that building over there in Lincoln and raise havoc there, because neither you nor I have any respect for these people in Nebraska. They're too ignorant. And to prove it, they're going to elect you Governor. So "Daddy" Ricketts knew and he was right and he licked his finger,... [LB1090]

SPEAKER SCHEER: One minute. [LB1090]

SENATOR CHAMBERS: ...saw which way the political winds were blowing, and he told his wife, honey, you got to get out of that PAC, P-A-C, that's against Mr. Trump. And that \$3 million that you're responsible for having spent against him, we got to correct that. I will give him some

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money. But he knows what he's talking about when he says that Ricketts family has a lot to hide, so we're going to get on his gravy train. And that's where the Ricketts family is right now; and "Junior," who sits in the Governor's Office, is showing it. It's getting more and more difficult for me to read this article; but before the day is over, I'm going to finish it. Thank you, Mr. President. [LB1090]

SPEAKER SCHEER: Thank you, Senator Chambers. (Visitors introduced.) Senator Chambers, you're recognized, and this is your close. [LB1090]

SENATOR CHAMBERS: Thank you, Mr. President. It's my close perhaps on this motion, but it's not the end of me today. Continuing with the article: His comments--the "his" referring to Governor Ricketts--his comments came as the White House said Wednesday that Canada and Mexico could escape the proposed tariffs--a potential bargaining chip in the ongoing talks to renegotiate the North American Free Trade Agreement. These Republicans are supposed to believe in free trade. A guy named Gary Cohn, the President's top economic adviser, believed in free trade. But the President listens to other people and he announced that he's going to impose tariffs, against the advice of Gary Cohn. Gary Cohn has a degree, I guess, of personal integrity or at least pride. He has high standing in the world of finance and economic discussions, and his reputation meant something to him. So a few hours after the President said, everybody wants to work in the White House, everybody wants a piece of the West Wing, everybody wants a piece of the Oval Office, everybody wants to work here, and a few hours after that Cohn tendered his resignation. And what some people are unaware of, he had considered resigning even before this. You know when he had considered resigning and made it clear? When those neo-Nazis, the white supremacists, conducted that threatening march through Charlottesville, Virginia, and Trump wound up saying there are good people among them. After one of their number drove a car into a crowd of counter-demonstrators and killed a woman, Trump said there's some good people among them. Cohn wanted to leave then, but he stayed. I guess he thought nothing could be worse than what he did when he said there are good people among the neo-Nazis and the white supremacists. So maybe he's reached the bottom of his bucket. I will swallow spit and weather this and try to give advice on problems and matters dealing with the economy and maybe atone for the damage done by the President by giving a pass to neo-Nazis and white supremacists. Then Cohn heard something that he couldn't believe. The President, without consulting with anybody, said he was going to impose tariffs on steel and aluminum. And Cohn thought he was in the middle of a nightmare, and when he realized he was not, he couldn't take it anymore. So to preserve whatever honor he had, whatever shreds of a reputation that might remain to him, he resigned. And now the person who has taken his place is a member of what they call that protectionist wing who, with the President, is going to make America great again. At what point in its history does the President designate as America's greatness? When America was trying to deal and win trade wars,... [LB1090]

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SPEAKER SCHEER: One minute. [LB1090]

SENATOR CHAMBERS: ...which anybody, even not an economist, just a casual reader of the newspaper, a listener to the news on the radio or a watcher of the news on cable or on regular TV, trade wars are not won by anybody. When the President talks about a trade deficit, it's as though these countries are taking from America, and America is getting nothing back. But when Americans spend money, they get products in exchange for the money. So Americans are getting something. But Trump doesn't make distinctions like that. And now a situation is facing the country and your state where his policies may hurt agriculture, and all of a sudden they are warning him of the damage that can be done to Nebraska's economy. [LB1090]

SPEAKER SCHEER: Time, Senator. [LB1090]

SENATOR CHAMBERS: Thank you, Mr. President. [LB1090]

SPEAKER SCHEER: Thank you, Senator Chambers. The question before us is the reconsideration motion on AM2255. All those in favor of reconsideration vote aye; all those opposed vote nay. Have all voted that wish to? Please record. [LB1090]

CLERK: 5 ayes, 21 nays, Mr. President, on the motion to reconsider. [LB1090]

SPEAKER SCHEER: Reconsideration motion fails. Mr. Clerk. [LB1090]

CLERK: Mr. President, the next motion I have is to indefinitely postpone the bill. That's offered by Senator Chambers. [LB1090]

SPEAKER SCHEER: Senator Chambers, you're welcome to open. [LB1090]

SENATOR CHAMBERS: Thank you, Mr. President and members of the Legislature. The Legislature for a while today is now mine, and I'm going to finish this article. By the way, from what I've heard already, even should this bill go to cloture, there will be 33 votes. There will be however many votes as there are people on the floor, with the exception of mine. So what I'm doing does not endanger this bill. It gives me the opportunity to speak, to burn some time off the clock, and maybe let some people read the language of LB1090 and think of the vagaries of politics, especially at the federal level with somebody like Donald Trump in charge and consider whether LB1090 is going to be what they hope that it will be. But LB1090, they can call it freestanding but it really isn't. The impact of LB1090 is not going to be determined by the

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contents of that bill. What happens in Washington still will have a bearing. I'd like to ask Senator Smith a question, if he would respond. [LB1090]

SPEAKER SCHEER: Senator Smith, would you please yield? [LB1090]

SENATOR SMITH: Yes, I will. [LB1090]

SENATOR CHAMBERS: Senator Smith, as long as Congress is in session, they have the power to enact additional legislation. Is that true or false? [LB1090]

SENATOR SMITH: That's my understanding. [LB1090]

SENATOR CHAMBERS: Can they make changes in legislation they've already enacted and that the Governor (sic--President) has signed into law? [LB1090]

SENATOR SMITH: I'm not certain with the process there, but I would assume they would. [LB1090]

SENATOR CHAMBERS: And if they would make some changes at the federal level, those changes, if they would occur, could impact the impact of LB1090 in Nebraska. Isn't that true? [LB1090]

SENATOR SMITH: I would think so. That's part of the reason we're holding off on a portion of that till next year. [LB1090]

SENATOR CHAMBERS: Even what you're not holding off on, what you are putting in place can still be affected by what Congress might do. Isn't that true? [LB1090]

SENATOR SMITH: That's a possibility always, yes. [LB1090]

SENATOR CHAMBERS: There is no fine...thank you. There is no finality in anything that a state does when it's tied into what the federal government may do. So assurances cannot be given by anybody. Now we can say the likelihood of something occurring is small, but the possibility is there. I've heard so much in the way of certitude expressed on the floor that I cannot feel that there's been a thorough examination, weighing of the impact of anything we pass in the Legislature designed to cushion or alter or whatever word we're going to use to describe it, the impact of tax legislation by Congress. But one thing I will tell you: Whether it's at the state level

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or the federal level, the big shots are going to be taken care of. You will not hear any of the state leaders express concern about ordinary people--the ones whose votes are needed to put anybody in office, whether a saint or a scoundrel. But those people are of value only as votes, cogs in a machine, bricks in the wall, but not as full-fledged human beings. And as long as they can keep those people harnessed to the plow, they don't care about those people. And they will do what is going to benefit the ones they care about. I'm not going to say it's human nature, but it's a human tendency to find common cause with those who are like yourself. And the big shots are going to take care of themselves and their interests. No big shots are on the floor of this Legislature. What I would like to see, among those who are here right now, all the millionaires, if you're not too modest, would all the millionaires raise your hand? Well, maybe you didn't hear me, so let me...let me start and work my way up. Will all the "thousandaires" raise your hands? Will the "hundredaires" raise their hands? We got a few honest people here. But you all know the point that I'm getting at. The ones on top are always going to be taken care of. They don't care whether Democrats are in office, "Repelicans" are in office, liberals, conservatives; because when they put the hammer down, all of those designations go out the window. What everybody, with the exception of myself, probably in the world, the most important thing to them is to get elected again. And whatever it takes to do that, whatever needs to be said, they'll say it. Whatever needs to be done, they will do it. Whatever must be refrained from doing, they will refrain from doing it. And the big shots know that. The little people down here are the ones who argue and fight. You never saw Nero or any of the emperors in the arena, with the exception of one. There was one who was kind of thuggish, and he would actually contest with gladiators. But at any rate, they have their entertainment provided by the lower orders, and you all comprise an element of the lower orders because you're carrying out the will of the big shots and what you do is determined by them and what's in their best interest. That's why we don't hear discussions of a serious nature about the welfare and interest of the poor, the hungry, the sick, the mentally disabled, the physically disabled. We don't have those discussions. But you'll have discussions about taking away federal money from clinics that provide primarily healthcare to women, because the Catholic Church, which is a big shot, very rich organization, wants and dictates. The Catholic Church will get its way. There's a board that can't even act because the Catholic bishops won't allow them to do what they're supposed to do. They have to get clearance from the Catholic Conference, the bishops in Omaha, Lincoln, and Grand Island, the big three. But here's something to keep in mind. This George Pell that I was talking about used to be the finance manager of the Pope, right there with the Pope. But he just could not overcome his love of little boys and maybe little girls and maybe grown people. But he is enmeshed in the law in Australia because of his sexual improprieties. And yet the church of which he is a part dictates to this Legislature and to certain agencies in this state what they are to do. And it won't be discussed. Senator Murante will talk about trying to take the rights to vote from black people. He's so concerned... [LB1090]

SPEAKER SCHEER: One minute. [LB1090]

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SENATOR CHAMBERS: ...about the First National Bank severing ties with the NRA that he wants to interfere with a big business making a business decision, and he doesn't even know what the next largest bank is in this state. And he has the nerve to say he's going to examine the contracts, if he becomes the Treasurer, that the state has with First National. And if those contracts should be taken from First National who, what bank, is he going to give those contracts to? What bank is he going...he doesn't even know. And he says flipping or baking pizza gives him knowledge enough to review these contracts. He doesn't know anything about those contracts. I'd bet anybody, except Senator Briese because he's too smart to take the wager, that Senator Murante has not read one of those contracts he's talking about examining. I bet he hasn't read the contract that First National has with any entity. [LB1090]

SPEAKER SCHEER: Time, Senator. [LB1090]

SENATOR CHAMBERS: Thank you, Mr. President. [LB1090]

SPEAKER SCHEER: Thank you, Senator Chambers, but you are next in the queue and you're recognized. [LB1090]

SENATOR CHAMBERS: Thank you. Mr. President, members, I promise I've got to read this article. Quoting my friend, rest his soul in peace, I think that's what Irish people say, Abraham Lincoln, "The promise being made, must be kept," so I'm going to try to finish this now. It's nice to be in control of the...you know what? There was a guy, he said power corrupts and absolute power corrupts absolutely. That's at whatever level that power is being exercised. But I'll tell you what. It's not a corrupting influence if it's being used to hold in check bad things that would otherwise happen, and that's what I do. Continuing the article: Ricketts said he reinforced to Perdue the importance of maintaining strong ag trade with Canada and Mexico. "We want to make sure we keep those markets open and that we don't jeopardize those relationships," Ricketts said. Mexico and Canada are Nebraska's two biggest export customers for agricultural goods, together buying about 45 percent of the state's total ag exports. How many of you all knew that? You didn't know that. Neither did I. But I found out. U.S. Treasury Secretary Steven-- and he spells his name S-t-e-v-e-n--Mnuchin said the administration was "definitely going to end up" with the across-the-board tariffs Trump is seeking. Now if Trump on the one hand is being quoted as saying he's considering a waiver for Canada and Mexico, how can his Treasury Secretary say that he can say that Trump is definitely going to impose the across-the-board tariffs that he said? Because Trump changes his mind. He changes his mind more often than he changes his underwear, probably, if he wears underwear. I don't know about that man. But there are women who could tell us that. One of them wants to be allowed to just tell it to the world what this low-life scumbag did. Your President did these things and you would want to condemn me for talking about it. I say let that woman go. Give her her freedom. Let her talk. Freedom of

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speech. See, all you all talk about the Second Amendment. What about the First Amendment for women? Don't women have the right to exercise freedom of speech? Oh, but that's right. You all don't know anything about a First Amendment. You think the Second Amendment is the same as the whole constitution. But let me finish this article: After having said that Trump is "definitely going to end up" with the across-the-board tariffs he is seeking,... [LB1090]

SPEAKER SCHEER: One minute. [LB1090]

SENATOR CHAMBERS: ...what does Mnuchin say in the next sentence? But again, there will be a mechanism where, to the extent that the President wants to give waivers, the President can do that, Mnuchin told Fox Business. In other words, at this point the President is going to do it across the board definitely; however, he might change his mind and it won't be across the board, and that is definite. And if it was Trump, he'd say believe me. And that's when you know you shouldn't believe whatever he just said. Continuing: Ag industry leaders at the conference in Kearney said they were worried about Trump's approach upsetting trade relationships. Pork producer Terry O'Neel, O-'-N-e-e-l, a friend, said any disruptions to trade "hurt hard." Quoting further, "In my business, we're expanding," he said. [LB1090]

SPEAKER SCHEER: Time, Senator. [LB1090]

SENATOR CHAMBERS: "We have to export..." [LB1090]

SPEAKER SCHEER: Time, Senator. [LB1090]

SENATOR CHAMBERS: Oh, you said time? [LB1090]

SPEAKER SCHEER: Yes, sir. And you're recognized, Senator Chambers. This is your last at mike other than your close. [LB1090]

SENATOR CHAMBERS: My last what? [LB1090]

SPEAKER SCHEER: This is your last at mike other than your close. [LB1090]

SENATOR CHAMBERS: Oh. Thank you. "In my business we're expanding," he said. "We have to export these products." Losing export markets is dangerous to the beef industry, too, cattle feeder Craig, his name, last name, U-d-e-n. I don't know if it's Ooden (phonetically) or Youden (phonetically). Or it could be Smith spelled a different way. Anyway, Craig said, "The value of

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exports to the beef producer is equivalent to 60 percent of the cost of a calf. Without exports," he said, "nobody's viable." The dispute over the steel and aluminum tariffs has exposed a rift between advocates of free trade who have long dominated GOP circles and a President who has railed against China and pushed for more protectionist trade policies. Internally, White House officials who oppose the tariffs have urged the administration to limit the countries that would be affected and to impose time limits. That would help the President say he delivered on his promise and still try to avoid possible negative consequences, said Stephen Moore--and this Stephen spells his name S-t-e-p-h-e-n M-o-o-r-e--a former campaign adviser and now an economist at the conservative Heritage Foundation. Such negative consequences could have reverberations in the ag community economies of Nebraska and Iowa. All the members of Iowa's Congressional delegation, for example, sent a letter to Trump on Wednesday urging him not to impose tariffs on imported steel and aluminum because they could harm Iowa's farmers and manufacturers. Republicans in Congress and within Trump's administration say industries and their workers who need steel and aluminum for their products also would be hurt by Trump's threatened tariffs. They say Americans will face higher costs for new cars, appliances, and buildings if the President follows through on his threat and other nations retaliate, which the EU said they'd do, and they said they would do it in a way that hurts America, and they know how to do that. Trump has said the tariffs are needed to preserve American industries and protect national security, and every economist who has commented on this said none of it has anything to do with national security. But that's, to use that biblical expression, that's the shibboleth that Trump always falls back on. Whatever he's doing is for national security. Well, some people are asking...I'd like to ask Senator McCollister a question, if he would respond. [LB1090]

SPEAKER SCHEER: Senator McCollister, would you please yield? [LB1090]

SENATOR McCOLLISTER: Yes, I will. [LB1090]

SENATOR CHAMBERS: Senator McCollister, without having to give the answer, have you heard it stated that the question is being asked since Gary...what's the last name of that guy I just told you about who quit? Cohn. I should have said ice cream, gives you (inaudible). But anyway, have you heard it asked to whom or where will the President turn for economic advice now that Cohn has retired or resigned? Have you heard that question posed? [LB1090]

SPEAKER SCHEER: One minute. [LB1090]

SENATOR McCOLLISTER: Lord only knows where he'll find that advice. [LB1090]

SENATOR CHAMBERS: Well, I do know. We know that I know. But I'm asking, you've heard that speculated about where will he turn, correct? [LB1090]

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SENATOR McCOLLISTER: Afraid I haven't, sorry to say. [LB1090]

SENATOR CHAMBERS: Oh, okay. Well, you can sit down, Sonny. Members of the Legislature, that is what people are asking: Where will the President turn now for economic advice since his top adviser has resigned? And I got some inside information. You know where he's going to turn? And, Senator McCollister, I'll address this to you since you were nice enough to talk to me: He's going to turn to a Ouija board. That's what he's going to turn to for his economic advice--a Ouija board. And he was given the Ouija board as a joke. But being... [LB1090]

SPEAKER SCHEER: Time, Senator. [LB1090]

SENATOR CHAMBERS: Thank you, Mr. President. [LB1090]

SPEAKER SCHEER: Thank you, Senator Chambers. (Visitors introduced.) Senator Brasch, you're recognized. [LB1090]

SENATOR BRASCH: Thank you, Mr. Speaker. And thank you, colleagues. I'd like to stand for a personal privilege here and ask for one moment of silence as we remember former Governor Charles Thone, who has passed away at age 94. And he served as Governor during a time of national economic recession. He was known for his great fiscal restraint, great integrity, and leadership. And the flags are being asked, for those who are watching, to be flown at half-staff from sunrise this morning to sunset on Tuesday, March 13. And he served not only as Governor, the 34th Governor in 1978, but he also served as a member of the United States House of Representatives for Nebraska's 1st Congressional District. Many have known him personally. He was a man of good spirits, loved our state, loved all of Nebraska, and served us well. So I just ask for one moment of silence in memory. Thank you, colleagues. Thank you, Mr. Speaker.

SPEAKER SCHEER: Thank you, Senator Brasch. Mr. Clerk.

CLERK: Mr. President, I have an amendment to be printed to LB44 by Senator Smith. A reminder: Transportation Committee will meet at 12:30 in Room 1113. A name add: Senator Quick to LB1132. (Legislative Journal pages 877-879.) [LB44 LB1132]

Mr. President, Senator Hansen would move to recess the body until 1:30 p.m.

SPEAKER SCHEER: Colleagues, you've heard the motion for recess. All those in favor please say aye. Any opposed say nay. We are in recess.

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RECESS

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: 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.

ASSISTANT CLERK: There is a quorum present, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Do you have any items for the record?

ASSISTANT CLERK: Mr. President, I do. Your Committee on the Executive Board reports LR296 to the full Legislature for consideration. In addition to that, a new resolution by Senator Watermeier; that will be laid over (re LR340). That's all I have. (Legislative Journal pages 880-882.) [LR296 LR340]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Speaker Scheer.

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Colleagues, I wanted to announce this afternoon that I do intend to have a consent agenda sometime in March. However, the bills do need to be out of committee and they do have to be submitted, I believe I put Tuesday adjournment, next Tuesday. So that gives you a couple, three days to work on those. And if committees need to get together again, that gives them the opportunity to do so. I don't know how extensive it will be. We are moving at a fairly decent rate the last couple days, which is encouraging. So the depth of the consent agenda will determine...be determined by how well we're moving along in the priorities. I have told several of you that have asked me, truly my job is to take care of priority bills. That's my first priority. Consent would be secondary. So I want to have everything put in place and ready to go so that we are able to facilitate both. But I have to be assured that we are going to at least be able to get done with the priorities as well. So that's sort of the conundrum that I'm working with right now. And if we continue at the same pace that we have the last couple days, we shouldn't have a problem. But just wanted to let everybody know, if you have something, certainly provide it to our office. And if you have any questions, you can certainly talk to myself, Spencer, or Laurie. And we'll be passing out the sheet that will give you the parameters, as well as your staff will receive an e-mail so that they understand the rules as well. So thank you very much, Mr. Lieutenant Governor.

