

SENATOR SCHMIT: Mr. President and members, I rise in opposition to bringing LB 100 to the floor. The bill is a repeat performance of a bill which had been introduced a number of years, at least I believe for 4 years that I have been involved with the Public Works Committee and now the Natural Resources Committee. I don't recall if I was there when the League of Municipalities testified or not, Senator Rogers, but I can assure you that I heard them testify at least on three other occasions on this bill. I believe I almost have the bill memorized by this time. The bill has always been killed in committee because of the fact that it does exactly what I have warned about many times. It totally reverses the area of responsibility for water as it flows off the land from the position it has held for more than 100 years in case law in Nebraska to the point where now it is the responsibility of the upstream landowner. We have, of course, a long history in Nebraska that states that the landowner is entitled to drain his land and that so long as he does it within the normal confines of a water course that the responsibility is very limited from any action downstream. This is held to be good law in the past, and I think has worked well for the people of the State of Nebraska. I want to point out that, with the passage of the sod buster-swamp buster legislation by the federal Congress, I do not know, nor does anyone else know if there will ever be any kind of major work of this nature done in the future. But I can assure you that with the passage of this bill there will be nothing done. Senator Rogers pointed out the questions which I handed out to you, and I wanted you to have them in advance because I think it is important that you read those questions and answers that we have in these sheets of paper because they try to emphasize some of the questions that are not answered by the bill. So often you pick up a little four-page bill and you think, well, it can't really hurt very much. But I just want to raise one question that is not raised in those sheets of paper. If you will open the bill, on page 3, line 8, under subsection (c), it says the social value of the land being interfered with. I've been around 57 years. I don't know and I don't think anyone else can tell me what is the social value of a piece of property. There is social value to almost...to a human entity, maybe even to an animal. But a social value to a piece of land taxes my limit and I had a little bit of education, not very much, but I had a little. I would suggest also you ought to read very carefully subsection (d), the suitability of such land use to the character of the locality. I think that might be a little more easy to identify, but it