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Floor Debate  
April 10, 2007

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[LB33 LB198 LB219 LB232 LB295 LB305 LB314 LB322 LB334 LB338 LB377 LB399  
LB415A LB415 LB420 LB457 LB458 LB502 LB562 LB564 LB580 LB596 LB603 LB674  
LB701 LR69]

SENATOR SCHIMEK PRESIDING []

SENATOR SCHIMEK: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the sixtieth day of the One Hundredth Legislature, First Session. Our chaplain for today is Pastor Bob Lawrence, from the Auburn Church of Christ in Auburn, Nebraska, and he is from Senator Heidemann's district. Please rise.  
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PASTOR LAWRENCE: (Prayer offered.)

SENATOR SCHIMEK: Thank you, Pastor Lawrence. I call to order the sixtieth day of the One Hundredth Legislature, First Session. Senators, please record your presence. (Visitors introduced.) Record, Mr. Clerk.

CLERK: I have a quorum present, Madam President.

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

CLERK: I have no corrections, Madam President.

SENATOR SCHIMEK: Thank you. Are there any messages, reports, or announcements?

CLERK: Madam President, your Committee on Enrollment and Review reports have examined and reviewed LB334 and recommended it be placed on Select File, LB219 and LB596, all on Select File. LB580, which had been referred to the Judiciary Committee, is reported back to the Legislature to General File, with committee amendments attached, that signed by Senator Ashford; and LB399, referred to Health and Human Services, reports the bill back to General File, with committee amendments attached, that signed by Senator Johnson. And I have a new resolution, Madam President, LR69 by Senator Fischer. That will be laid over, and that's all that I have at this time. (Legislative Journal pages 1105-1109.) [LB219 LB334 LB399 LB580 LB596 LR69]

SENATOR SCHIMEK: Thank you, Mr. Clerk. We will now proceed to the first item on the agenda. (Visitors introduced.) Mr. Clerk, the first item on the agenda, please.

CLERK: Madam President, LB701 was a bill introduced by Senator Christensen. (Read title.) The bill was introduced on January 17 of this year, referred to the Natural

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Resources Committee for public hearing. The bill was advanced to General File. There are committee amendments pending, Madam President. (AM938, Legislative Journal page 1086.) [LB701]

SENATOR SCHIMEK: Thank you, Mr. Clerk. The Chair recognizes Senator Christensen to open on LB701. [LB701]

SENATOR CHRISTENSEN: Thank you, Madam President and fellow senators. I introduce to you today LB701. LB701 is a bill that is very needed in the Republican River district to solve the water issues of the Republican in attempts to comply with Kansas in their compact dated 1943. LB701 is a...allows the basin basically to take control of their destiny. To give you a little history on the basin, the compact was originally set up to allow for the full use of all the water in the Republican River Basin. It was divided up amongst Nebraska getting 49 percent, Kansas getting 40, and Colorado getting 11 percent; and throughout the years, it has been developed, not only in surface irrigation, but in ground water irrigation. The compact was set up and in place to allow that irrigation districts and flood control dams could be put in on the Republican River. And the federal government required that this compact come into place so that the federal government would put up money for putting in these reservoirs, because in the Republican River Basin, you've got a series of about five lakes. You got Swanson at Trenton, you got Enders...at Reservoir, you got Medicine Creek there at Cambridge, you got Harlan County at Alma or Rep City, all set up for flood control and irrigation. And throughout the development, irrigation got threw into this in 2002, when ground water and surface water were tied together. If you look at the needs of this district right now, we're sitting at currently about 136,000 acre feet short of compliance, and we're needing a way to bring the usage in compliance with the compact, or with the splits between the three different states. If you look at what has happened with the drought hitting on top of the history of conservation, just to give you a little background here, conservation has been said to be up to 63 or 65 percent of the reduction in flows to the river. You've got vegetation along the rivers that's grown up since the dam projects were put in results in about 15 percent of it, making 80 percent of the runoff reduced to the stream flow, yet only the irrigators have been pointed out to solve the solution. That is what has made this so difficult, is you look at about 15 percent of the reductions is due to ground water pumping, 5 percent due to surface, and the 65 on conservation the other. There's been pictures you've seen passed around probably by Internet, and I'll probably get them out at some time here, that shows all the water that has been caught up by conservation. There's enough water been estimated held up in terraces and dams in Kansas to have filled Harlan County alone, not counting what's held up in conservation in the state of Nebraska, too. So that compounds this problem drastically. We're fighting against good stewardship, because there isn't any of us that would want to change the conservation. It is a tool that allows us to grow better crops, maintain water for our livestock, recharge underground aquifers. It gives us the ability to stand up and better the quality of life, purifies the water. You know, there's just so many benefits