PRESIDENT FOLEY: Thank you, Mr. Speaker. Mr. Clerk.

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ASSISTANT CLERK: Mr. President, when the body recessed for lunch, under consideration was LB1090. At that time, Senator Chambers had offered a motion to indefinitely postpone. He's indicated he wishes to withdraw. [LB1090]

PRESIDENT FOLEY: The motion is withdrawn. [LB1090]

ASSISTANT CLERK: In that case, Mr. President, I have nothing further pending to the bill. [LB1090]

PRESIDENT FOLEY: Further consideration of LB1090, Senator Harr. He waives the opportunity. Is there any further discussion on the bill? Senator Smith, you're recognized to close on the advancement of LB1090. [LB1090]

SENATOR SMITH: Thank you, Mr. President. And thank you, colleagues. I appreciate the good discussion this morning, in some regards a very spirited discussion. And again, just to remind you of what we are voting on, LB1090 is a way in which we can keep Nebraskans whole in the face of the federal changes that have created an unintended impact on the individual income taxpayers in our state. With the passage of LB1090 as is, we will be able to make certain that our Nebraska families and small businesses continue to receive the same tax benefits that they have received in past years, as close as can be expected at this time. So again, thank you very much for your time and your discussion this morning. Thank you, Mr. President. [LB1090]

PRESIDENT FOLEY: Thank you, Senator Smith. Members, you heard the debate on LB1090. The question before the body is the advance of the bill to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB1090]

ASSISTANT CLERK: 38 ayes, 0 nays on the motion to advance the bill. [LB1090]

PRESIDENT FOLEY: LB1090 advances. We'll proceed to the next bill, Mr. Clerk. [LB1090]

ASSISTANT CLERK: Mr. President, LB808, introduced by Senator Harr. (Read title.) Bill was introduced on January 4 of this year. It was referred to the Agriculture Committee. That committee reported the bill to General File with committee amendments. (AM1907, Legislative Journal page 757.) [LB808]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Harr, you're recognized to open on LB808. [LB808]

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SENATOR HARR: Thank you, Mr. President, members of the body. LB808 continues a conversation that I began in 2015 on LB544 regarding community gardens. LB544, as many of you recall, established the Community Gardens Act, defining community gardens in statute. The legislation also created the Community Garden Task Force. The task force met throughout 2016 and did an excellent job cataloging the current state of affairs of community gardens in Nebraska. The task force also recommended several ways to encourage the growth of community gardens. And then last year, with Senator Murante's bill, we disbanded the group. However, they did come up with three things, recommendations, which were: define "urban agriculture" and thereby rename the current statute the Community Food Production Act; add seed libraries as defined by Statute 81-2,147.01 to nonbasic services of municipal libraries. The idea being here is to require libraries to have...or to allow libraries to have seed libraries. And then finally was to create a Food Production Water Fund. The concept is to create a pilot program that awards a match grant to the community garden project for water hookup, installation, other water-related cost. The dollars from the original bill came from the Water Sustainability Fund. It was a one-time \$100,000 ask. What we...and then we had the hearing on this bill. The idea here is the fund is conceived to support only community gardens. I didn't want to use tax dollars to go to operations for for-profit food operations. What we did was in the hearing we talked about why community gardens are so important, and they are to the longevity of the state and to helping those in urban areas have a better understanding of what our brothers and sisters throughout the state are involved with. Ag is our number-one industry, and yet so many in our state don't have the ability to understand how and what goes into raising plants and how difficult it is to do. Community gardens bring different groups of people together, as well, and they also have a holistic use and a purpose. And so I can go into greater details about why community gardens are good, but what I want to address is after the...well, at the hearing itself, individuals came up and some testified in neutral and some testified against, including individuals from the Water Sustainability Fund; and they said, hey, don't take our money. We don't want you to take that money. The better way to approach this is...why are you going outside the grant process--that's not fair--and just poaching \$100,000? Make community gardens go through the same process every other applicant has to do. And after the hearing, I contemplated that; and I said that's fair, that seems like a good idea. So I gave the amendment to the Ag Committee and it passed with the amendment. I want to thank Senator Brasch for making it a committee priority in the Ag Committee. I do think this is important for helping to bring together an urban-rural divide so that those in urban areas have a better idea of what's going on. What amazed me is the Water Sustainability Fund, funded 100 percent by this Legislature, then turned around and told me that recommendation we made in hearing, we don't like that. Well, that got me a little upset. And I don't know if many of you remember I took to the floor on that issue and I said, if you want to have an organization create a lobby group, give them money. Now I know it's a water group, but I say we drain the swamp. We got a real problem here, folks. This Water Sustainability Fund, funded by the Legislature, turned around and is now outside lobbying us to tell us what we should and shouldn't be doing. We're the policymakers. We're the ones who are elected by our

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constituents. We're the ones who decide what is and what isn't policy, and we'll have a conversation about that. But it bothered me a little bit that they came in and said we're against it, they're outside lobbying. And when I went to them, or I called, some of you may recall I called four different individuals, starting with the attorney working all the way up to the head of the committee, the board. No one would take responsibility; not one person would take responsibility for being against the amendment. But now they're outside lobbying. You have Ducks Unlimited, a nonprofit, outside lobbying on this bill. I went to their lobbying report. I couldn't find where they said they were against LB808. I assume that will be filed eventually. But again, we have to ask ourselves, who is the policymaker? Is it this side of the glass or is it that side of the glass? Who is the one who went out walking in their districts? Who is the one who knocked doors? I think it's us in here. So what this amendment does is it says, hey, community gardens, you are allowed to apply for this grant. They aren't currently. So then ask yourself, well, do they qualify? We know they do a community good. We know that they are in mainly urban areas, in municipalities. We know that they are great in food deserts. We know that they bring different communities together. At my own kids' school we have a Karen population that takes care of a community garden at our school, and it makes an immigrant population feel a part of the community. We know that it brings old and young together. What they also do, when it comes to water and why we chose to use the Water Sustainability Fund, think about what a community garden does. When it rains, that water is collected there. If it's not a community garden, it's cemented over. That cement is nonporous. It does nothing to recharge the ground, the underwater aquifers. It does nothing to filter and clean the water. Instead, it's sent through a cement, nonporous pipeline through the sewer system, through treatment; and if it's a lot of rain, without treatment, it's sent untreated and then it goes into our rivers and it washes down and we never see it again and we lose that water. Whereas, if you allow a community garden, it will collect water. It will sink through the ground, purifying the water, and recharge. I looked at the scoring of how these grants are done; and when you look at it, it says remediates or mitigates threats to drinking water. Again, if that water goes through, especially in times of heavy rains, it's going to go into our rivers and streams, untreated, dirty. It's also not going to be purified by the ground. [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR HARR: Thank you. The next, let me go through. I want to go through quickly. I'll go through. I'll hit my light again and talk about the scoring, but I want to talk about some of the other projects that are out there. City of Mitchell, City of Mitchell is doing this using the resource fund, more money than community gardens could ever use. And when I get a chance to hit my mike, I'm going to talk about their application, and you tell me how that application, which received approval, differs from our community gardens. And I want to again thank Senator Brasch and the Ag Committee for making this a priority. And I look forward to a lively

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debate and a chance to talk about why we have an opportunity to help bring urban and rural together. Thank you. [LB808]

PRESIDENT FOLEY: Thank you, Senator Harr. (Visitors introduced.) As the Clerk indicated, there are amendments from the Agriculture Committee. Senator Brasch, you're recognized to open on the committee amendments. [LB808]

SENATOR BRASCH: Thank you, Mr. President, and good afternoon, colleagues. The committee strikes the original Sections 5 and 6 of the bill and inserts new Sections 5 and 6. The new Section 5 inserted by the committee amendment amends this to expressly include community garden purposes as an element of multiple water supply management goals under subdivision (1)(d) of that section. Similarly, new Section 6 amends subsection 2-1508 to expressly include community garden purposes as an element of the multiple water supply management goals, scoring, and ranking criteria that's contained in subsection (4) of that section. This committee amendment does not earmark or does not guarantee projects that might help resolve water access for a community garden that it would qualify for the water sustainability funding. Again, it doesn't guarantee that they would qualify for that funding. The practical implication is that projects that might include addressing community gardening purposes as an element of the overall project might incrementally enhance its underscoring under the multiple water supply management criteria but would continue to compete with all other applications based and ranked according to overall scoring on all 15 statutory criteria. Again, basically and very simply, is that this amendment would require the community gardens to make an application for funding. The committee heard the bill on January 23 and received great input on this topic, and the bill was advanced 8-0 with the committee amendment recommended. I move the adoption of the committee amendment to LB808 and I would hope that my colleagues would follow. I also want to tell a very small story here along with this amendment because I had heard concern and scuttlebutt, if that's a word, in the background--oh, this is not good for agriculture or farmers, what are you doing to our Water Sustainability Task Force? When I was marketing director at the Nebraska State Fair 25-plus years ago, it was hard to rent Ag Hall. Those booths were not selling. People weren't going in the building. We were trying to show our city brothers and sisters what agriculture was about. Well, I just returned from a marketing meeting in Providence, Rhode Island, and they had the Waterfront Festival and they had banners and signs and music and people dancing and songs being sung. So I went to the Fair Board and I said, I want to have an earthbound festival. And, oh, they moaned and they grumbled and they said, it sounds like an environmentalist to me; we can't do that. And I said, but we need people to come and see what agriculture has to offer. It's beautiful. It's wonderful. We feed people. We take care of our earth. We're stewards. And at that point I was an urban dweller, but I loved my little backyard garden. I read gardening magazines. I bought seeds. I nurtured these little seeds as if they were my children and grew the most wonderful, bountiful fresh tomatoes, which I grow to this day on the farm. And so when I heard the hearing, and these people wanted to grow

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vegetables and to feed their neighborhoods and their families and the urban ones also, which do not qualify, turned this into a business, I thought, what a good thing for us farmers. We're only 1 percent of the population. No one really understands our story. They don't understand what it takes to grow one small seed and make it bountiful to feed many. And I thought, if these individuals want to have a community garden and they want to learn what it's like to suffer through drought and weather conditions and insects, that it might give them just a slight idea, a slight inkling of favorable votes even here in our body--where only 18 senators are rural senators--to vote for our issues. So I looked at this as a bonding opportunity, an opportunity for growth--and that is a pun. I'd like this to grow. I don't want our farmers in here to be fearful that an earthbound festival or a water for community gardens is going to hurt agriculture. I think the opposite. I think it will help us grow a better understanding, a better relationship with the communities across the state. So I do ask for your favorable vote on AM1907 and also on LB808. And I thank the...Senator Harr for introducing this. Thank you, Mr. President, and thank you, colleagues. [LB808]

PRESIDENT FOLEY: Thank you, Senator Brasch. Debate is now open on LB808 and the pending committee amendment. Senator Kolterman. [LB808]

SENATOR KOLTERMAN: Good afternoon, Mr. President. I was wondering if Senator Harr would yield to a couple of questions. [LB808]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB808]

SENATOR HARR: Of course. [LB808]

SENATOR KOLTERMAN: Senator Harr, I was on the committee when we originally passed your bill out and we passed the legislation several years ago. I was intrigued by the idea of gardens, community gardens, and I think it's a worthwhile project. I had a couple questions, though, since you've have had a little bit of time now and you've improved it even a little bit. When you talk about seeds and the seed exchange, ever...does it ever...has the issue ever come out about patent regulations? [LB808]

SENATOR HARR: Yes. [LB808]

SENATOR KOLTERMAN: As you know, when a seed corn company develops a strain of seed that has some intricate parts to it, like Roundup and Ready and things of that nature and drought intolerance, there's complications when somebody tries to hold that and then move it on. Is the

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same...does the same thing happen to the seeds that are donated to these gardens? And again, I'm not being facetious. I'm just curious. [LB808]

SENATOR HARR: Yeah. So, good question. When we first started the seed library with LB588 a couple years ago, we researched why don't we have seed libraries? And what we found out was a lot of the large seed producers in the early 1990s came through and said you can't do these and said, you know...and so we passed these laws. What we did last time was we allowed them, working with ADM and Monsanto, to make sure that the bill we passed would address just the issue you had. And so since then, you can't just take any seed. A seed library can't just take any seed it wants. There is a process that goes through it. Majority of the seeds that we're looking at are heirloom. But if they're in the areas of where a lot of commercial seeds are, they just...most of them just don't even take it because of the concerns that you articulated. [LB808]

SENATOR KOLTERMAN: Okay, I thought we had talked about that when you passed the original legislation, but I was just curious. [LB808]

SENATOR HARR: Yes. [LB808]

SENATOR KOLTERMAN: So with that, thank you for answering that question. With that, I would yield you the rest of my time. [LB808]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Harr, 2:30. [LB808]

SENATOR HARR: Thank you. Thank you, Senator Kolterman, and thank you, Mr. President. Going through--and I just want to finish this up; I wasn't quite ready--the application process and the scoring that goes on, and tell me if you think a community garden fits a lot of these "criterias." So (1) was "Remediates or mitigates threats to drinking water." Again, that water purifies and recharges the aquifers underneath. "(2) Meets the goals and objectives of an approved integrated management plan or ground water management plan." I don't know if you guys have ever been to Omaha, but we got a real sewer separation problem; and one of the things we're doing is we are creating these large water basins for flow that...and natural where rain flow can flow in there and you'll have plants and such in there. Maybe they qualify for this, but probably not, but we are using gardens already to help deal with some of the problems we have in Omaha with sewer separation and purification. "Contributes to water sustainability goals by increasing aquifer recharge, reducing aquifer depletion, or increasing streamflow"--I think I've already discussed how a community garden and having that open green space will do that. "Contributes to multiple water supply...goals, including, but not limited to, flood control, agriculture use, municipal and industrial uses, recreational benefits, wildlife habitat, conservation..." [LB808]

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PRESIDENT FOLEY: One minute. [LB808]

SENATOR HARR: "...of water resources, and preservation of water resources." Right. You have a community garden; you are going to help your wildlife habitat. Now it may not be what we would consider wildlife necessarily, like pheasants and deer, animals that we hunt, dove, but it will help squirrels, which, for the most part, we don't hunt; rabbits, which I wish we did because they do destroy the community gardens. But birds, as well, will prosper, and other wildlife habitat, maybe even, again, field mice, which I wouldn't be a big fan of but...and maybe fox. I actually...we have a fox in our neighborhood. Maybe...I don't know what fox eat. Hopefully it's field mice. Someone can maybe answer that question for me. "Maximizes the beneficial use of Nebraska's water resources for the benefit of the state's residents." Again, we're using... [LB808]

PRESIDENT FOLEY: Time, Senator. [LB808]

SENATOR HARR: Time? [LB808]

PRESIDENT FOLEY: That's time, Senator. Thank you. [LB808]

SENATOR HARR: Thank you. [LB808]

PRESIDENT FOLEY: Thank you, Senator Harr. Speaker Scheer. [LB808]

SPEAKER SCHEER: Thank you, Mr. President. I wonder if Senator Harr would yield to a couple questions. [LB808]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB808]

SENATOR HARR: Yes, I will. [LB808]

SPEAKER SCHEER: Senator Harr, having community vegetables sort of makes you think of eating, correct? I mean they're to eat. I mean, it's not flowers. We're growing food, correct? [LB808]

SENATOR HARR: Yes. Yes. [LB808]

SPEAKER SCHEER: And so we would be eating them, and that would make you think about meals. [LB808]

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SENATOR HARR: Yes. [LB808]

SPEAKER SCHEER: And so if we're thinking about meals and we're thinking about late nights here, one would wonder, gee, what am I going to eat when we have a late night? Tell me, Senator Harr, have you signed up for dinners? [LB808]

SENATOR HARR: Not yet, but I will. [LB808]

SPEAKER SCHEER: You know, I just...just off the top of my head, I thought, my gosh, I better remind people again that we have meals for next week and you have until tomorrow to sign up. And the numbers have been somewhat limited, so rather than have to cancel, those of you that maybe have passed that mind-set of signing up might want to reconsider that because we're within striking range of that time period that we either have to go or not go. So I really appreciate Senator Harr bringing food back up because it really got my mind started on that. With that, I'd certainly yield the rest of my time to Senator Harr. [LB808]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator Harr, 3:40. [LB808]

SENATOR HARR: Thank you, Mr. Speaker. And let me just say one of those restaurants is Billy's, and I had lunch there today and probably one of the best lunches I've had all year, so I want to thank Billy's for that great lunch and recommend them wholeheartedly. So continuing on, what are the requirements or the NRC scoring: "Is cost-effective." I don't think anyone would deny that community gardens are cost-effective, and they provide free and cheap or reduced-cost food, in a lot of cases in food deserts where individuals probably don't have access to fresh fruits and vegetables, nuts, the likes. The next, "(7) Helps the state meet its obligations under interstate compacts, decrees, or other state contracts or agreements or federal law." On that I'm afraid community gardens probably fail. Number (8): Reduces threat to property damage or protects critical infrastructure that consists of physical assets, systems, networks vital to the state or United States such that their incapacitation would have a debilitating effect on public security, public health, or public safety. What I can tell you and I can show you is there is an EPA study that shows where you have community gardens it actually increases property values and decreases crime rates. I have no idea why, but it does; and I can show you that study. "(9) Improves water quality." I think we've already talked about how it improves water quality. Number (10): Has utilized all available funding resources of the local jurisdiction to support program, project, or activity. Right? Right now, we aren't getting any support from our local. This provides leverage to go to our locals and say, hey, if you want to help us, if you want us to get some more of these, you got to help us, and if you do, we might be able to get some state dollars. Number (11): Has local jurisdiction with plan in place that supports sustainable water use. Well, again, that would probably be our NRDs who could do that, working with our NRDs,

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which I believe Senator Kolowski was a member of and can talk more about that. And "Addresses a statewide problem or issue"--folks, hunger is a real issue across this state. [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR HARR: Whether we'd like to admit it or not, there are people that go hungry in our urban and in our rural areas, but this helps address some of the issues of urban area and it also helps with obesity because kids are getting access to fresh fruits and vegetables that they normally wouldn't. It also, as Senator Brasch stated so eloquently, it helps us to understand how difficult it really is to take something from a seed to final production and that you may have all the water, you may have all the land you need, but then you got to learn about critters, then you got to learn about bugs, then you got to learn about hail and wind and all the struggles that you do not control, that a farmer does not control, and understand how difficult it really is for our farmers to raise their crops and maybe have a better understanding and, dare I say, a little more respect for our farmers. [LB808]

PRESIDENT FOLEY: Time, Senator. [LB808]

SENATOR HARR: Thank you. [LB808]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Friesen. [LB808]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. I rise in opposition, at least the way the bill is currently written, to taking money from the Water Sustainability Fund. The Water Fund, first of all, was created, and in my recollection, is because we were in the midst of a drought and we were running short of water. And the Water Sustainability Fund was the money used that was going to be matching funds for the 3 cents that the NRDs were collecting in order to do water mitigation projects and help with the sustainability of our water supply. Therefore, I'm very much opposed to taking money out of that fund, no matter what it is. I like the community gardens idea, but I will be bringing an amendment forward, and if Senator Harr would be amenable to it, I would be willing to take the money out of the portion of the money that goes to the Omaha combined sewer separation project in the sustainability fund. I think it would be very appropriate to take it out of that portion because it deals with their sanitary and their storm sewer systems and, therefore, there would be less water running into their storm sewers and it would help clean that water supply; and I think it would be an appropriate place for it. So that is the only way I will support the bill. Otherwise, I will continue to be opposed with it and I will visit with him further off the mike. And thank you very much, Mr. Lieutenant Governor. [LB808]

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PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Albrecht. [LB808]

SENATOR ALBRECHT: Thank you, President Foley. And I rise in support of AM1907 and LB808. I sit on the Agriculture Committee and I was most impressed by the testifiers. They obviously have a passion for what they do. One gentleman actually took two or three lots that he had and put them into a community garden for everyone in his neighborhood. You know, sometimes when you sit in the committees, it is our job to bring back to you what took place in the actual committee and what moved us all to bring this forward. Now I would think that Senator Harr, with this being an interim study that he did and he certainly spent some time with these folks and they pretty much did the work for him, he simply brought the information forward; but I would also say that we're not taking a million dollars from the sustainability fund. It's a simple \$100,000 versus...you know, you've got to know where to find it. Obviously Senator Harr has been here longer than I have and he obviously is looking. I think he talked about...didn't you say, Senator Harr, that there was...this might be just a small portion of interest earned on the Water Sustainability Fund. But \$100,000 to help educate anywhere from, you know, a little 18-month-old running around with grandma and grandpa out in the garden to everyone in between, I think something like this that helps people understand where their food comes from, what we do on the farm every single day, and it's going to happen in the cities, to me, I'm very much in support of it. So thank you and I will certainly yield my time to Senator Harr if he'd like it. Thank you. [LB808]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Harr, 3:00. [LB808]

SENATOR HARR: Thank you, Senator Albrecht. I want to thank you for calling me out that, in fact, I have not done the work on this, and you're absolutely 100 percent correct. It is amazing the spirit that these community gardeners have shown when they came in and testified, but they did more than just come in and testify. They talked about their concerns and they worked with my staff. I have to give a shout out to Mr. Jamison Wyatt for helping draft this and continuing to work with this and to try to figure out how can we do this better. And in the hearing we did ask for \$100,000. But listening to the concerns of those on the water resource fund, we decided that we would merely allow them to apply for a grant. So when Senator Friesen says "taking his money," it's not really taking his money. It's money the Legislature appropriates and gives the Water Sustainability Fund the ability to determine when, where, and how to give it. And when you look and see the criteria that I went through, you see the NRC scoring, that community gardens fits within that. And in addition, I have Senator Carlson's introduction of the original bill regarding the water funding, LB1098. And in there he said criteria is very important to this. And he said the "criterias" are: protecting the ability of future generations to meet their needs through increasing aquifer recharge, reducing aquifer depletion, increasing streamflow, remediating threats to drinking water, and forwarding the goals and objectives of approved integrated managerial plans the districts have, the NRDs have; two, contribute to multiple water supply

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management goals such as flood control, agriculture use, multiple municipal and industrial uses, recreational benefits, wildlife habitat conservation and preservation; three, providing water increased...providing increased water productivity and enhancing water quality, all of these, and also creating cost-effective solutions. [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR HARR: Five: and, of course, making sure that we comply with decrees, state contracts, and agreements. I'm up pretty quickly and when we do, I'll talk about the city of Mitchell who received \$2.33 million; and we can have a conversation with Senator Friesen about how their goals and their benefits are very similar to what community gardens' are. Thank you. [LB808]

PRESIDENT FOLEY: Thank you, Senator Harr. You're next in the queue. You may continue. [LB808]

SENATOR HARR: Thank you, Mr. President. So as I promised with that teaser, there are a number of projects that have applied and for the most part they're doing a good job, and I'll go through some of the other ones as well. But when the...every year, and if you receive funding, you are required to do project's benefits listed in the...to do an annual report and you're also supposed to say what are the benefits from your application. City of Mitchell: allowing the city to conform with current NDEQ regulations for handling of wastewater--again, remember, community gardens slow down wastewater and help prevent those--elimination of the periodic discharge of partially treated wastewater to the North Platte River by absorbing them into the ground and instead of sending them into the sewer system. Community gardens do just that. Improve...improvement of water quality in the vicinity of the project and downstream, providing an improvement to rural and municipal water users, wildlife habitat, and recreational users. Think about it. I think community gardens would meet that benefit. And then the last was lessening the financial burden on city residents by lowering user rates. Again, if we have to, if we can produce less in our sewer separation in Omaha, that's going to reduce ratepayer rates. Community gardens do that. We're doing the exact same thing as city of Mitchell, and they approved it. It's a good bill, folks. Is this going to solve all the world's problems? No. But what it does, it...and if the water resource fund decides, hey, we don't like community gardens, that's up to them. But at least we have put community gardens on the radar and made them think a little bit about, okay, what are we doing for our urban areas besides giving out of the \$14 million a million bucks to Omaha a year for their sewer separation? What are we really doing to make sure that the city of Omaha, that other municipalities, whether it's Lincoln who came in and testified; we had individuals from other towns, what are they doing to make sure that we still, number one, have that link to our agricultural roots and the number-one industry in our state and a better

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understanding of it? But, two, what are we doing to make sure that we're preserving our water so that there is additional water for the farmer, for the rancher, that they are recharging the ground? I'm not concerned just about recharging for irrigation. I'm worried about recharging for those who have windmills, the rancher that uses a windmill to pump water from the ground. Is there enough recharge in the ground to make sure they can pull that up? At the end of the day, the sustainability fund will have the ultimate say. I don't earmark money anymore. I don't take money from the fund anymore. I allow them to be a part of the process, a suggestion I didn't come up with. It was from testimony in the hearing; and that's why, folks, public hearings are so important. And it's important that when we listen at those public hearings that we not just say thank you for supporting me or "grr" for not supporting me. That's officially a growl, for the record. But instead, we listen to the second house, the people. And when they come in, we take their comments to heart and we incorporate them. And it also says to the people, when you come in to testify, we are listening, so be careful what you say. [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR HARR: Don't say we want this and then when we follow their recommendations say we're still against it. That's a little disingenuous and that's disappointing because if you want to be listened, you have to have your word mean something, because we do listen. That's why Senator Brasch brought AM1907. I want to thank her for that. And again, I want to thank the committee for their hard work in getting this out, and I would ask for your support on the floor. Thank you. [LB808]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Williams. [LB808]

SENATOR WILLIAMS: Thank you, Mr. President. Good afternoon, colleagues. I'd like to spend just a short amount of time talking about water, the importance of water, and agriculture and our view of agriculture in our state. I think a lot of us kind of scoff and laugh at the idea of a garden because most of us, myself included, believe that our types of agriculture in our state have the concept behind them that we are able to provide a safe and secure supply of food to the world. And raising hundreds of thousands of acres of corn, beans, all the products that we raise, and using what natural resources we have been given for that purpose not only increases significantly the economic value of the state of Nebraska, but it also solves that longer-term issue of placing Nebraska in the forefront, from an economic development standpoint, long term. I wish I had time and I would at some point tell the story of when I was in Washington testifying on a bill in front of the House subcommittee on agriculture finance and I met Congresswoman Marcia Fudge from the inner city of Cleveland who was very involved with gardens in her community, and she had no concept of what agriculture could be like we farm in Nebraska. Because of that, I've got some real concerns about how we use the Water Sustainability Fund, why it was set up,

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how it is monitored, and being sure it is used properly. One of the members of the Water Sustainability Commission is from my legislative district, happens to be a long-term friend of mine, and he has talked to me about this issue; and he just can't get there with the idea that we would be using those dollars to fund projects like a garden in Omaha. I'm not going to say that makes it right or wrong. That's just part of the input. I do have a question that I would like to ask Senator Harr if he would yield. [LB808]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB808]

SENATOR HARR: Of course. [LB808]

SENATOR WILLIAMS: Thank you, Senator Harr. As I read it under the original bill, and I think there was a question asked or some testimony earlier, under the original Section 5 or 6 of the bill there was a...I will use the term "earmark," but there was a \$100,000 portion of the Water Sustainability Fund that would go to the community garden concept. Is that correct? [LB808]

SENATOR HARR: That is correct. [LB808]

SENATOR WILLIAMS: And how has that changed with the amendment? [LB808]

SENATOR HARR: So that was removed, again, after listening to testimony from the Water Sustainability Fund. And what they recommended and what we took was to make community gardens one of the areas under grant-making process, and so that's what it is. [LB808]

SENATOR WILLIAMS: So it is not guaranteed getting the \$100,000. It...with the language of the amendment and the underlying bill, the attempt is to qualify these kinds of activities to be able to apply for a grant. [LB808]

SENATOR HARR: That is correct. I would...if I could expand a little,... [LB808]

SENATOR WILLIAMS: Yes, go ahead. [LB808]

SENATOR HARR: ...I would say far from it that they are guaranteed \$100,000 because, given the fact that what's going on outside the glass, I would assume that at least in the near future they probably wouldn't fund any community garden project. Nevertheless, it is in statute and it does allow those members who do wish, who are quite active, to apply for community gardens to do such. [LB808]

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SENATOR WILLIAMS: Okay. Thank you, Senator Harr. Again, I appreciate agriculture in our state. It is the lifeblood that we have for our future and the water that we have is what makes it as valuable as it is. Thank you, Mr. President. [LB808]

PRESIDENT FOLEY: Thank you, Senator Williams and Senator Harr. Senator Watermeier. [LB808]

SENATOR WATERMEIER: Thank you, Mr. President. Good afternoon, Nebraska. I rise in opposition to LB808. The amendment is an effort, I believe a good-faith effort, made by the Ag Committee to make sure that it's just not an earmarked fund, which I appreciate that effort. But I have to stand in opposition to both the amendment and the bill. I served on the Water Sustainability Fund in 2013 or '14 in which Senator Carlson had led that charge in regards to water sustainability. And we even fought about the term "sustainability" and what that really means, and it was always a joke amongst our summer that we spent...I think there was 24 hearings. We traveled across the state of Nebraska. And when we had a hearing, I don't mean from 1:30 to 3:00 in the afternoon. I mean from 7:00-8:00 in the morning till 6:00-7:00 at night, and then at night we were beating each other up talking about how important this is. And I've been involved in NRD issues for 20 years, been on the Natural Resources Commission for several, chairman of that. And I really appreciated the effort to be involved in that Water Sustainability and I believe there are a couple of senators even here today. I know Rick--Senator Kolowski was on that with Senator Carlson and myself and several others, and it was a really good eye-opening experience. And it's always been amazing to me that the water discussion in Nebraska, even going back to LB962, which I think Senator Friesen was involved with--he can correct me if I'm wrong--was on a consensus basis. It wasn't the majority ruling. If one person didn't like it, we kept debating it. If one person put up their hand and said, "I'm in between," we went back to work. If one person put their thumb down, it was...we really had a lot of work to do. But one person out of the 27 members on that commission that summer could halt the process, and I think that LB962 was about the same way. Maybe Senator Friesen would address that. I just dug through some of the notes and I'll just read some of this. I apologize for having you read it. Senator Harr is correct in the fact that we're just amending the one section in there, but as long as we debated, that language in Section 1 between (d) and (e), that's what the conversation was about. And I will tell you that the community gardens are important. They're very important to Nebraska because of their educational process. Senator Harr is correct and he's talking about water quality issues. In a garden you won't talk about water quantity as much as you would water quality, which we deal with in the eastern part of Nebraska a lot. But we struggled over what ought to be on this list. We really, really struggled over it. And after we passed it in LB1098, then the rules committee was in charge of deliberating on the rules and we charged them extensively: Make these rules difficult; make it so that they don't get the money so easily, they don't...and even if you don't get the money all granted out in the first year or so, that's okay, make sure the cream-of-the-crop projects come to the top. And in the first couple years,

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they didn't even use all of the dollars, and that's okay; but that's part of the reason why I think this fund is being raided today. And I look at this as a raid to the fund. I look at it as it's not being used so let's just tap into it. This is a better fit, the community gardens issues is a much better fit inside of the NET, which is the Nebraska Environmental Trust. I don't know the exact numbers, but I think they get about \$20 (million) or \$23 million a year from the lottery funds. The other part goes to education and then a small part goes to the State Fair. They have much more reliable funds. They have a ranking process that is built totally different than what the Water Sustainability Fund. Water Sustainability Fund has a ranking process. It's based on these guidelines that we at the Legislature gave them. But it deals with the education process of not...I don't know if it's specifically the community gardens, but it deals with the education process; it deals with so many things that I've heard discussed today here. Senator Harr is not off-base in asking for that we have more of an effort in this regard. I just think it's... [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR WATERMEIER: ...the wrong...one minute? [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR WATERMEIER: I think it's just the wrong avenue. When I get my light back on for the next time, I'll read some more of the notes I had. But I just would ask you to...and think about the difficulty that we went through six years ago. And I know many members aren't here today. We agonize over this language. We demanded that the rules process inside of the water sustainability group, the NRC then, before that, and how difficult it was. And I attended several of their meetings. They really put a lot of work into it. It was hard work. I don't want to see this get upset. We are just getting off the ground with this \$10 million a year that goes into the Water Sustainability Fund. Real quickly, what happened was in order for this to pass, we bumped it up to 11...or we were asking for \$15 million. We ended up with \$11 million, and \$1 million of that had to go to the Omaha clean sewer projects. I know I'm out of time. Thank you, Mr. President. [LB808]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Brasch. [LB808]

SENATOR BRASCH: Thank you, Mr. President. And here it goes again. Senators, what you see is the old adage of "Whiskey is for drinking and water is for fighting." We're having a water fight on the floor today. I'm disappointed. I'm disappointed because all taxpayers contribute to the water taxability...the Water Sustainability tax fund. We all pay for it. Doesn't matter if you live in Bancroft, Benkelman, Lincoln, Omaha, we all contribute to that fund. And we...the amendment clearly says these individuals who pay those taxes can apply. They won't...they're not guaranteed

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to get it, but they can apply for what consists of a drop in a bucket. There's millions of dollars there, more than what we have seen. It's accumulating. Money can't make it rain, friends. This bill, I believe, will help 1 percent of the population who are farmers to tell the other 99 percent that food has nutrition. You can't beat fresh vegetables that come out of your garden for your body, your mind, and also, as farmers know, for your souls. There's nothing better, I believe, than going out and seeing that big field, that lot, the rich earth that's laying out there. Whether you go in your backyard and you see that empty space or a lot that was once nothing or full of weeds and you have put a lot of sweat equity into it, you've put compost, you've put your fertilizer, you've done everything, we share a commonality. We're all hunters and gatherers from the beginning of agriculture. And this drop in the bucket, this little bit of water that our friends in town can apply for, I think there's something wrong when we think that that fund belongs to one group or another. And I was here with six others and I don't know if Senator Watermeier was here during the fight. There had been vote trading and there was this senator and that senator and there was war out on the floor over who was going to get the water. Was it going to be Omaha and sewers or who, you know, who is getting this water? And now we have a small group of individuals who want to put fresh vegetables, and I think they could grow flowers--nothing wrong with that--into what was once an empty, unutilized space, take their kids and families away from their electronics, whether it's hand held, desk held, connected to the wall, digital, etcetera, where you can go out, get dirt on your boots, get your hands dirty, put your gadgets away--thank you--and see something grow, see something good, see something you've fought for through rain, drought, wind, hail, etcetera. And then you can enjoy the bounty. You know, we give thanks for being an agricultural state, but do we give appreciation for it? Again, as I said, the State Fair Board, and I see it happening here with my rural colleagues, it's a turf war going on. Protect it from what? From applying for something you pay taxes for? You know, I think it's a good thing here. I don't think it's a political thing. I don't think it's a them versus us. I think it's a matter of there is a fund that we established that all taxpayers contribute to. [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR BRASCH: You may apply for it. You may or may not receive it. There's an amendment to it. And, colleagues, we have other matters to discuss. We have late nights ahead of us. But to hold this up? Over what? Thank you, Mr. President. Thank you, colleagues. [LB808]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Krist. [LB808]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. And, Senator Brasch, when you said get those young families away from their electronic devices, I'm not a lip reader, but I think there's a young mother and child and I think she said, "Amen." So I think that's a wonderful thing. So here's what I think, because I was here

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for the wars, the water wars. It started with Senator Lathrop and Senator Carlson and evolved and evolved and bloomed and evolved. Rewind to yesterday. I was one of the supporters for the 3 cents tax. Senator Friesen, I'm going to ask you a question in just a minute; but I do want to make sure that you understand the...my statement before I ask you the question. I was here for that vote yesterday and I supported the 3 cent tax because I am a local control guy who believes that when we put people in charge of these commissions and they make decisions about how to spend that money, I trust their judgment. So I'd like to ask you a question, if I could, if you'll yield. [LB808]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB808]

SENATOR FRIESEN: Yes, I would. [LB808]

SENATOR KRIST: I understand that your concern is only that we are taking...potentially taking the money out of the wrong fund. Is that correct? [LB808]

SENATOR FRIESEN: That would be correct. [LB808]

SENATOR KRIST: Okay. So did you hear Senator Watermeier's suggestion that we do the NET and that we pull that money out of that because it's better suited to support this effort? [LB808]

SENATOR FRIESEN: I guess I didn't hear where he was taking it from, but I do have my own suggestion of where to take it from. [LB808]

SENATOR KRIST: Where would that be? [LB808]

SENATOR FRIESEN: The \$1 million that goes into the city of Omaha with their storm sewer separation project. It fits rather nicely in... [LB808]

SENATOR KRIST: That starts a whole nother war that was decided years ago. And I have to tell you, if you want to bring the urban and rural part back into it, let's talk about that million dollars, because before that point we basically supported sewer separation issues and water issues all over this state to a lesser extent. If I look at the population of Omaha and the \$1 million that goes there and I look at other cities and counties around the state that we supported in terms of separation, we did more per capita in rural Nebraska than we ever did in the city of Omaha with that \$1 million and continue to do that through our Water Sustainability Funds and the NRD. So I would argue that if you don't want to start a war or a skirmish or even a minor battle or a sniper

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approach, that that might not be the best place to put it...to take the money from. Wonder if Senator Watermeier would yield to a question, please. [LB808]

PRESIDENT FOLEY: Senator Watermeier, would you yield, please? [LB808]

SENATOR WATERMEIER: Yes. [LB808]

SENATOR KRIST: I think you're probably going to get to it. I hope you were listening to the conversation I had with Senator Friesen. I understand your concern is not necessarily in concept of LB808 but where the money is coming from. Is that correct? [LB808]

SENATOR WATERMEIER: No, that's not correct. I, you know, I can clarify if you want. [LB808]

SENATOR KRIST: Okay. I'd rather you do that on your time. [LB808]

SENATOR WATERMEIER: Okay. [LB808]