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in that conservation. So that leads me on to why this bill was brought forth. If you look at ground water and surface water right now, they're almost competing forces, and the reason I say that is the fact, right now, trying to get in compliance we've been lowering allocations. We've already put meters on the district. We've already put allocations on, developed the integrated management plans, IMPs, and we've reduced our believed need five years ago and these developments by over 5 percent, believing that would bring us into a normal year, into compliance, and has not. So we have compounded our problem, like I said, 136,000 feet over. So what the basin needs now is some tools that allows it to come into compliance, and I know many of you may have the question on your mind why I didn't support this bill out of committee. It is my priority bill; it has been brought forth as an idea that I've worked with the NRDs and other senators and Natural Resources Committee to put together. The reason I didn't vote for the bill was, I was working on getting some amendments to the bill, just...I was looking for some things that I thought would better the bill. As each one of us has in committee before, and each one of us has when we've been working here on the floor, we quite often offer amendments. I was hoping to stay in the committee a little longer and work, but that didn't go that way, and that's fine. No problems, just means we have to work a little harder here. And I have an amendment that's been offered here, to put some accountability in here, to put a sunset onto the bonds that will be placed, that gives me more comfort in giving my support to this bill. I want no misunderstanding here. This is a bill that is very needed for my district. Without it, we're most likely to see a judge and to be shut off, and the economic disaster to my whole district, I don't even think is fathomable. You think about if all irrigation got shut off,...and I realize, if you're in the eastern part of the state, you may not realize how important water is, but we get a lot less rainfall out west--13 to 18 inches is an average year's rainfall. So if you start looking at that, compared to 30 inches down here in the east end of the state, you can see why that becomes a major concern. So we would be looking at putting our schools in problems, because if we end up with a judge shutting us off, we will have drylands, which means lower property values, which means less dollars for our counties to work with, less dollars for our schools to work with. It will force people out of our area, because a drylander can farm two to three times as many acres as an irrigator, because of the workload of it. So we would shove a lot of people out of my area. We're already short of people in western Nebraska. We've got ethanol plants being built out there right now to take care of economic development, increasing commodity prices, bringing jobs that are very much needed out there. There's still three plants being looked at in Chase County. One already says they have the funds, they now have got the water; all three have applied for water permits. But if we don't have irrigated land to support it, that again is going to put my district in a very difficult spot. So I'm telling you right now, my support is behind this bill, and when my amendment gets up here, I'm going to ask you to support that amendment, too, because I think it improves the bill. And I'll explain that when it gets up, but I just want to continue... [LB701]

SENATOR SCHIMEK: One minute. [LB701]

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SENATOR CHRISTENSEN: ...mentioning to you here how important this is, that we bring a solution to the Republican River district. You know, it encompasses four different NRDs, and you know, the NRDs were set up because there is such a vast difference in tributaries across the state, and that's no exception to the Republican. You know, I can look at a gross irrigation chart and show you how full irrigation can be 10 inches on the east end and take 18 inches on the west end. You know, we're that diverse out there. It is very important that we keep irrigation, and this is a tool that keeps the local control at the NRDs, so that they can set forth a plan. [LB701]