SENATOR KRIST: But my point, I guess, to get to the water, to continue my question, that NET fund that you suggested that we take the money from, you're saying that the criteria is better suited for this kind of an effort, should you believe that this effort is correct? [LB808]

SENATOR WATERMEIER: Is that a question (inaudible)? [LB808]

SENATOR KRIST: That was a question. [LB808]

SENATOR WATERMEIER: Yes, I do. [LB808]

SENATOR KRIST: Okay. I'm sure you'll talk about the concept again on your time, and you're punched in. The point I'm making here is that if you want to rewind and regrind what we went through several years ago, I'm happy to stand up and do that. I don't think it's necessary. I think this is a simple concept. I think Senator Brasch put it very well. I think the concept is to bring to our children in Omaha or in any other metropolitan area, in Lincoln, the concept of what agriculture really means. Future senators who grow up in the urban areas need to understand the issues, and this is one area that we can...one possibility... [LB808]

PRESIDENT FOLEY: One minute. [LB808]

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SENATOR KRIST: ...of teaching those future senators what they need to know, good citizens need to know. I'm part of the Agriculture Committee and I'm proud that we put it out. I'm also very proud that we did the work, Senator Brasch and her legal counsel, as well as the people who came in to testify. We found a consensus. Now here's my point. If that isn't the right fund, without touching the million dollars that we've already hashed out to the sewer separation, what's the right fund and where should it come from? Because this is a noble cause, it is a good cause, it's a supportable cause. I will vote yes on AM1907 and yes on LB808. [LB808]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Friesen. [LB808]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So I'll address a couple of the issues here, and let me just start back with LB962, which is the main, I guess, the cause of all of this because it was the integrated water management plans that had to be adopted by the NRDs. And our biggest struggle in those committees...we worked on that for 18 months. We had 49 members. We had every different organization represented there and had operated, just as Senator Watermeier said, by consensus. Any one of us 49 members could have killed the plan at any time clear up until the final draft was made and we actually, as a group, we drafted the actual language that was brought to the floor of this body and adopted with no changes. The biggest one single issue we had was how do we fund that project? And that's where we gave the NRDs a 3 cent levy authority and we said the state needed to create a fund so that we had matching dollars for that 3 cents that the NRDs were going to do so that we could create these large projects that would give us a sustainable supply of water. The state never fulfilled its obligation. It took at least ten years before the Water Sustainability Fund was finally created, and even today we keep sweeping money out of that fund to use to help with our budget shortfall. We've not funded it fully at first. When we're short of money, we don't put money in it. This was the fund that was meant to be with the sustainability of our water supply. It wasn't meant to be diverted into other projects. If we want to fund these community garden projects, I'm okay with taking General Fund tax dollars. Great. Why don't we talk to the Corn Growers? Maybe they want to partner with the city of Omaha to create a community garden. I think that would be a perfect project for them to help develop a relationship between the urban and the rural senators and their constituents. It would be a great project. But the Water Sustainability Fund was created for the sustainable supply of our water. It's to create who knows what: large dams, reservoirs to retime flows into the river. But we have never fully funded it and now we already start to attach other things to it to try to fund those. I'd...I'll take it out of General Fund. I'm not set that it comes out of the sewer separation money. But when Senator Harr was describing exactly what it does, it seems to fit exactly with what that is trying to accomplish: puts less water in their storm sewers, it filters the water, it cleans it before it takes it to the river, it...I could open it up. Basically I think that fund is available to all municipalities, the way the legislation reads; and if they so choose, they could put \$100,000 into community gardens, which would help lessen the demand for the storm sewers. It fits beautifully. Let's partner with the Corn Growers, maybe the soybean

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growers. Let's all work together. I'm great. Or let's take it out of General Funds, be good educational program. Let's put it under the university, the Extension Office. They do great work working with all urban and rural communities. The university does a fantastic job there. So I'm just saying I'm trying to protect the Water Sustainability Fund. That's my goal. I'll look at any other types of funding. That's great. But since we have never fully funded the Water Sustainability Fund, to my satisfaction, at least, for sure, I will continue to fight taking more money out of it now. And next time the drought hits, next time we have a three-year sustained drought and the Platte River is running dry,... [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR FRIESEN: ...we won't sit there and try and blame the NRDs out there for not doing their job and managing our water supply when we have taken away their tools and we've taken away the funding. Thank you, Mr. Lieutenant Governor. [LB808]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Hughes. [LB808]

SENATOR HUGHES: Thank you, Mr. President. I wanted to weigh in on this. I am in agreement with Senator Friesen. We need to be looking at the bigger picture of why this Water Sustainability Fund was developed in the first place. I certainly have no problem against community gardens. I think there's a federal program that USDA certainly encourages community gardens. I know there's one outside the FSA office in one of my counties. You know, they...there's a lot of motivation, I think, for people to grow their own food; and I appreciate that because I think they then, in turn, appreciate the farmers that do feed the world. There is an effort afoot towards sustainability, and I think that's probably what this garden, community gardens are, to teach people how to raise their own food, and that's great. You know, let's give them some money and build some chicken coops in their backyard. You know, there's a reason why our society has evolved the way that it has, why we are in cities: We do best in cities what we do in cities and we do best in the country what we do best in the country, and that's provide food for the masses. The Water Sustainability Fund, bigger picture, shouldn't be diluted on something like this. There's other opportunities for community gardens to get grants. The Environmental Trust Fund was named one of them. There are a lot of other philanthropic places that are happy to spend money on, and I'll call it feel-good legislation. There's nothing I enjoy more than going into the garden and pulling up a kohlrabi and peeling it with my pocketknife and eating it, or going and picking my own sweet corn. It tastes a lot better than what you buy in the store, and that is something that everybody should enjoy. But long term, is it sustainable and the best interest? Are we getting the best bang for the buck? And my point is that \$100,000 for the community garden may feed a few people, may make some people feel good; but in the long run, that \$100,000 will be coupled with an NRD or someone else in the Water Sustainability Fund

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and used to provide 10, 20, 100, 1,000 times more food to feed the people. This notion of getting back to our roots and growing our own food, that's great. But there's a reason why our society has evolved the way that it has. I wonder if Senator Harr would yield to a question. [LB808]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB808]

SENATOR HARR: Yes. [LB808]

SENATOR HUGHES: Senator Harr, are you familiar with the four seasons? [LB808]

SENATOR HARR: With the what? [LB808]

SENATOR HUGHES: The four seasons, can you tell me what the four seasons are? [LB808]

SENATOR HARR: They were a wonderful band in the '50s and '60s. [LB808]

SENATOR HUGHES: (Laugh) I'm speaking more of the environment, not of rock and roll. [LB808]

SENATOR HARR: Oh, okay, yes: spring, summer--I never know if it's fall or autumn--and winter. [LB808]

SENATOR HUGHES: Probably 150 years ago they had another four seasons that they talked about. They were summer, fall, winter, and starvation. When people were trying to grow their own food, they learned very quickly that if you didn't grow it, can it, have enough to survive through the winter, have chickens, have hogs, it's hard to produce enough food... [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR HUGHES: ...to feed the people. The Water Sustainability Fund, big picture, is providing an opportunity for individuals like myself to make sure that we have adequate food supply. If they want to have a community garden, great. I'll donate some seeds, I'll help them. But this is not the place to take money. There are other avenues to take the money, and they will learn very quickly about weeds. Bindweed is a particular menace. You can pull it and it comes right back. It got taken off the noxious weed list because we figured out we can't control it and it's rampant in...everywhere in Nebraska, certainly more so here in the east where you get more

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rain. But this, we need to be thinking bigger picture. These dollars can be spent better, more productively. [LB808]

PRESIDENT FOLEY: Time, Senator. [LB808]

SENATOR HUGHES: Thank you, Mr. President. [LB808]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Harr. [LB808]

SENATOR HARR: Thank you, Mr. President. I think I need to emphasize this a little bit more. This is a grant process. The \$100,000 earmark, one-time appropriation, whatever you want to call it, or in the original LB808, with AM1907 is gone. If your problem is with the appropriation, support AM1907. Folks, I understand the importance of water. Senator Friesen would argue I understand it better than Senator Groene because I voted for the 3 cent levy override yesterday. I get that we need to do it, do something about it. The Water Sustainability Fund, when the legislation was formed, I introduced an amendment on that bill. You know why? Because when we were talking about water, we forgot about 40 percent of the population. We left MUD, Metro Utilities District--it's only natural--from Omaha out of the process. We said Omaha doesn't have a water problem. Baloney--it does. We have a sewer separation problem, but we also have to make sure we conserve water in Omaha and we have to make sure that we have a respect for what our brothers and sisters outside of Omaha are doing. And so we included Omaha on that. If I were being vindictive, I would say Omaha should be getting 40 percent of the money since we're 40 percent of the population. I am not saying that. I am not even saying we should get \$100,000. What I am saying is that community gardens serve a valuable purpose both from a societal point of view, from an educational point of view, from a health point of view, and--and--from a water point of view. Senator Watermeier talked about the money hasn't been fully appropriated. Is that why I picked this? No. I picked this because I thought it fit best under what community gardens do. It's a grant-writing process. The reason community gardens have not received any money...or, excuse me, the reason that the Water Sustainability Fund is not fully appropriated is because the members of that board, half of whom are appointed by the Governor, half of whom come from the NRDs, have said, to quote Senator Watermeier, these projects are not the cream of the crop; they are not ready for prime time. Well, guess what, folks? If a community garden applies and they aren't the cream of the crop--again, not sure if the pun was intended or not--or if, to use Senator Watermeier's, if the application is too diluted--another water pun--they won't get the money. All this bill does...well, two things, but the majority of what we're debating about is where does the funding come from? And the answer is Water Sustainability Fund, but not automatically. Only if those community gardens can make their case adequately to the water resource fund committee. That's what we're doing. We're saying, hey, we're going to recognize another source out there that can help with flood reduction, that can

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help with recreation, that can help with infrastructure improvement, and can help with land improvement values. Oh, by the way, those are the benefits found under the Water Sustainability 2017 Annual Report for, I don't know what it is, number 4177, project number 11--I don't know--and it was funded... [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR HARR: ...and it was funded to the tune of \$5 million--million. I'm not asking for \$500 million; I'm not asking for \$500,000; I'm not asking for \$50,000; and I'm not asking for \$5,000. All I'm asking for is a seat at the table and the ability for our community gardens to apply for the money. That's it. And if you're so afraid that your project can't stand up to community gardens, then maybe you need to go back and look at what your project is and ask yourself is it doing what you think it's doing? And why is this community garden over here getting it? And why are you afraid, why are you chicken that a community garden might beat your project out? Because that's what I'm hearing from Senator Friesen. I say if your project is great, guess what? Community gardens, sorry, come back another day, go find another source, go find another senator. [LB808]

PRESIDENT FOLEY: Time, Senator. Time, Senator. [LB808]

SENATOR HARR: Thank you. [LB808]

PRESIDENT FOLEY: Thank you, Senator Harr. That was your third opportunity. Senator Watermeier. [LB808]

SENATOR WATERMEIER: Thank you, Mr. President. I need to back up. I must have made my points inaccurately earlier there. I am not in favor of, not suggesting that we earmark any money for community gardens out of the NET. That is a whole nother fight that we do not want to have. That happened 20 years ago when the State Fair came in and asked for money and they got 10 percent of it. I suggested that because that's where the NET is split up. They get 44 percent of the lottery funds. Another 44 percent goes to education. We do not want to get into that fight. It wasn't part of the hearing. It certainly couldn't be a part of and amended onto this floor. We don't want to do that. My point is this, and everybody needs to listen to this. When I served on the commission, I was the chairman for a number of years; and we studied how much money, how much funds, how much need there was in the state of Nebraska to take care of the conservation needs in the state of Nebraska. Now the conservation needs and sustainability needs mean something so different to everybody and it's hard to quantify. It's hard to put it in your mind. But here's what you need to remember. From 2010-2012, the Platte River was running dry, which it's done several times. The city of Lincoln, the city of Lincoln was fining people for watering their

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lawns. You had to decide what side of the street you lived on in order for you to water your lawn. Senator Brasch had made a comment to the fact that we should split this money up; it's just for us farmers. This money does not go to farmers. These dollars are applied for by sponsors. Cities, municipalities, NRDs can apply for these funds. They have to have a sponsorship ability. They have to be able to prove that they can spend the money accurately. Typically it costs them \$50,000-\$100,000 to make an application, at least it used to, on the Natural Resource Committee funds. It's not easy to make an application for water. The reason this fund was born, the reason we need this Water Sustainability Fund, is not for farmers. It's because the city of Lincoln, the city of Grand Island, the city of Omaha were scared to death they weren't going to have water. That's what water sustainability meant. Senator Carlson always had a saying on the floor: We have 1 million cubic acre-feet moving into the state; we have 8 million cubic feet moving out. If you follow the rainfall pattern, that's because from west to east it rains so much more in eastern Nebraska. We don't have a real good way to manage the water. We've got to make sure our arms are around this water funding. What I mentioned earlier about we had done a study to see how much we need, I think it was identified that we need \$80 million a year to cover the water needs in the state of Nebraska. In 2010-2012, there was about \$7 (million) or \$6 million dedicated to those funds that needed \$70 million. We swept away Resources Development Fund, which was getting between \$2.5-3.1 million. We swept that away and we put in place \$10 million. We were asking for \$15 million in Water Sustainability Funds. We swept away those other funds and really we only gained about \$5-7 million. Ladies and gentlemen and those in the state of Nebraska, the Water Sustainability Fund is to make sure we don't run out of water, not for a garden, not for industrial uses, but we as people of the big industrial and the bigger cities don't run out of water. There's Platte River. There's wells out here between Lincoln and Omaha that feed Lincoln. Omaha gets a pretty good majority of its water out of the Missouri River, but they're very concerned about the water supply. MUD was part of that process. I remember the gentleman that was on there. We had really good conversations about what this fund is for. Remember, we fought for three weeks about the definition of "sustainability." We never really could come to a conclusion on it even though on consensus we let it go. Senator Carlson and I laughed about that and laughed about that--we couldn't come to consensus on that. But we knew there was a need. [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR WATERMEIER: Thank you, Mr. President. And clearly we are not funding the projects enough. To say that we're not fully utilizing them is exactly what we told them to do. We said, make the rules process so difficult that only the good projects come. This is still in its infancy. I don't think they've been more than three or four years in making applications. There's a ranking process in which all the applications come in. If they're denied, they have a chance to come back next year and refile. Please come to me off the mike and I can share with you some of the stories that we talked about on water. We're not talking about water for small amounts and

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we're not talking about water for ag. We're talking about water for the state of Nebraska. Thank you, Mr. President. [LB808]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Halloran. [LB808]

SENATOR HALLORAN: Thank you, Mr. President. Sometimes when you have committee hearings, you don't necessarily have all the information that might come at you much later, and that's not at the fault of the presenter, the sponsor, or any of the testifiers necessarily. But it just recently came to my attention that a certain ag company offered a quarter of a million dollars--\$250,000, Senator Harr--to the community-based garden concept, and they turned it down. Senator Harr, would you yield to a question, please? [LB808]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB808]

SENATOR HARR: Yes. [LB808]

SENATOR HALLORAN: I'm going to assume that maybe you didn't know about that. But a major ag company--I will repeat it for your benefit--a major ag company had offered in the near past a quarter of a million dollars to fund community gardens. And I am fully in support of the concept of community gardens, so...but I am concerned about, as many have expressed, the source of the revenue to fund that. So my consternation...were you aware of that? [LB808]

SENATOR HARR: No. [LB808]

SENATOR HALLORAN: Okay. My consternation is, is that if they were offered by a private enterprise that much funding, and it was turned down, we shouldn't be coming to this body asking to pull from the sustainable water fund for that kind of a project. If private enterprise is willing to grant that kind of money, you should grab it and be grateful, obviously, for it, but don't come...I'm suggesting not to come here with asking for these funds when that's available to you. [LB808]

SENATOR HARR: I would argue "if," right? And I don't...I'm taking your word. I don't know who it is or what it is, "if," but I would want to hear it from the equine's mouth. [LB808]

SENATOR HALLORAN: Well, I'm sorry. It came from a reliable source and I will stand by that and I will not mention the company's name, but I would guess that it was tainted money in the eye of the group that turned it down, which is unfortunate. But any time that private enterprise

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will do something for you, it's best not to come to this body and ask for money. Thank you.
[LB808]

PRESIDENT FOLEY: Thank you, Senator Halloran and Senator Harr. Senator Brasch. [LB808]

SENATOR BRASCH: Thank you, Mr. President. And this afternoon the plot thickens. Now we have a mysterious, tainted agriculture company wanting to pay for this that will remain nameless. Do I hear thunder? Not yet, but Senator Chambers is in the queue so we may hear some thunder shortly. Again, they may apply, that if they fit the criteria and they are taxpaying citizens, which I imagine they are, they've contributed to this fund, they may apply and, if not, they're...they can go to any other resource they choose. They may not apply. I doubt that we will get our city blocks turned into community gardens. But what areas we do have available, we would be better people for it if individuals would decide to go for nutrition, time away from their gadgets, go out, get dirt under their fingernails, enjoy, work hard, feed your family, be generous to your neighbors. There's nothing wrong with this. And as far as the sacred water task sustain...the fund that's out there, again, money isn't going to make it rain. We have NRDs. We have many wonderful, countless water entity guardians of water that are all in place for the times that it is dry. God commands that, that rain. You know, again, I am saying that we have studies and Senator Watermeier talking about this study. Well, we've had a study after study after study in my eight years here. Some are successful; some are not. And again, this is an application process, they may not qualify for it, but to encourage our communities. And we have community gardens in our rural areas as well. People live in town and they do enjoy gardening. But to...after this bill left committee, I, too, was approached by the multitudes of water interests, tax sustainability, or water sustainability lawyers and group of people that this is taboo. Thou shalt not go there; don't touch the Water Sustainability Fund. And I believe that that's a public fund, that there's an application process that this committee so carefully put together. They may not qualify, but I think they should be able to apply. And I know that people behind the glass will continue to roar and make sure that their distaste and dislike of even mentioning their name on this bill be fought to the bitter end, and so be it. But again, colleagues, we have a long agenda, long days, and I would like to see this voted on fairly soon because I don't think I have the power to change your mind. Your minds are made up. I'd like to yield the rest of my time to Senator Harr. [LB808]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Harr, 1:00. [LB808]

SENATOR HARR: Thank you. Again, yes, you should always turn to private enterprise when they're willing to offer you money. But when you can't say who it is, don't you have to question a little bit? And then you say they rejected it. I don't know who "they" is. I don't know if there is a "they" out there. And then on top of not even identifying who "they" are, we impugn "they,"

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whoever they are, we impugn their integrity. That's not how we debate here, folks. If you have a solution, come to me. If you don't want to say it on the mike, that's fine, but come to me. We can talk about it. Look, I'd rather have money come from private enterprise than take it from tax dollars. And again, folks, if...with this amendment, if it's not cream of the crop, or if the Water Sustainability Fund says it does not meet the requirements, under the law, they don't get the money. If it does, then we have a "I don't want a rural/urban area..." [LB808]

PRESIDENT FOLEY: Time, Senator. [LB808]

SENATOR HARR: Thank you. [LB808]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Chambers. [LB808]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I was not going to get into this discussion. Believe it or not, Senator Brasch's...usually the term "ecumenical" relates to religious people. Her ecumenical approach brought me into the discussion. I have criticized the flag salute because it says one nation, indivisible, and I said that's hypocritical. How can you talk about one nation, indivisible, when you don't have a state which is indivisible? This state is divided. I want to ask Senator Friesen a question or two because I think he can answer these questions. [LB808]

PRESIDENT FOLEY: Senator Friesen, would you yield, please? [LB808]

SENATOR FRIESEN: Yes, I would. [LB808]

SENATOR CHAMBERS: Senator Friesen, I'm looking at the committee amendment which will become the bill, and in lines 16...wait a minute, lines 11--maybe 10--through 18 are some listings of things that can be used. When the term "agricultural uses" is found, does "agricultural" refer to the location of the project or the nature of the project? [LB808]

SENATOR FRIESEN: Be the nature of the project. [LB808]

SENATOR CHAMBERS: So it could be within the confines of a city. [LB808]

SENATOR FRIESEN: Oh, yes. [LB808]

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SENATOR CHAMBERS: And what is an agricultural use? Is the growing of plants an agricultural activity? [LB808]

SENATOR FRIESEN: Agriculture activities could be livestock, growing plants, food. I suppose even flowers would be considered an agriculture activity. [LB808]

SENATOR CHAMBERS: And that's one of the uses that is specifically called for in this section of the statute that I'm looking at. When it talks about municipal and industrial uses, it doesn't say what the municipal or industrial use is. It talks about the municipal and industrial use, then it talks about recreational benefits. Maybe growing community gardens can be considered recreational for some people. Wildlife habitat--maybe birds, maybe bumblebees could be considered wildlife. "For conservation," that means to conserve or preserve these growing things or natural items. That's all I'll ask you because I'm not trying to embroil you in an argument or get you to say what I'm trying to present. I think the law as written allows and accommodates these community gardens, and we do have a rural-urban split here. And I'll tell these rural people, you can be penny wise and pound foolish. I see they're all gone off the floor now. Maybe they're getting their marching orders out there. You can be penny wise and pound foolish. You're going to say this \$100,000 is too much to take out of this multimillion-dollar fund. If that's the way the game is going to be played for the rest of the session, don't bring a bill that relates to a rural issue, that relates to agriculture, because I'm listening to what you all are saying and the state is divided into urban and rural. And today the "ruralees" are saying none of this money should go into this city project, this project in the city. You write us all off. That's penny wise. You're going to save \$100,000. You may be pound foolish because there may be bigger things that relate to more than \$100,000; and I'm going to be watching the agenda with the eye of a hawk. I think what Senator Harr is offering is very reasonable. [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR CHAMBERS: I live in a community where there are what you can call urban gardens, or whatever they call them, and there were lots and when the rain came it washed the land off, across the sidewalks, down into the street, into the gutters, or there would be weeds and vermin and mice and other critters would come. When all of that was cleared away and they put these gardens there and tended them, all of those types of problems were eradicated. But because it's in the city, it does not register with you all. I'm not going to turn my light on again on this bill. But woe when other bills that relate to agricultural interests and the rural interests come on the floor. Thank you, Mr. President. [LB808]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Groene. [LB808]

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SENATOR GROENE: Thank you, Mr. President. I'm not going to even talk on the gardens. It's a good idea, city folks get involved in gardening. There's lots of ways to fund it. There's an awful lot of wealthy foundations in Omaha. You've got lottery funds. My...when this came out, I wasn't part of the committee but I...in rural Nebraska we thought this Water Sustainability Fund was...was to really meant to help the state with its compacts with Kansas, Colorado, on the Republican and the state, because it was state dollars with the Platte River Compact. When you look at the goals of the Water Sustainability Fund in statute--I think the same one Senator Chambers was reading--the number one goal out of eight was provide financial assistance to programs, projects, or activities that increase aquifer recharge, reduce aquifer depletion, or increase streamflow. We're talking about the overappropriated area in western Nebraska that we argued--us rural senators went head to head on a property tax--and part of the frustration between all of us, we're paying for it all, state compacts, and we're frustrated: \$120 million for the N-CORPE project, \$10 an acre to pay for it; high property tax rates for integrated management plans to fix a state problem, a state problem with our neighboring states. The second use was remediate or mitigate threats to drinking water. That's two out of eight. Number three was to promote the goals and objective of approved integrated management plans or groundwater management plans. That's what we were arguing about yesterday, about 3 cents for integrated management plans for the state's problem with overappropriation of the use of water. Senator Hughes said we raise crops. He went to the basics of feeding people. It's what makes this state prosperous is agriculture, and a big chunk of it is irrigated agriculture out west. We were under the understanding this was going to be the state's portion of helping mitigate the state's problem with Kansas, Colorado--\$11 million a year. Remember, we put in \$15 million a year with \$10 an acre just on one project out there, on the occupation tax. So I look at the appropriations so far. Senator Chambers says a little bit of money for the urban areas. The first year the appropriations out of \$6.2 million given, \$4.4 million went to the city of Hastings for aquifer storage and restoration, nitrate, and uranium. Don't know what that had to do with the aquifer or the state's problem. The second year this committee, in 2016, out of \$17.7 million, \$7.7 million went to the city of Lincoln for drought resilience and flood protection; \$2.4 million went to a town out in Senator Stinner's area for their water problems that should have been taken care of themselves with good management; and \$6.7 million went to the West Branch Papillion Creek structure for the Papio NRD. And then last year we also gave the Papio NRD \$17 million for levees around the Offutt Air Force Base. And in 2017, finally, we got a little money. Finally, the state stuck a little money into solving the problems with their compact with Kansas. Out of \$8.7 million, we finally got \$2 million for the Bostwick enhancement plan, which is what N-CORPE is all about--finally. Frustration, rural Nebraska, frustration. The state was finally... [LB808]

PRESIDENT FOLEY: One minute. [LB808]

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SENATOR GROENE: ...giving some help, \$11 million a year, and what Omaha gets is \$2.7 million a year, a little over \$2 million a year for their water project. That's fine. That was an agreement. Come on, folks. This money was never meant to be raided by the city of Omaha and for little projects here. It's a nice project, gardens. We're frustrated. We're fighting amongst ourselves. You've seen it. Senator Hughes and I haven't even shook hands yet. We will. Give us a break. This money was meant to mitigate the problems with Kansas and Colorado--that's what we were sold on--and it's going to city projects. So if we're frustrated, we're frustrated. Thank you. [LB808]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Kolowski. [LB808]

SENATOR KOLOWSKI: Good afternoon, everyone. Thank you, sir. I want to read something that I just had sent to me at 2:02 this afternoon and give it within the context of all those who have spoken this afternoon. I think it's important that we understand the outreach that we have going on in the state of Nebraska. "Dear Senator Kolowski, my name is Brytany Gama, and I'm a senior in the Urban Agriculture Career Academy at Omaha Bryan High School and president of the school's FFA chapter. I am contacting you because in FFA we have career development events, which are career-focused competitions. This year, my team and I are competing in agricultural issues. In this competition we are required to research a current issue in agriculture and present it in front of a public audience that touch on both sides of the spectrum. Our team this year concluded that our topic would be urban agriculture education and how it impacts rural and urban areas." And then she wants me to send some materials to her and some of my own background. My background with the NRDs, I had eight years in the Papio NRD. I was chair of that for three of those last years of the eight years up to 2012. That background is extremely important in my background, in my life, because of the interest I have in the issues and the topics that we deal with, not only in the urban area, but also in the rural parts of the Papio district that we have. It's also the largest budgeted district of the 23 NRDs in the state of Nebraska, with about \$66 million in its yearly budget. Senator Groene mentioned some of the things that had been done in the urban area, and one of those was very importantly the Offutt Air Base, raising of the levees around Offutt to save the airfield and the surrounding areas because of the flooding that we had that took place just a short number of years ago when the Missouri River had such a deluge of water that Eppley Airfield and Offutt Air Base were both in danger and threatened with being underwater. We did apply and got sustainability money to raise the levees around Offutt. Why? Because it's a multibillion-dollar impact upon our state in Nebraska and the region as a whole. I don't think we need to try to explain that in any more depth to anyone at any time. We have the opportunity with this bill to do some really good things. I am a gardener, my grandfather was an excellent gardener, my father-in-law was a master gardener. They were really good at what they did and what they could grow. I learned a lot from them and still use their techniques in my own habit of gardening and what I do on a yearly basis. I recommend what we are doing or what is being looked at here. Senator Harr's bill I think is important, and I think

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we're simply arguing over the sources of the funds. I hope we can settle on something that would be very desirable for the impact of gardening expansion of food growing in the state of Nebraska at all levels, just like this letter totally unbeknown to me that came today at 2:02 this afternoon. [LB808]

PRESIDENT FOLEY: One minute. [LB808]

SENATOR KOLOWSKI: Bryan High School is in the middle of Omaha, Nebraska. Please understand that. And they have an FFA chapter at their high school. We have great opportunity to do something right here. I hope we can find the money and the direction for the gardening projects to take place as they are taking place in Chicago, in Detroit, and other cities around the country, as they are turning many neighborhood areas into very productive gardens for their populations. Also I understand the Water Sustainability Fund. I was on the committee when I was on the NRD, and we went through the foundation of the program, building that whole structure. And seeing where it is today, it's important to us. They have very important work to do... [LB808]

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SPEAKER SCHEER: Time, Senator. [LB808]

SENATOR KOLOWSKI: ...and they are very judicious in their... [LB808]

SPEAKER SCHEER: Time, Senator. [LB808]

SENATOR KOLOWSKI: ...allocation of funds. Thank you very much. [LB808]

SPEAKER SCHEER: Thank you, Senator Kolowski. Senator Bostelman, you are recognized. Oh, excuse me. One moment, Senator, for an announcement. [LB808]

ASSISTANT CLERK: Mr. President, the Natural Resources Committee will meet in Executive Session in Room 2022 at 3:30.

SPEAKER SCHEER: Apologize, Senator. You are now recognized. [LB808]

SENATOR BOSTELMAN: Thank you, Mr. Speaker. Good afternoon, colleagues and Nebraskans. This is an interesting topic we are speaking of today, and I do support--as well as

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what Senator Harr said--support community gardens. And I was doing some looking up on-line about community gardens in the United States, here in Lincoln specifically, and in Omaha where those are at, some of the funding resources of that, also some water sustainability from the Natural Resources Committee just to kind of give a little bit more understanding of what's going on in our state with the community gardens. But before I do that, I think I want to ask Senator Halloran a question. [LB808]

SPEAKER SCHEER: Senator Halloran, would you please yield? [LB808]

SENATOR HALLORAN: Thank you. Yes, I will. [LB808]

SENATOR BOSTELMAN: Senator Halloran, you spoke a few minutes ago that there was a large corporation that was...had a grant or funding available for community gardens. And you spoke that you may have found who that was. Do you know who that was? [LB808]

SENATOR HALLORAN: Well, I knew who it was. I was asked initially not to mention their name, and out of that I respected to not mention their name. It was DuPont Pioneer, a very large company. And since then I have visited with Senator Harr on the floor, and he asked me who they contacted to offer that. And I do not have the answer to that, but I told him I would find the answer to that and I would find a contact for him with DuPont Pioneer to see if we can't regenerate that discussion. So thank you. [LB808]

SENATOR BOSTELMAN: Okay, thank you, Senator Halloran. A couple things I want to talk about is some of our reports that things are out there, and I had the UNL Extension Web site up here just a second ago. But on the University of Nebraska Extension Web site, it talks about our community gardens that we have that already exist and the help, the resource that they have for our community gardens here in Nebraska. And also points us to the American Community Garden Association and grant funds potentially that's from there and the management help that they provide our community gardens here in Nebraska or other areas. And I'll try to pull up the UNL Extension again on our community gardens opportunities here in Nebraska. There was several of them. Here, I got it up again: Lincoln Community Gardens, there's Community Crops, there's F Street Community Garden; in South Sioux City Community Gardens there's a Jones Street Community Garden; in Omaha there's the City Sprouts, the Big Green (sic). I looked those two up. City Sprouts I believe it was either last year or the year before received \$10,000 in donations. And the Big Garden, here, I pulled up their financial report for 2017. I think they...here, the income through 9-30-2017 was roughly \$500,000, and of that, 14 percent was donations. So there are some really active and some very good community gardens that are out there that are working very well. I think this is an opportunity to highlight those and provide some additional, perhaps some additional fundings or grants in the appropriate areas. The other

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thing I looked up was our Natural Resources Commission, and I was curious as to who received the funding through there. So the Water Sustainability Fund's report I looked that up, and Omaha CSO program, Hastings Utilities, MP, NRDs, Secondary Bedrock Aquifer Reconnaissance Sampling/Age Dating is another, Lower Platte South. What I'm looking at here, these are all municipalities, these are government entities: NRDs, Papio NRD, village of Howells, Mitchell, Lincoln Water. So what I'm seeing here is what we have been talking about all along, I think what Senator Harr agrees with, too, is our Water Sustainability Fund is primarily being utilized by cities, municipalities, NRDs for larger projects throughout the state and in our cities. And with that, I would like to ask Senator Watermeier if he would yield to a question. [LB808]

SPEAKER SCHEER: Senator Watermeier, would you please yield? [LB808]

SENATOR WATERMEIER: Yes. [LB808]

SENATOR BOSTELMAN: Senator Watermeier, can you explain a little bit more about the application, who qualifies? [LB808]

SPEAKER SCHEER: One minute. [LB808]

SENATOR BOSTELMAN: Thank you, Mr. Speaker. Who qualifies for these grants for these applications on the Water Sustainability Fund? [LB808]

SENATOR WATERMEIER: I don't have the qualifications list in front of me here, but it's going to be like I mentioned earlier. People that are...I mean, people or agencies that are eligible for this would be NRDs, larger sponsoring agencies like cities, municipalities, and NRDs. [LB808]

SENATOR BOSTELMAN: Thank you. Probably more to the point is, I think there's a scoring criteria. And we're about 30 seconds left. [LB808]

SENATOR WATERMEIER: Yeah. What that is, is once you make an application...well, I'll get that on another time. When you make an application, what we set up in statute was a ranking process. Or we told them to have a ranking process prioritized by us. We didn't want to have our hands completely over it. We turned it over to those 27 members and they built the ranking process. [LB808]

SENATOR BOSTELMAN: Okay. Thank you, Senator Watermeier. Thank you, Mr. Speaker. [LB808]

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SPEAKER SCHEER: Thank you, Senator Bostelman, Halloran, and Watermeier. Senator Erdman, you are recognized. [LB808]

SENATOR ERDMAN: Thank you, Mr. Speaker. And good afternoon. I listened to all the comments that were made this afternoon, and I'm still trying to figure out why we're talking about community gardens for two or three hours. But I guess that's what we do in the afternoon. I don't believe there's anything that prohibits anybody from having a community garden. Just go do a community garden. Why do we have to pass a law, pass a statute? We got to do whatever we do here to promote community gardens. We have those back home. People volunteer, get together, discover who's going to be in charge and what they are going to plant, and they go have a community garden. And I believe that happens in Lincoln, as well as in Omaha. Senator Bostelman talked about the Extension people helping with that, and I think they probably can help. So I'm not clear exactly why we have to pass a law or have a statute change to have a community garden. But we here in this body think that we're the solution to everything; nothing can happen unless we make it happen. And I don't know why we feel that, but I guess that's what we do here. It was good to hear Senator Harr this afternoon not have his John...Senator Stinner linebacker voice on. He was very calm and collected, and that was good. But the discussion has been good this afternoon, and I think it is very important that we understand that the Water Sustainability Fund was put there for a specific purpose. And as Senator Groene pointed out, there were many...there is many recipients of that Water Sustainability Fund that has nothing to do with agriculture. So Senator Brasch talked about that Water Sustainability Fund belongs to everybody in the state. And I think Senator Groene's explanation of where that water went describes that very well, and I appreciate him having that information. It's interesting to see how much of that Water Sustainability Fund went to urban needs, and that's fine. That's what it was intended for and that's what they are using it for. So I'm still in a quandary as to why we need to have a bill to have community gardens. I'm not convinced that we need a bill. I think people can make common-sense decisions on their own, and so I am not in favor of AM1907 or LB808. Thank you. [LB808]

SPEAKER SCHEER: Thank you, Senator Erdman. Senator Friesen, you are recognized, and this is your third time at the mike. [LB808]

SENATOR FRIESEN: Thank you, Mr. Speaker. So when I...I'll continue on a little bit where LB962 and the process left off. We spent months trying to come up with funding, and every time when we thought that we had a special committee in LB962 that was supposed to look at the funding process, and so they would go and meet. And each time they would report back and they would say, well, the only source we can come up with is we should dedicate, and I think it was 0.08 percent of 1 cent should go into Water Sustainability Fund. And Senator Schrock at the time was the ex officio chair of the committee, and he would always say: absolutely not, no one has ever taken a portion of that revenue and locked it up. You can't take sales tax revenue and do that.