SENATOR SCHIMEK: Time. [LB701]

SENATOR CHRISTENSEN: Thank you. [LB701]

SENATOR SCHIMEK: Thank you, Senator Christensen. As the Clerk stated, there are amendments from the Natural Resources Committee. Senator Louden, as Chair of the committee, you are recognized to open on the amendments. [LB701]

SENATOR LOUDEN: Thank you, Madam Chairperson and members of the committee (sic). The committee amendment becomes the bill and incorporates provisions of four legislative bills that have had a public hearing, as well as AM938, which had a public hearing as AM872 to LB701. I want to thank Senator Mark Christensen for allowing the committee to use LB701, his priority bill, to be the vehicle for this comprehensive water package. I also want to take this opportunity to thank all the senators and their respective staffs who have assisted in bringing the parties together, as well as the Governor's Office, the Department of Natural Resources, and the Attorney General's Office. This has been a long and carefully thought out process. The first part of the bill is Senator Tom Carlson's LB458, which creates a Vegetation Management Task Force and asks for \$2 million a year of funding annually for two years. During the hearing last week Senator Don Preister recommended several changes to Senator Carlson's portion of this amendment. The committee incorporated two of those recommendations. First, the committee added a representative of the Department of Environmental Quality, and second, the committee required that a priority be given for grant applications whose proposed programs are consistent with the recommendations of the task force. Senator Carlson will explain his portion of the amendment as it pertains to LB458 and answer any of your questions. LB458 is Senator Carlson's priority bill. The second part of the bill contains the provisions of AM872, which was heard last Wednesday by the committee. This portion of the bill gives bonding authority to natural resource districts. This authority is restricted to those districts that are subject to an interstate compact consisting of three or more states, which at this time is the Republican River Basin only. And they have within their boundaries an irrigation district which excludes the Tri-Basin Natural Resource District, since it has within its boundaries a public power and irrigation district. In order to pay for the bonding proposals, the natural resource district could impose an

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additional ten-cent levy on all property located within the district and/or to impose an occupation tax of \$10 per acre on the activity of irrigation on agricultural lands. The occupation tax would be based on irrigated acres certified by the natural resources district. The owner of the land would be able to go to the district and request that his or her land be removed from being certified irrigated acres, if the owner no longer wished to irrigate his or her agricultural lands. This measure would remove those acres from the possibility of ever being irrigated in districts where there is a moratorium on the addition of wells or irrigated acres. It also allows the use of an interlocal agreement for joint bonding by the affected districts, for the purposes of river flow augmentation. This bonding authority is limited to four activities. First, for the acquisition and ownership of ground water/surface water rights, including storage rights. This could be a permanent buyout or a lease for a specific number of years, or other mutually agreed-upon terms. Second, for the acquisition by purchases or lease, or the administration and management by mutual agreement of canals and other works constructed for irrigation from the river. Third, for vegetation management, and fourth, for the augmentation of river flows. A natural resources district would be allowed to acquire by purchase or lease or mutual agreement project works undertaken by the United States or any of its agencies, such as the Bureau of Reclamation, or by the state or any of its agencies, including a reclamation district or an irrigation district. It also includes a portion to allow the three-cent levy and budget authority for overappropriated and fully appropriated basins to use for integrated management plans to continue to 2012. This was scheduled to be reduced to two cents in the coming fiscal year. The third part of the bill contains the provisions of LB295 and LB314. LB314 was amended into LB295 on General File, and LB295 was advanced to Select File. I will not spend much time discussing this portion of the bill, other than to say it was a cleanup bill for the Department of Natural Resources. LB314, if you remember, closed a loophole in the water law regarding wells. In a limited number of cases, a sand pit was dug, an irrigation pump placed in the pit, and the pit was used for irrigation purposes. They could be used in areas where a moratorium was in place on the construction of new water wells. This new language now classifies those as wells for purposes of this statute, and imposing the same condition on them as all other wells. Under this amendment, AM938, any natural resources district could impose a 180-day temporary stay on the construction of any new wells or the addition of any irrigated acres without holding a public hearing prior to the imposition. It would also allow the Department of Natural Resources to impose the same type of stay on surface water appropriations. However, both the district and the department would be required to hold a public hearing during the 180-day stay and would be required to issue a determination of making the stay permanent or imposing conditions for any new construction or addition of irrigated acres within 45 days from the date of the hearing. Beginning on January 1, 2008, under the amendment, the department is required to consult with natural resources districts on forecasting annually the maximum amount of stream flow that may be available for beneficial use in the short and long term, in order to comply with an interstate compact decree or agreement. The fourth part of the bill incorporates the Governor's provision of LB33, advanced by the