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You can't commit that. And so the committee would go back to work again and try and come up with funding. And each time they came back they used the same thing; they said dedicate a portion of the sales tax and let's put it towards water sustainability because it's so important to our food supply and to the water sustainability of the state. And so the frustration that was there, and as we approached our final draft of that legislation, and everybody went around the room and we had 48 of us that said we were willing to support it, the 49th person put his thumb down. And it would have died right there if we hadn't addressed his issue. And at that point we all said that we would work as hard as we could and we'd dedicate ourselves to bringing that Water Sustainability Fund that he was asking for if he would just support the bill. He would have to trust Senator Schrock and the rest of us to finally get that funding put in place, because he was very adamant that without funding he would not have supported LB962 and 18 months of work would have gone down the drain, so to speak. So that's the importance of it to me, to LB962, and to the process that we set up to set the state on a path towards water sustainability when we hit those drought years. We are a large irrigated agricultural state. We irrigate more acres, I believe, than California at one point. They might be back up there with their reservoirs full. But we have an economy that is based on irrigated agriculture, and so water is really important to us. And so the idea of saying that we had commingled supplies of water when we started talking about the integrated management of groundwater and surface water, that had never been done before in the state. And when that law got passed, that was a monumental moment in water law that we had never, ever addressed before. Up until then, the two entities were totally separate. Groundwater was managed by the NRDs; surface water was managed by the state through the DNR. So as we go forward, again, I have no problem with the concept of a community garden. I think if I was on the Corn Growers Board or the Corn Board and we had an opportunity to use our check-off funds to do plans like this where we could probably get young FFA people involved in community gardens, and I think the education between the urban and the rural students would be an interesting action. They could learn a lot about corn production. We could get some sweet corn plots out there. There could be a lot of vegetables out there. Farming is farming, whether it's vegetables or corn or whatever it may be. [LB808]

SPEAKER SCHEER: One minute. [LB808]

SENATOR FRIESEN: But I think the concept of it is great. Hopefully, that certain company that wanted to contribute money, I hope that wasn't turned down just because it was a chemical company. They have a lot of responsibility, too, in our sustainable water, in that we keep it clean. And if they are making efforts like this, I hope it's not turned down just because they are a chemical company. So I look forward to finding a solution to this. We are working towards something, and I think we have something. We are just waiting for some draft language to be coming up, and we will have a fix for this problem. So I look forward to a little bit longer dialogue while they type a little faster. When we talk about the concept, you know, the urban/rural split is real. Everyone is left, you know, they always talk about...when I get to the urban

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areas, they talk about, well, my grandfather farmed. My great-grandfather farmed. I remember going to the farm. [LB808]

SPEAKER SCHEER: Time, Senator. [LB808]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor...or Mr. Speaker. [LB808]

SPEAKER SCHEER: Thank you, Senator Friesen. Senator Krist, you're recognized. [LB808]

SENATOR KRIST: Thank you, Mr. President. Senator Harr, if he wishes, I will yield my time to him. [LB808]

SPEAKER SCHEER: Senator Harr, 4:50. [LB808]

SENATOR HARR: Thank you, Mr. President. And thank you, Senator Krist. Folks, we are at that time of the day where we are working on an amendment, and unfortunately sometimes it takes longer and is more complicated than we think. I would have thought we'd had it 15, 20 minutes ago. That is by no means a knock on our Bill Drafters, because they are hard workers. Rather, they see things that I don't. So I want to thank them for their hard work, and some of the smartest people I know are up in Bill Drafters. What we need to figure out, folks, is how we can work together. In this debate here today, I want to thank all sides, even Senator Groene. I want to thank everybody for, you know, as Senator Brasch mentioned earlier, whiskey is for fighting...or excuse me, whiskey is for drinking, water is for fighting. And I think we've had a good dialogue here today. And I think by not locking ourselves in corners, but actually talking to each other, we have been able to come up with what I think is a viable compromise that will address everyone's needs. And so as soon as it comes down here, I think we can talk more about it. But we wouldn't even be here today if Senator Brasch hadn't prioritized it, and I can't, again, thank her enough. And she's right, we have to figure out how to work together better, folks. We are probably going to have, and I will knock on wood, a property tax relief bill this year. And when we have that bill, we have to figure out a way that is not too contentious, but that we figure out a way to work together. Because we have to figure out, how do we make sure that our number one economy in this state doesn't fail? We have to figure out, how do we make sure that it can continue to grow? And when you look at our property taxes for agriculture versus other states, it is higher. And so other states have a competitive advantage. We, and I'm going to bring it back around, have a competitive advantage that most states don't have, and that's the Ogallala Aquifer. We can irrigate more than most other areas of the country can. And so we have to preserve that, and I understand that. That's why we have the Water Sustainability Fund. It's one of the most important things we have in the state. And we have very unique water law. I remember when I was in law school, I didn't go to law school in Nebraska. And my professor, who was a

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wonderful guy, Professor Robinson, would always say, well, here is how most states do it. Here is how the minority of the states do it. And then he'd look at me--and none of these apply to you, Senator...or then I was just Mr., Mr. Harr--because we do do things unique here. And it's a good thing, because not only does it get us the Unicameral, it also gets us where our portion of the Ogallala Aquifer is doing better than the rest of the country. Right? Where other parts the aquifer is drying up, we are still healthy here. And that's due in large portion to Senator Friesen and his hard work with the 3 cents. It's due to Senator Groene and his hard work trying to make sure that where water is being held back in Buffalo...or excuse me, in his county, that in Lincoln County they aren't paying too much of the share for the whole rest of the country or for the whole rest of the state and making sure that we do have water. [LB808]

SPEAKER SCHEER: One minute. [LB808]

SENATOR HARR: And it is a give and a take. And there is fights within the rural/rural, and there's fights with urban/rural. But I think at the end of the day we have all learned to get along. And I think that's important because water is the lifeblood of the state. So how much time do I have left? [LB808]

SPEAKER SCHEER: 45 seconds. [LB808]

SENATOR HARR: 45 seconds. I will go ahead and give the rest of my time up. Thank you, Mr. Speaker. [LB808]

SPEAKER SCHEER: Thank you, Senator Krist and Senator Harr. Senator Schumacher, you are recognized. [LB808]

SENATOR SCHUMACHER: Thank you, Mr. Speaker. I was going to yield my time to Senator Harr, but now he's got nothing to say. Would you like my time, Senator Harr? Would Senator Harr yield to a question? [LB808]

SPEAKER SCHEER: Senator Harr, would you please yield? [LB808]

SENATOR HARR: Yes, I would. And I will take your time. Yes, thank you. [LB808]

SENATOR SCHUMACHER: Okay. I will yield my time to Senator Harr. [LB808]

SENATOR HARR: Thank you. [LB808]

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SPEAKER SCHEER: 4:30. [LB808]

SENATOR HARR: And when you think about it, folks, if we had a new city on the hill that was approximately 6 miles by 6 miles, that would be very important. We could have...sure, we'd have some industries that may be related to water in that 6-by-6 zone. We may have massage parlors in there for horses and equines, or we may decide to have something that uses our water. And so it's very important that we have this water in the state. And I'm going to go back and talk about the importance of community gardens and the benefits of them. First of all, the individual benefits, the health aspect of it, community gardens is the active pursuit of yielding fresh food, fruits and vegetables. These benefits include having individuals grow some of their own food and having access to fresh nutritious food and mixed meals through nutritional help. It means becoming involved in physical activity. Community garden promotes physical fitness and health, and it also helps individuals working together to bring a community together. Learning: Individuals are learning to grow plants is mentally stimulating and adds to an individual's knowledge and expertise because organic gardening is knowledge-based system of gardening, rather than one based on going to a store or quick fixes. It encourages learning in the community, community education, it's encouraging learning more in our schools and universities. It also has social benefits, the social benefits including sharing decision making, problem solving, negotiation, and increasing these skills among gardeners. As places where people come together with a common purpose, community gardens are places where people get to meet each other. And as a social venue, community gardens can be used to build a sense of community and belonging. On a personal note, I have a friend who is 92 years old. She lives in California. She recently moved; she was my first boss. And she had a community garden that she tended to, and that's probably where I first got knowledge of it. And then I went to visit her in October, and I don't know if you remember, California had a bunch of fire. And her place was affected and she had to move. And when she moved, one of the first things she looked for was is there a community garden near there? Because it was a way for her to connect with her new area, connect with people. She's single, she's a widow. And so, to her, community gardens is one of the most important things in her life. And it's that belief in community gardens that somewhat began driving it for me as well. And so I would also say it provides for urban improvement. Community gardens re-green vacant lots and bring vegetation diversity to public open spaces and other areas, making them a useful tool for urban improvement. They also increase property value around them. And the diversity of plant types found in a community garden provide habitat for urban wildlife, increasing their value for improving the natural environment. Earlier I had mentioned that I have some...a fox in our neighborhood, at least one that I have seen. It's my understanding after asking, in fact, yes, foxes do eat mice, at least in the wintertime. And so based on that, I would encourage more foxes in my neighborhood. [LB808]

SPEAKER SCHEER: One minute. [LB808]

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SENATOR HARR: Thank you, Mr. President. [LB808]

SPEAKER SCHEER: Thank you, Senator Harr. Senator Watermeier, you are recognized.
[LB808]

SENATOR WATERMEIER: Thank you, Mr. President. I will just go over a little bit of history here, and going clear back to when Senator Carlson had introduced LB517 during the 2013 Session that created the Water Funding Task Force. The Water Funding Task Force consisted of 34 total members, 11 that were appointed by the Governor, 16 elected NRD reps, and the...excuse me, the DNR director, and 6 nonvoting state senators. The Water Funding Task Force held 30 meetings, 30 meetings across the state from July to December of 2013 discussing the establishment of the water funding source, which is the Water Sustainability Fund today. The group identified the goals of the WSF and how the funding should be used, which included projects that increase the availability of water supply; reduce water use; increase streamflow; improve water quality; provide for flood control; ensure adequate water supplies for ag, municipal, industrial uses; address wildlife needs; improve recreational benefits. The members of the task force agreed from day one to work by consensus to create the framework of LB1098. The scoring criteria developed by the Water Funding Task Force and adopted in the statute of LB1098 has been vetted and reviewed by 28 directly involved statewide stakeholders, 6 sitting state senators, and then full floor debate by 49 state senators. The results focus on the use of funds from the WSF in addressing the big water issues, facing the never once...facing the state, and never once was the use of tax dollars for setup fees for community gardens in any city ever considered or envisioned as is envisioned in LB808. The scoring categories were carefully debated and reviewed to arrive at a current scoring areas. To now open up this Pandora's box is going to cause a lot of heartache. It's changing the statute...the statute categories; we feel it would create a long line of future attempts to raid the funding stream. Other funding sources are...of the types of activities in LB808 are already available. The Nebraska Environmental Trust and half a dozen other foundations statewide strive to provide these funding sources. As I mentioned earlier, they...I believe community gardens are already making applications to the NET; it's the perfect fit for that. What also should be considered, if it's an educational process, is the University of Nebraska through two divisions: through the Extension division does a great job of educating and through the 4-H division. Nebraska is really unique in the fact that we have one out of three students in the state of Nebraska are involved in 4-H. The goal for that is to be two out of three. Nowhere else in the country is it more than one out of ten students that are involved in 4-H. 4-H reaches clear into the metropolis, and we need to do even a better job in educating those young students, those young minds that want to learn about gardens. They are doing that today, let that flourish. And this won't obviously hurt it, they will have more moneys; but these funds need to come out of the NET, where they make applications already today. I would be totally opposed to the idea of having earmarked coming out of the NET. It wasn't involved in the hearing. If they would have had that in that hearing at that time, this building

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would have come upside down. I remember the fight that we had when they came to talk about taking 10 percent out of the lottery funds to go to the State Fair. It was one whale of a fight. To earmark funds in the NET is not fair to what they do, as well as the Water Sustainability Fund. They have a ranking process that is very similar to what the Water Sustainability Fund does, but it's designed on very small projects, very fluid projects in the fact that they are in and out and done. [LB808]

SPEAKER SCHEER: One minute. [LB808]

SENATOR WATERMEIER: One minute? [LB808]

SPEAKER SCHEER: One minute. [LB808]

SENATOR WATERMEIER: The Water Sustainability Fund works on big-picture items, big items. When the Platte River is running dry, Lincoln, Omaha, Grand Island, all the residential areas were at the table. It was a drought, and it was getting worse. In 2012, I remember my corn crop averaged 12 bushels, and I lived off the crop insurance. It was serious. You drove around Lincoln and the mayor was out there personally writing out fines for watering your yard. Every other side of the street they had to decide who got to water their yard. With that, Mr. President, I will end. But I would beg you to keep the eye on the ball. The big picture with the Water Sustainability Fund is strictly for the state of Nebraska use of water. Not for ag indirectly, it's for the state. Thank you, Mr. President. [LB808]

SPEAKER SCHEER: Thank you, Senator Watermeier. Senator Chambers, you are recognized. [LB808]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I had said I would not turn my light on to talk on this matter. But I'm listening to the words and ideas that are being parsed, so I'm going to show why that is not impressive to me. I would like to ask Senator Hilgers to assist me in what I'm trying to get done if Senator Hilgers would yield. [LB808]

SPEAKER SCHEER: Senator Hilgers, would you please yield? [LB808]

SENATOR HILGERS: I would. [LB808]

SENATOR CHAMBERS: Senator Hilgers, did I present to you a copy of a volume of the Nebraska Statutes? [LB808]

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SENATOR HILGERS: You did. [LB808]

SENATOR CHAMBERS: Did I mark a specific section? [LB808]

SENATOR HILGERS: You did. [LB808]

SENATOR CHAMBERS: And what is that section? [LB808]

SENATOR HILGERS: It's Chapter 90, Section 106. [LB808]

SENATOR CHAMBERS: And does that include an illustration of the symbol of the state of Nebraska? [LB808]

SENATOR HILGERS: Section 105 does. [LB808]

SENATOR CHAMBERS: Yes. [LB808]

SENATOR HILGERS: (Section) 106 deals with the use of that symbol. [LB808]

SENATOR CHAMBERS: And the symbol, describing it briefly would be an ox-drawn cart that seems to be coming over the crest of a hill, and a partial circle that could either be the sun rising or setting behind it. And then the words: Welcome to Nebraska, where the West begins or something like that. [LB808]

SENATOR HILGERS: Yes. "Welcome to NEBRASKAland where the West begins." Correct. [LB808]

SENATOR CHAMBERS: Now, would you read the use that's to be made of that symbol? [LB808]

SENATOR HILGERS: Sure. That's in Section 106. "The official slogan and official symbol, either separately or in conjunction with each other, shall be used by all agencies of the state whenever appropriate in the promotion of the state. They shall be imprinted on all state letterheads and the reverse side of all mailing envelopes as new supplies are acquired." [LB808]

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SENATOR CHAMBERS: Senator, I know what the answer is, but for the sake of a record, have you either seen or received correspondence from the Attorney General's Office on the Attorney General's letterhead? [LB808]

SENATOR HILGERS: I have. [LB808]

SENATOR CHAMBERS: Was that symbol the letterhead on that stationery? [LB808]

SENATOR HILGERS: It was not. [LB808]

SENATOR CHAMBERS: Have you received or seen communications from the Nebraska Supreme Court on court letterhead? [LB808]

SENATOR HILGERS: I have. [LB808]

SENATOR CHAMBERS: Was that symbol on that letterhead? [LB808]

SENATOR HILGERS: No, it was not. [LB808]

SENATOR CHAMBERS: Do you possess letterhead stationery from the Legislature? [LB808]

SENATOR HILGERS: I do. [LB808]

SENATOR CHAMBERS: Is that symbol on that stationery? [LB808]

SENATOR HILGERS: It is not. [LB808]

SENATOR CHAMBERS: Now the language you read said "they shall." Is that mandatory? [LB808]

SENATOR HILGERS: It is. [LB808]

SENATOR CHAMBERS: That means on all state letterhead of any agent...you know, all these...I don't want to name all the divisions. And the reason I'm asking you, I want people to know that it is a mandate that this symbol appear on all state letterhead. Would you agree that's what it's saying? [LB808]

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SENATOR HILGERS: Yes, but could I... [LB808]

SENATOR CHAMBERS: Yes, go ahead. [LB808]

SENATOR HILGERS: ...offer an ambiguous interpretation of that? [LB808]

SENATOR CHAMBERS: Yes. [LB808]

SENATOR HILGERS: So the first sentence says, "shall be used by all agencies of the state whenever appropriate in the promotion of the state." Now, the second sentence, which deals with what we're talking about, "it shall be imprinted," one could read some ambiguity to suggest that the second sentence includes by implication the limitation of the first sentence. In other words, when we are...when the states or the agencies are acting to promote the state, if that's the letterhead we are talking about, then in those instances the symbol "shall be imprinted." So there's some ambiguity in the structure, but I would agree that sentence on its own, Senator Chambers, says what you say it says. [LB808]

SENATOR CHAMBERS: But the first sentence is not ambiguous in what it says, is it? [LB808]

SENATOR HILGERS: I would agree. It is not. [LB808]

SENATOR CHAMBERS: And it offers a little bit of discretion when it seems to be okay. The second sentence... [LB808]

SPEAKER SCHEER: One minute. [LB808]

SENATOR CHAMBERS: The second sentence is mandatory without any ambiguity in what it says, isn't that true? [LB808]

SENATOR HILGERS: The second sentence standing alone has no ambiguity in my view. [LB808]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I'm not going to pursue this further at this time, but there are things in the statute that the Legislature is disregarding. The Supreme Court, all state agencies are disregarding, probably because they don't know it's there. But I read statutes, and I'm going to start bringing things to us and see if we are willing to follow

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the mandate of the statute as meticulously as what I hear being discussed on the subject that's before us today. Thank you, Mr. President. [LB808]

SPEAKER SCHEER: Thank you, Senator Hilgers and Senator Chambers. Seeing no one else wishing to speak, Senator Brasch, you are welcome to close on AM1907. [LB808]

SENATOR BRASCH: Thank you, Mr. Speaker. And thank you, colleagues. I want to answer a few questions, and then I'm going to ask you to vote red on AM1907, on the committee amendment. We have another amendment that will follow. But I did want to address some comments and some concerns. Senator Erdman opposes the bill. He said people can just garden, doesn't bother him one way or the other. What bothers me is that when you talk to some individuals, and I heard this from someone in the food and nutrition area, that 99 percent of us who do not...of those of you who do not farm do not realize where food comes from. Children thought that eggs came from cows, because eggs are found in the dairy section of the grocery store. There are countless stories of that. Not everyone knows about food production and the commitment that is entailed--1 percent of the population are farmers. We can't educate 99 percent of the state. We try, but we have groups like We Love Ag, We Support Ag, there's FFA, but yet some children believe that eggs come from cows because it's in the dairy section. We need to work at that and we need to change that. We need people to understand that farming is work, farming is a huge expense, farming takes commitment, it has challenges. We battle weather, we battle the seasons, but the result sustains us. Do you want to talk about sustainability? Food is sustainability. It's nutrition. It's what we need to continue with water. Community garden is also, whether it's large or small, they involve work. They involve expense, and the result of farming, the work, the end result is food, which sustains us. We do have something in common, and we have a common need. And that's why LB808 is important. Again, water is what we fight for. And with that, I will withdraw AM1907...or not withdraw it, but I ask you to vote red. And Senator Friesen has an amendment, AM2312, that I believe we should support. Thank you, Mr. Speaker. Thank you, colleagues. Vote red for the committee amendment. [LB808]

SPEAKER SCHEER: Thank you, Senator Brasch. The question before us is adoption of AM1907. All those in favor of adopting vote aye; all those opposed vote red. Please record. [LB808]

ASSISTANT CLERK: 0 ayes, 19 nays on the adoption of the committee amendments. [LB808]

SPEAKER SCHEER: The motion fails. Mr. Clerk. [LB808]

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ASSISTANT CLERK: Mr. President, Senator Friesen would offer AM2312. (Legislative Journal page 883.) [LB808]

SPEAKER SCHEER: Senator Friesen, you are welcome to open on AM2312. [LB808]

SENATOR FRIESEN: Thank you, Mr. President. So now we go back to the original bill, and what this amendment does is it strikes original Section 6 and inserts the following new section. "The State Treasurer shall transfer fifty thousand dollars from the Nebraska Environmental Trust Fund to the Community Food Production Water Fund for each of fiscal years 2018-19 and 2019-20." On page 5, on line 14, after "purpose," we will insert the words "except that the department may expend not more than five thousand dollars each fiscal year for costs incurred by the department in the administration of the fund." So this gets the funding; it does it over a two-year period. It takes it from the Environmental Trust Fund. I do believe this has probably happened before. I don't know that, not while I have been in this body. But I think funds have been taken from there before. Again, we can talk about...when we look at the big picture of what we are trying to accomplish with the water fund and the things we talk about here, and when we talk about the urban/rural split, it is real. People do not realize where their food comes from. They have no idea what production is anymore on the farm. They still think we walk around with coveralls and a piece of straw stuck in our teeth. That's not true. We have adopted more technology in Nebraska than many, many other states, and we're one of the first ones to develop that technology. We talked about autonomous vehicles and running a test pilot program in Lincoln here. I have had an autonomous tractor that drives me around the field for five, six, seven years. Its sub-accuracy is one inch--sub-inch accuracy and we plant with it, we harvest with it, we cultivate with it, we spray our crops. We manage our acres. You can call it square-foot farming or you can farm by the acre; but when we apply our chemicals, our herbicides, our fertilizers, it's done by prescription. So everything starts with the harvest, you map your yields. And in the spring when you want to fertilize your fields, you take your yield maps, you overlay it onto your soil types, you do your soil testing, you find out what nutrients are there, and then you apply those nutrients by the acre. Each acre gets treated separately according to its ability to produce. When you come back with the planter, you write a prescription for that field. Each acre gets sown so many seeds per acre. If you have soil that cannot produce as much, you cut back on your seed. There's no use wasting a lot of dollars on seed on soil that won't produce. So everything, every step of the way is done by prescription that is written in the office in winter. This is farming today. People in the city, in the urban areas have no clue as to what is all done out on the farm anymore. It has changed. We are still family farmers. I think still 85 percent of the ground is farmed by family farmers. They are bigger; we have consolidated. And the education program obviously needs to be ramped up so that we do a better job of getting our message out of what we deal with. And this leads into the property tax debate. And so when we talk about property taxes that fund our schools, we end up with the consolidation in the farming--there's 2 or 3 or 4 percent of us are paying 68 percent of the funding of our schools. And that

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burden is becoming too much. And so if we had done a better job of educating our urban counterparts, they would realize the stress that this puts on agriculture today. We've come through some tremendously good times; now we're going into some pretty tough times. And when you take \$100 an acre in property taxes that are paid and have to balance your production costs over that, you can't make a profit. And when you can't make a profit, the banker doesn't like you. So the urban portion of the education of this would be of tremendous benefit. I look at that and I try, you know, we've talked about this on the Corn Board, we've talked about it as Corn Growers: How do we educate the urban population? So to me, this is a good way to start doing it. With that, I'll yield the rest of my time to Senator Harr. [LB808]

SPEAKER SCHEER: Senator Harr, 5:06. [LB808]

SENATOR HARR: Thank you, Senator Friesen. Thank you, fellow members of the body. Compromise works sometimes. I want to thank all the people that went into this hard work on this to make sure that something did happen, and that we...I don't think there was a lot of disagreement today. There was a disagreement on how to get there. I think with this amendment we come to an understanding and a better idea of how do we obtain the community gardens, the benefits that we talked about earlier. I want to thank Senator Friesen for his hard work, Senator Groene, Senator Hughes, Senator Stinner. I'd be remiss, of course, probably the most important on this, Senator Brasch. We wouldn't be here without her leadership. I want to thank everyone who worked hard on this bill, and I would ask you to vote green on AM2312 and on LB808 so that we can go forward with this bill. And hopefully we can get to a couple more, since I see Creighton lost in overtime in the game. So thank you very much. [LB808]

SPEAKER SCHEER: Thank you, Senator Harr. Senator Harr, you were next in the queue. You're off. Okay, thank you. Senator Groene, you're recognized. [LB808]

SENATOR GROENE: Thank you, Mr. President. Not so fast, Senator Harr. I got a couple questions. I guess I never heard how these community gardens are funded now. They exist, they got funding. Senator Scheer, may I ask a question of Senator Harr? [LB808]

SPEAKER SCHEER: Senator Harr, would you please yield? [LB808]

SENATOR HARR: Yes. [LB808]

SENATOR GROENE: How are they funded now, these community gardens? They exist. Somebody is funding them. [LB808]

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SENATOR HARR: They exist. I would argue there is a greater demand than there is availability based on space. So when there is community garden, the three biggest hindrance are access to land, water, and to liability insurance. What this is, it allows for better access to water so that we can irrigate like our center-pivots do within the city. Because, as you're aware, sometimes gardens don't grow well if they don't have access to water. [LB808]

SENATOR GROENE: So they're going to put wells in and they're going to put center-pivots in? [LB808]

SENATOR HARR: Maybe not center-pivots, unless those little Rain Birds you call those center-pivots. [LB808]

SENATOR GROENE: And it takes \$50,000 to buy one of those? [LB808]

SENATOR HARR: What's that? [LB808]

SENATOR GROENE: And it takes \$50,000 to buy one of those? [LB808]

SENATOR HARR: Not one of those, no. But it costs about \$5,000 to \$7,000 depending to hook up a water to access that doesn't exist today. [LB808]

SENATOR GROENE: Thank you. I'm just kind of lost here because it sounds like it's a good project and it's good for the communities that do it. Both of these funds we've been talking about, the Water Sustainability Fund and now the conservation utility or whatever they call it, the Nebraska Environment Trust Fund, you can put in an application like everybody else. I just don't understand why they don't do the process and get in line like all else, all other projects do. Senator Harr, would you answer another question? [LB808]

SENATOR HARR: Of course. [LB808]

SENATOR GROENE: I was going to ask Senator Friesen, but in his presentation he didn't know. How many times have we done legislation where we have dictated to the Environmental Fund that they had to fund something? [LB808]

SENATOR HARR: We have done it in other ways, but we've done it numerous times. To answer your question, on the last amendment that you fought, we were trying to allow them, community gardens, to apply. And the Water Sustainability Fund didn't want them to apply like everyone

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else, right? So then what we decided was, well, let's look at, if we can't even apply, let's find a funding source because everyone seemed to think community gardens are a good thing. Let's find a funding source. And so in talking with fellow members in the body, it was decided that the Environmental Trust Fund was probably the best source for funding, which I'm fine with. And so that's how AM2312 came about. [LB808]

SENATOR GROENE: Thank you. I'm just curious if they have ever tried to apply for funding through the Environmental Trust. I would believe that that project would fit right in to some of the things I've seen them fund. Good projects float to the top is what I've seen, unless there's undue political influence or lobby influence. But normally the system works on these grants. I just don't understand why we have to dictate to these boards, appointed boards, what to do. What we expect them to do is to fund the projects that deserve funding. That's all I've got to say. I'm undecided on the amendment yet. Thank you. [LB808]

SPEAKER SCHEER: Thank you, Senator Groene and Senator Harr. Senator Krist, you're recognized. [LB808]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, again, Nebraska and colleagues. Senator Friesen, thank you for your compromise and the amendment. That's what this is about, reaching a point of compromise. These programs are good programs. I will tell you that in 2009, when we balanced the budget and took \$1 billion out of the budget in that special session, I don't think there was any fund, any cash fund, any available cash that was not taken or hit. So I know that this has been done in many ways before, as Senator Harr said. I believe that this is a good option and I will support AM2312 and the underlying LB808. I'll also say that I don't necessarily think that in the concept, and this is not directed specifically to Senator Groene; I was going to say this anyway. But I don't think in concept that we are actually telling folks to support a particular project as much as we are asking them to consider those projects in the list of acceptable projects that they can fund with taxpayers' dollars, and the intent of this Legislature. So with that, again, I'll support AM2312 and the underlying LB808. [LB808]

SPEAKER SCHEER: Thank you, Senator Krist. Senator Watermeier, you're recognized. [LB808]

SENATOR WATERMEIER: Thank you, Mr. President. To Senator Krist's point there, I wasn't aware of this amendment coming up. I had heard about it being discussed a little bit. And I'll tell you that I stand in opposition to this amendment for several reasons. Earmarking funds, like it or not, is political. In order to pass the Water Sustainability Fund, we created a fund for \$11 million in the Water Sustainability Fund with the idea that earmarked \$11 million went to the CSO project, which is the Omaha clean sanitation project, sewer system in Omaha. And I agreed to

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that because we had to get the bill passed, and we wanted to support the water quality issues that was a big issue, a \$2 or \$3 billion project in Omaha. So I supported that. But there is a couple reasons that I really have a problem with this. I'm not going to ask for germane-ish discussion on this, but I can hear the footsteps coming tomorrow if we pass this. The Environmental Trust doesn't know this is coming, and they would have lit that hearing room up, ladies and gentlemen, if they'd have had any idea that this was coming. Whether it was \$1 or \$50,000, be prepared. I can already hear the...Mark Brohman coming here right now. So it is my intention to take this bill to 5:00. I don't think we ought to do this; it's a bad idea. I understand completely the intent. As I stated earlier, the University of Nebraska, through its Extension department, through its 4-H, is a marvelous example of doing exactly what these community gardens, I'm estimating, do. We're educating, hands on the ground, hands in the dirt, you're learning by doing. And it is a good process to learn how long it takes to get a seed to grow and the risks that are involved. I heard that at the very beginning. That is...makes total sense, and I'm all in on that. But we do not want to get involved in a discussion about earmarking funds from a granting body that it was not part of the hearing process. It just bothers me. I mean, I understand we can do it. We can do anything we want. But all you have to do is pull up the argument and the fight that happened years ago when we wanted to take 10 percent of the lottery funds and fund the State Fair, which I think it was in Lincoln at that point in time. It was a bloody battle, a total bloody battle, and they got it done. And I think it was probably fine. I didn't argue with it; that's the way it was. Just so everybody knows, the lottery funds create I think between \$40 and \$45 million a year of net results, 44 percent of that goes to the Environmental Trust, which is a group of individuals that write grants, and they distribute that \$20 million. The other 44 percent goes to the education process, and it's divvied up by us in some things that are guaranteed. It doesn't fit inside of TEEOSA, so it's divvied up in that way. And then there's 1 percent I believe that goes to the Gamblers Assistance Fund. So with that I really can't support this amendment. And so with that, Mr. President, I'll end, but I'll have to hit my light here. I would expect an effort made to bracket this bill. I don't want to do that. We just need to end the discussion on this bill. Thank you, Mr. President. [LB808]

SPEAKER SCHEER: Thank you, Senator Watermeier. Senator Schumacher, you're recognized. [LB808]

SENATOR SCHUMACHER: Thank you, Mr. Speaker. Members of the body, I didn't think I'd get a chance to talk about gambling this year, but looks like I might. The history of gambling of this state was that we were against it except for horse racing and except for a few other things. And then we saw a lot of money going over the street to Iowa, and...in the form of the state lottery there. So we wanted a state lottery. But the normal hoopla about gambling prevented us from having a state lottery. So in order to get that passed, we had to have a constitutional amendment. We had to have a couple of goody-two-shoe things in there in order to make it look like it would really be good. One is the Environmental Trust and the other is the education

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portion of it, that it be used for education. This is not like normal money. The constitution limits what we can use the lottery money for, and Senator Watermeier is correct. Now the constitution expressly says...remember, this was put in there in order to get the lottery passed, "Forty-four and one-half 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." Now I don't see in this amendment where we amend the Environmental Trust Act in a manner that would permit us to use it for this particular purpose. And I think that's a legitimate question we need to have addressed, whether or not this purpose of a garden fits within the Environmental Trust Act as it is now written. And then we reach the question also: If it does not fit, can we amend it and still be within the framework of the constitution? In other words, could we say the Environmental Trust Act is, in fact, a act that we can amend to say that we can build highways with it? Yes or no? Is it within the spirit and letter of the constitution? I think that this may be an expedient way in order to move this bill along for these gardens, but I don't think we can just summarily say it works without having a bit of discussion of whether or not this fits within the constitutional restraints of the Environmental Trust Act and whether or not we need to amend that and whether by implication some way this amends it. Because this may all be a nullity if we stick it in the Environmental Trust Act and then the Environmental Trust folks, who have been very, very protective of their little piece of the pie since the early 1990s when we passed the lottery, come in here and raise a court challenge that we're setting this precedent in order to dip into this fund that is preserved for them. And we certainly need more legislative history, if nothing else, as to how this fits in with the parameters of the existing Environmental Trust Act. Is Senator Harr available? It doesn't appear that he is. My instincts say at this time that...oh, Senator Harr, will you yield to a question? [LB808]

SENATOR HARR: Yes. [LB808]

SENATOR SCHUMACHER: Senator Harr, does this fit within the parameters of the existing Environmental Trust Act? [LB808]

SENATOR HARR: I think by this we are amending a previous piece of legislation. [LB808]

SPEAKER SCHEER: One minute. [LB808]

SENATOR SCHUMACHER: But we are not amending the Environmental Trust Act, and that's what the constitution requires us to do if we spend that money, so... [LB808]

SENATOR HARR: Well, the good news is we're going to go probably three hours on this. So we'll have a chance...again, maybe that's why maybe this took so long to come back from Bill

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Drafters, because we had it up there over 45 minutes. They were looking into that. And if Bill Drafters is listening, maybe they'll come down and give us an explanation. [LB808]

SENATOR SCHUMACHER: Thank you, Senator Harr. I think we have a serious issue that's a stumbling block here and probably going to take us until 5:00, if that's how we're going to tread water this afternoon. We've got to fit within the spirit of the constitution, and that dictates that we fit within the Environmental Trust Act; and I don't think this particular measure amends the Environmental Trust Act. And as such, we're stuck in the mud here. We can't touch this money. It's not General Fund money, it's... [LB808]

SPEAKER SCHEER: Time, Senator. [LB808]

SENATOR SCHUMACHER: Thank you. [LB808]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Brasch, you're recognized. [LB808]

SENATOR BRASCH: Thank you, Mr. Speaker. And thank you, colleagues. So we've once again run into how to deliver for individuals, communities who have an interest in food production or plants, but horticultural interests. And the bill as it stood, at one point, I believed that individuals were able to use water funds through the Water Task Force. I have pulled up the statutes on the Nebraska Environmental Trust Fund and I've been reading through that. It does cover the words "agricultural purposes" and...but I'm not an attorney, and I trust that our attorneys will look at this. Again, I think as the Chairwoman of the Agricultural Committee that we do need to look at how we can involve more individuals in every part of the state in growing food and understanding the daunting task, risk, expense, time, commitment that it takes to grow food, from working the ground to planting a seed to looking at the challenges that come with this and the struggles. And then at the very end, on a good year, you can show the results and enjoy and feed your family and others and sustain ourselves. I do want to encourage...I believe Senator Friesen introduced LB2312 (sic--AM2312) with the intention that this will fit under that fund. This is General File, and if we do hear from that fund then we could go on to the next and amend it there. So I believe others may want to speak. I see a few more lights on. And with that, I will thank you for your consideration and your patience, because it is a good bill. We do need to tell people, especially those who didn't grow up on a farm, who were not lucky enough to know where food comes from, those who are not participating in their county fairs or 4-H programs or have Grandma or Grandpa on the farm to understand that, you know, food is precious. It's necessary. And the education is something that's constantly worked on in agriculture. And we can't take for granted that people know the intensity of what it is to try to produce food. Food,

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fuel, and fiber and energy. It's an important field, and if we can start with this...with the smallest of communities... [LB808]

SPEAKER SCHEER: One minute. [LB808]

SENATOR BRASCH: ...that we've accomplished a great thing. So I do want to encourage you. If this amendment is the one we need to move forward with, we do need to move forward. So I do support LB808 and AM2312, and I want to thank all of the members on the Agriculture Committee who voted and supported this bill and my research analyst, Rick Leonard. This was no simple task. Thank you, colleagues. And thank you, Mr. Speaker. [LB808]

SPEAKER SCHEER: Thank you, Senator Brasch. Senator Hughes, you're recognized. [LB808]

SENATOR HUGHES: Thank you, Mr. President. I wasn't going to talk anymore, but as usual, Senator Schumacher jumps up and he hits one of my button words that makes me want to get engaged. And he started talking about gambling and community gardens and taking money from the Environmental Trust for this purpose. And it does resonate with me that...the irony is not lost that we're taking gambling funds and directing them towards farming. Because agriculture, farming--doesn't matter whether you're planting wheat, corn, radishes--it's a gamble. So I think there is some irony in the fact that we're willing to take some of the Environmental Trust funds to do this. Is Senator Harr available? I would like to ask him a couple questions, please. [LB808]

SPEAKER SCHEER: Senator Harr, will you yield, please? [LB808]

SENATOR HARR: Yes, I will. [LB808]

SENATOR HUGHES: Senator Harr, earlier in the discussion when we were talking about what this money was going to be used for, and you said that it was needed for water for these plots, can you explain that a little bit more to me what...why isn't there water? I'm assuming there is city water running everywhere. It's just a tap or a hydrant or... [LB808]

SENATOR HARR: Yeah, yeah, I'd be glad to. Thank you. So you may have a city lot that doesn't have access to, may never have had water on it, depending on where it is in the city. Or you may have it in an area of town where the line from the street has gone bad or you may have it where the access point is not in the part of the lot that you need it for, for water to be used properly for a garden. So the hookup fee is probably anywhere from \$2,000 to \$8,000, depending on what side of the street it is, where it is on the lot, and if there was ever water there before, or if there was, how dilapidated it is or is not. [LB808]

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SENATOR HUGHES: So how...you know, is the owner of the lot contacted in order to make this improvement? Or, I mean, kind of work me through that process of how a lot is identified, you know, what process you would have to go through to get the water hookup then, you know, who owns it, that type of thing, please. [LB808]

SENATOR HARR: Yeah, great question. And we can talk more about it if we run out of time. But the idea is that a community garden forms an LLC, that is a non...a 501(c)(3), and the 501(c)(3) owns that property. And as a result, there is no property tax on it because it's a charitable purpose, which is this community garden. Hopefully that lowers the liability as well. And then what we do is... [LB808]

SPEAKER SCHEER: One minute. [LB808]

SENATOR HARR: ...the three problems you have is access to land, water, and liability insurance. And the idea is that then that nonprofit owns the land. They then go to MUD and say, at least in Omaha, and say, hey, we want a hookup. Can you hook us up? [LB808]

SENATOR HUGHES: So then does MUD charge for that or... [LB808]

SENATOR HARR: Yes. [LB808]

SENATOR HUGHES: ...is it kind of a donation or...? [LB808]

SENATOR HARR: No, no, they charge for that. [LB808]

SENATOR HUGHES: So how...so a community will identify a lot and then they will go and try and buy it from the owner? Or are these abandoned lots or city lots or where is this land coming from? [LB808]

SENATOR HARR: Great question. They can be any of those. They can be from the land bank, which is some of the language in this. It can be land they purchased from somebody else. Or it can be land reutilization committee. But...or it could just be land that the community garden already owns. It could be...they could be using it on a school grounds, but it's on a part of the school grounds where there is no water hookup and it's far enough away that they're going to have to lay some new pipe. [LB808]

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SENATOR HUGHES: So can you give me some kind of idea how many of these community LLCs... [LB808]

SPEAKER SCHEER: Time, Senators. [LB808]

SENATOR HUGHES: Time? [LB808]

SPEAKER SCHEER: Time, Senator. [LB808]

SENATOR HUGHES: Thank you. [LB808]

SPEAKER SCHEER: Thank you, Senator Hughes and Senator Harr. Senator Wishart, you're recognized. [LB808]

SENATOR WISHART: Thank you, Mr. President. I rise in opposition to AM2312. First of all, and I want to echo what Senator Schumacher and Senator Watermeier have said. First of all, this is a precedent that we would be setting, and I think it deserves a public hearing so that the Environmental Trust can come before us to discuss their concerns with AM2312. Secondly, I believe it's pretty clear with the constraints around the Environmental Trust that the Legislature is not allowed to appropriate dollars to the Environmental Trust for specific purposes. The Environmental Trust goes through a grant process in terms of the projects that they award these funds for. So those are the reasons I will not be supporting AM2312. Thank you. [LB808]

SPEAKER SCHEER: Thank you, Senator Wishart. Reaching the time threshold, we will move on to the next bill. Mr. Clerk. [LB808]

ASSISTANT CLERK: Mr. President, the next bill is LB993 by Senator Friesen. (Read title.) Bill was introduced on January 11, referred to the Transportation and Telecommunications Committee, reported to General File with committee amendments. (AM1908, Legislative Journal page 748.) [LB993]

SPEAKER SCHEER: Senator Friesen, you're welcome to open. [LB993]

SENATOR FRIESEN: Thank you, Mr. President. Members the of the Legislature, this is LB993. This is a bill that will enable the Public Service Commission to begin implementing the next-generation 911 Service System Act. This bill comes out of an interim study, LR174, and the presentation made by the PSC, the Public Service Commission, to a joint hearing of the

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Transportation and Telecommunications Committee and the Appropriations Committee in December. We heard testimony from the stakeholders which included counties, cities, telecommunications companies, representatives of the hearing-impaired community, and others at both the December meeting and the hearing on LB993. I want to thank Senator Geist for making LB993 her priority bill. Our current 911 system has reached its technical capacity. Tim Schram from the PSC provided testimony at the committee hearing that 80 percent of the calls received at our 911 centers, or public safety answering points, and I'll call them PSAPs for short, come from the wireless phones. However, the current 911 system can't take advantage of the location mapping and the texting capabilities of today's wireless devices. Next-generation 911 will utilize high-speed fiber optics and IP technology to provide instant communication via an emergency services Internet protocol network, or ESInet. The ESInet will allow for a seamless flow of information so the dispatcher from one 911 center can call help immediately to the caller. And the geographic information mapping system, or GIS, means the location of those callers can be identified with improved accuracy. Emergency calls will be routed to the appropriate 911 center. First responders will know where to go even if the caller doesn't know where he or she is. LB993 will create an advisory committee of stakeholders, provide responsibilities for the committee, and determine how expenditures are made. They'll set out the standards of care for persons involved in the provision of next-generation 911 service and repeal the prior act's sunset date of June 30, 2018. I think an important feature of the bill is that we are not forcing consolidation of any of the PSAPs, but we're encouraging consolidation by specifically stating that the PSC would not be required to provide money to more than one PSAP in any county. We will also have a committee amendment that I would be happy to answer questions after that on the bill. [LB993]

SPEAKER SCHEER: Thank you, Senator Friesen. And as Chair of the Transportation, you're welcome to open on the committee amendment. [LB993]

SENATOR FRIESEN: Thank you, Mr. President. Members of the committee have amended...made two major changes to the original bill. The first bill merges two existing cash funds. The Enhanced Wireless 911 Fund, which was created in 2001, would be merged into the 911 Service System Fund. The Public Service Commission would account for expenditures separately under each act and those separate funds currently...that they currently serve, but it would give the commission more flexibility in utilizing the funds as the transition process is carried out. Second, the amendment changes the negligence standard in Section 86-441, Section 86-468, and the original Section 9 of the bill which now is Section 17 of the amendment. It strikes language, "failure to use reasonable care or for intentional acts," and inserts, "actions or inactions that constitute gross negligence or intentional wrongful acts." This change would apply to persons involved in the provision of 911 or the next-generation 911 service. When we look at our 911 system today, and some of the compelling testimony that came before us was from the hearing impaired, the ability to bring texting to a hearing-impaired person who is out in the rural

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areas and not have access to being able to call a 911 PSAP center was a tremendous change for someone who is currently caught out in the field. We had a gentleman come in who testified that he was totally deaf, and so he could not use his cell phone to make calls. And so if he needed to call 911, instead what he would do is text his friends or family and neighbors, and he had to do that one time. This gives people the ability, whether they're hiding in the closet from an intruder or whatever else, to text 911; and you could do it quietly and you wouldn't have to talk. The technology that they'll be able to use down the road is that they will be able to push these things out to the officers or the fire departments that's also responding, so they would know what they're heading into. The technology and the capability of this system will totally change how we do 911 service in the future. And so I look forward to some discussion on the bill. And with that, I ask for your support of AM1908 and LB993. Thank you, Mr. President. [LB993]

SPEAKER SCHEER: Thank you, Senator Friesen. Senator McCollister, you're recognized. [LB993]

SENATOR McCOLLISTER: Thank you, Mr. Speaker. Good afternoon, colleagues. Would Senator Friesen yield to a few questions? [LB993]

SPEAKER SCHEER: Senator Friesen, would you please yield? [LB993]

SENATOR FRIESEN: Yes, I would. [LB993]

SENATOR McCOLLISTER: How will this money be funded? I know it comes out of a cash fund from the PSC, but isn't there a monthly charge that consumers pay for this service? [LB993]

SENATOR FRIESEN: Yes. There is, on your landlines, there is a fee that is charged there. It's...that's called the E-911 Service. But most areas, it varies between 50 cents, I think, and maybe \$1. The highest they can go is \$1. And on wireless they charge 45 cents. And that's the fee that goes to the 911 system. [LB993]

SENATOR McCOLLISTER: So the wireless fee is less than the landline fee? [LB993]

SENATOR FRIESEN: Yes. So far the Public Service Commission has the ability to set that fee, and I think they can go up to 70 cents, 75 cents. [LB993]

SENATOR McCOLLISTER: What's the rationale for charging landlines more than cell phones? [LB993]

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SENATOR FRIESEN: Well, they were set up as different systems at first. And so the landline one was established when we first did 911. And so the wireless system came, I believe, the way I understand it, came in later. And they are applied differently. The one is applied statewide, the wireless. It's a flat fee across the whole state. And the \$1 fee or the landline fee is different by county. That's why some areas charge 50 cents, some may charge 70 (cents), some may charge \$1. So that's variable and it's set by region. [LB993]

SENATOR McCOLLISTER: And the PSC sets those various charges, or do the counties have some influence on how those charges or what those charges are? [LB993]

SENATOR FRIESEN: The counties set the wire fees. The Public Service Commission sets the wireless fees. [LB993]

SENATOR McCOLLISTER: The 911 fee isn't the only fee that gets charged on a monthly bill, is it? [LB993]

SENATOR FRIESEN: No, there's couple others. [LB993]

SENATOR McCOLLISTER: I think there's even sales tax. And there's also, as I recall, a fee for the NSF or the Universal Service Fund. [LB993]

SENATOR FRIESEN: Yes. [LB993]

SENATOR McCOLLISTER: And what is that fee currently? [LB993]

SENATOR FRIESEN: Six point seven five percent of the assessable charges. And it's only on intrastate calls, not interstate. [LB993]

SENATOR McCOLLISTER: Interstate or intrastate? [LB993]

SENATOR FRIESEN: Intrastate. [LB993]

SENATOR McCOLLISTER: Okay. As I recall, I think Nebraska had the second highest fees for USF and sales tax and everything else, and I think it came to about 25 or 26 percent of the bill. Are my numbers correct in my recollection? [LB993]

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SENATOR FRIESEN: I couldn't tell you that. I mean, there's a lot of fees charged. There's occupation taxes charged on wireless also and on landlines, so I, right now, I guess this...what we're dealing with I guess was just the 911 fee and those dollars that use...the Public Service Commission uses. [LB993]

SENATOR McCOLLISTER: It would be your view, I would guess, that cell phones are kind of a necessary item for people. Whereas folks used to have just a landline, now most people have cell phones and they're discontinuing their landlines. Is that your understanding? [LB993]

SENATOR FRIESEN: Yes. And that, what I said in my testimony, 80 percent or 70-some percent of the calls now come in wireless, and that's why bringing this new technology that allows you to text and those things and find location. When you had a wired location, when they answered the phone they knew the address of that call. But with a wireless call, they have no idea where you're at. And so sometimes individuals, when they're calling, don't know where they're at or they don't have the correct address or don't realize where they're at. With this system now, they would be able to locate them. [LB993]

SENATOR McCOLLISTER: Your committee has jurisdiction over what some of these charges are, or at least over the activities of the PSC? [LB993]

SENATOR FRIESEN: We do not set any rates or charges. Public Service Commission sets that. I would imagine if they wanted to change... [LB993]

SPEAKER SCHEER: One minute. [LB993]

SENATOR FRIESEN: ...the range at which they're going to operate in, then we would be involved in setting that. But as long as they remain in the parameters that are set out there, we do not set fees. [LB993]

SENATOR McCOLLISTER: Well, I would just finish by contending that we need to be judicious in what some of these fees are that the PSC charges, because I know for a fact that the PSC I think is the second highest charges per...of any state in the country; and that's a fairly significant fact--second highest in the country. Thank you, Mr. Speaker. [LB993]

SPEAKER SCHEER: Thank you, Senator McCollister and Senator Friesen. Senator Geist, you're recognized. [LB993]

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SENATOR GEIST: Yes. Thank you, Mr. Speaker. And I just wanted to stand up and voice my approval and my support for LB993. This is my priority bill. It's one of the bills that I'm passionate about this session because it is good for the entire state, not just for my district, though I would say it is good for my district, but also for the entire state. One of the things that I...I have a short section of an article I wanted to read to explain to you what this will bring to our state, and then I'll reemphasize a couple of points when I'm done. The article says that Uber can pinpoint exactly where drivers need to pick up passengers. Facebook even knows when users travel to new cities and what places their friends have visited there. Google can tell drivers where they're headed and how long their journey will take before they can even put the car in gear. Four out of every five 911 calls in Nebraska are made on cell phones, and finding where an emergency is happening remains a vital priority according to the public safety officials. When a 911 call is placed on a cell phone currently, this is how it currently works, the call taker is informed which cell phone tower the call is routed from and its general location. Only as the call goes on do call takers have the ability to triangulate the caller's information, which is a process the call taker gets. With this process, the call taker gets an approximate location with a confidence level up to 300 meters. Now that might be adequate in some rural locations; but obviously if you're in an urban area, that's extremely difficult to locate where someone may be in a 300-meter radius. By contrast, a landline call to 911 automatically delivers subscriber address information to the 911 center. This is just one way that this bill will help. This takes a step forward in helping us as a state upgrade our technology so that we can, through GIS tracking, we can find the exact location of a cell phone call. So it's a public safety issue and it's a public safety issue for people across the state. I'll also emphasize again what Senator Friesen was saying about the deaf individual that testified in front of our committee, which he had actually no access to 911 calling unless he was in his house near a specifically adapted phone that would reach 911. So if he had a personal emergency and needed to contact 911 anywhere away from that phone, it was impossible for him to do. 911 currently can't accept a text message. So that's part of the technology improvements that this bill will help to take place. One other thing that I'd like to emphasize on my time is that we also were given testimony that for the next three to four years, the Public Service Commission has adequate funding in the cash funds that it currently has to perform the duties it needs to do to that point. So for the next three or four years, the funds that are in place they project will stay as they are. So I find that to be also an encouraging...to Senator McCollister's point, I find that to be an encouraging response. So again, I support the amendment, AM1908, and LB993. And I appreciate Senator Friesen for bringing it. Thank you, Mr. Speaker. [LB993]

SPEAKER SCHEER: Thank you, Senator Geist. Senator Schumacher, you're recognized.
[LB993]

SENATOR SCHUMACHER: Thank you, Mr. Speaker, members of the body. The issue that catches my attention is on the first page of the amendment. And it seems like we are really, really

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reducing the standard of care in the provisioning of E-911 services. The old language said: In contracting for such 911 service and in providing for such 911 service, except for failure to use reasonable care for intentional acts, each governing body involved shall be immune from liability for damages in providing such service. The standard is they can be liable if they fail to use reasonable care or for intentional acts. Now listen to the new language: In contracting for such 911 service and in providing such 911 service, except for acts or inactions that constitute gross negligence or intentional wrongful acts, each governing body shall be immune. That's a big difference than what we had. It's a huge difference. And it would seem to me we want to think a little bit about it because gross negligence or intentional wrongful, you got to be really, really bad to trip that. And so we're relying on this service. We're providing a lot of money that the people rely on for their firetrucks and their ambulances and if they're hurt in an accident. And if it just flops, if it doesn't work, if they don't have it adequately staffed, if they've gotten sloppy but it's not gross negligence or intentional wrongful acts, they skate. Somebody sits there dying of a heart attack because it wasn't grossly negligent. It just was plain old negligent. And this is kind of like a medical thing where you really are relied and you've got a monopoly provider until Apple one day just makes all of this obsolete, or one of the other cell phone providers, and we don't have this need for this big expenditure anymore. But that bothers me, that change of standard from failure to be reasonable or intentional acts, to a change to gross negligence or intentional wrongful act. That sounds like criminal stuff. Do we want to lighten the standard on lifesaving technology that we're spending obviously millions and millions and millions of dollars to build? Do we want to lighten the standard? If it's so good and it's worth spending millions and millions and millions of dollars to build, I would think that we would not need to change the standard to one that's really, really strict. This is simple language, easy to understand, and I'll be interested in the context of the discussion here. What's the justification for making it darn near impossible to sue a negligent provider? And it's not just the government. It is their agents and employees. I would guess if they subcontracted out to somebody, they're covered too. I'm not real comfortable with that. So I'll be interested to tune in on the discussion as we go ahead to see why we are lessening the standard of care for our people by so much. [LB993]

SPEAKER SCHEER: Thank you, Senator Schumacher. Senator Friesen, you're recognized. [LB993]

SENATOR FRIESEN: Thank you, Mr. President. We did have a discussion on this. I'm going to address one of the other things first here, then I'll get into that a little bit, and then I'm going to let Senator Hilgers finish out with the legal portion of it. But when we talk about our 911 fees that are currently charged, currently, you know, Nebraska is at 45 cents; and there's a lot of other states around us that are anywhere from 87...or 65 cents at the lowest up to \$1.01. So we're right now probably at the low range yet of this. And from what I understand from the Public Service Commission, they could go at least two years into the implementation of this before they may consider raising those fees in order to cover the expansion of the program as more and more

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PSAPs enter into that. The one thing, we did discuss the gross negligence versus the other method, but gross negligence standard is consistent with the recommendation from the federal standards of the National Highway Transportation Safety Administration for the next-generation 911 system. Other states such as Arizona, Montana, North Carolina, and Iowa have enacted similar standards for next-generation 911 service. With that, I will yield the rest of my time to Senator Hilgers. [LB993]

SPEAKER SCHEER: Senator Hilgers, 3:35. [LB993]

SENATOR HILGERS: Thank you, Mr. President. Thank you, Chairman Friesen. Senator Friesen is correct. We did have a conversation about the negligence/gross negligence standard. Senator Schumacher, I share your baseline concern that what we ought not to do is to deviate from a negligence standard where we ought to. I think there, in my view, there ought to be a good policy justification for doing so. And I think in this case there is, which is why I support the amendment--I supported it in committee and I support it today--which is without a gross negligence standard, the testimony that we heard is that it will discourage providers from being engaged in the 911 network. So many of these 911 issues deal with very traumatic events and in many cases with a lower standard, it makes it far easier to bring in a whole bunch of people, just sue a whole number of people no matter how small a slice of the system that they helped implement. And that provides significant liability concerns from an insurance perspective, as well as just from a corporate perspective. And so in this case, the testimony we heard is that providers would be reluctant to even submit a proposal to be part of the system. That's what other states have experienced. That's why it's part of the recommendation, as Senator Friesen made. And so, in my view, I believe that is the testimony we heard. Given some of the experience I have seen with some of these 911 cases--I have not litigated one but I've seen them sort of play out--and I believe it's a justified deviation from what we might normally see in a negligence standard. So with that, thank you, Senator Friesen, for the time and I'll yield it back to the Chair. Thank you, Mr. President. [LB993]

SPEAKER SCHEER: Thank you, Senator Hilgers and Senator Friesen. Senator Hilgers, you are next in the queue. He waives his time. Senator Chambers, you're recognized. [LB993]

SENATOR CHAMBERS: Thank you. Mr. President, I assure my colleagues I was doing work of the Legislature when I was not on this floor, but I got here in time to listen to what Senator Schumacher said. And I think that if the people who do this kind of work had any sense of pride or even decency--and I'm not trying to be melodramatic--they would not allow the impression to be gotten out that when we come to rescue you or give service, we don't have to use reasonable care. Reasonable is all the modification you need to lower the standard. It does not say in the current language you cannot make a mistake; you have to have the care that a person who

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operates on the most meticulous level would exercise. When they use the term "reasonable," it's what the court calls an objective standard and they have measurements, ways of measuring that. It is not done with the precision of a jeweler's scale. And it's known that that is not the standard that you're going to judge by. But "reasonable" would mean that which is appropriate under the circumstances based on what you are doing, the knowledge that you have, and what you're addressing. Now you don't have to change the standard to one where you say only gross negligence. The term "reasonable care" allows for some wiggle room, some--I don't like to say this to make it seem like I overlook what some people call mistakes--but "reasonable care" like the term "reasonable doubt." Reasonable doubt is not the same as no doubt. It doesn't say beyond a doubt; beyond "reasonable" doubt. Since nothing that human beings will do is without any possible doubt or wondering, you give the people the explanation that there might be the ordinary doubt if you define the word to mean that there is not absolute certainty. But there is a difference between reasonable doubt and doubt. Where doubt exists, it means that not enough evidence has been presented to justify finding this person guilty if you put the best construction on it. Reasonable doubt would be that it's like trying to put it on a scale in your mind. There is something on this side of the scale on the left hand, something on the right-hand scale, and the one on one side or the other is the stronger. So reasonable doubt is not the same as beyond a doubt, period. When it comes to care, it doesn't mean that there is no allowance for human frailty, a mistake that might be made. People who are engaged in this activity might come upon a scene, and it is so distressing to them that they might behave in a way that ordinarily they wouldn't if they were calm, cool, and collected. So you look at the surrounding circumstances; and if under these circumstances a person with this training, a person holding himself or herself out to the public as being able to do this, would such a person be likely to have behaved in the way that this individual did... [LB993]

SPEAKER SCHEER: One minute. [LB993]

SENATOR CHAMBERS: ...who was the only one on the scene? There was confusion. There was chaos. It was not like a hospital. It was not like an ER. It was not like a room where surgery is being performed. You apply the standard to the existing circumstances. It is even difficult when you're trying to express or explain it with words, because the words are not precise enough to properly and completely express what is being considered. But I'll tell you this much. The decision and the judgment is not going to be made by me. It's not going to be made by any people who might just come off the street. Ultimately, a court would make a ruling. Was there sufficient justification to say that even though what the person... [LB993]

SPEAKER SCHEER: Time, Senator. [LB993]

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SENATOR CHAMBERS: ...who might have stepped outside the line made a legitimate...
[LB993]

SPEAKER SCHEER: Time, Senator. [LB993]

SENATOR CHAMBERS: Oh, you said time? [LB993]

SPEAKER SCHEER: Yes, Senator. [LB993]

SENATOR CHAMBERS: Thank you, Mr. President. [LB993]

SPEAKER SCHEER: Thank you, Senator Chambers. Mr. Clerk for announcements. [LB993]

ASSISTANT CLERK: Mr. President, your Committee on Natural Resources reports LB1008 to General File with committee amendments. New A bill. (Read LB1081A by title for the first time.) New resolutions: LR341 by Senator Blood and LR342 by Senator Erdman; those will be laid over. (Legislative Journal pages 883-890.) [LB1008 LB1081A LR341 LR342]

And finally, Mr. President, priority motion: Senator Quick would move to adjourn until Friday morning, March 9, 2018, at 9:00 a.m.

SPEAKER SCHEER: Thank you, Mr. Clerk. Colleagues, you've heard the motion for adjournment. All those in favor please say aye. All those opposed say nay. We are adjourned.