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Appropriations Committee. This would transfer \$2.7 million each year to the Water Resources Cash Fund. It creates a half-cent checkoff on corn and grain sorghum to be placed in the fund beginning January 1, 2013, and provides authority for the Department of Natural Resources to negotiate with irrigation districts and others for augmentation of stream flow to facilitate compliance with interstate compacts or decree requirements. The last part of the amendment contains a severability clause, the repealer clause, and the emergency clause. Speaker Flood will address issues dealing with the bonding authority, as well as the levy limits and occupation tax portion of this amendment. Senator Heidemann will address issues dealing with the appropriations sections. Senator Carlson will address the issues dealing with vegetation management. I will be dealing with the issues presented earlier in LB295 and LB314, as well as the sections dealing with the new temporary stays and forecasting authority. While there's no formal fiscal note on this amendment, the Fiscal Office prepared, and I have filed, the A bill on LB701. The A bill appropriates \$3 million to the Department of Natural Resources, to be used in negotiation with irrigation districts and others for the purpose of augmentation of stream flow in the Republican River Basin. It also appropriates \$3 million from the Water Resources Cash Fund for the same purpose. There is also an appropriation of \$2,083,086 from the General Fund for the purposes of carrying out the provisions of Senator Carlson's vegetation management program. Thank you for your patience and attentiveness. [LB33 LB295 LB314 LB458 LB701]

SENATOR SCHIMEK: Thank you, Senator Louden. (Visitors introduced.) Speaker Flood, I would like to recognize you at this point. [LB701]

SPEAKER FLOOD: Thank you, Senator Schimek. I would ask that AM938 be divided. [LB701]

SENATOR SCHIMEK: Thank you. Mr. Clerk, do we...I believe that request is doable, and I believe there will be four parts to that. People have been working on that, and I would recognize the Clerk to tell us what those four parts are. [LB701]

CLERK: Madam President, pursuant to Senator Flood's request, the committee amendment has been divided into four components. The first component will consist of Sections 5 through 13, and will be known as AM962--the first component will be AM962. The second component, consisting of Sections 23 through 30, will be known as AM963--second component, AM963. The third division--third component--will consist of Sections 14, 16, 17, 18, 19, and 22, and that will be known as AM964, AM964. And the fourth and final component will be Sections 1 through 4 of the original committee amendment, referred to as AM965, AM965. And your Chamber Viewer should reflect those markups, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Mr. Clerk. Speaker Flood, you will be handling the first amendment, which is AM962. The Chair recognizes you to speak. (Legislative

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Journal pages 1109-1118.) [LB701]

SPEAKER FLOOD: Thank you, Madam President, members of the Legislature. This amendment in its entirety is AM938. I am opening on the specific component, AM962. Difficult problems and complicated problems require difficult and complicated solutions. There is no question that the water issue is one of the top issues that we will discuss this legislative session, and this amendment to LB701, as a package, comes to the Legislature to address the specific needs of those who are responsible for managing our state's water resources. Now that the amendment has been divided I'm going to again summarize for you how we're going to deal with it in the Legislature. Four parts exist. I will discuss Sections 5 through 13. These are the sections that create a local funding mechanism to fund the water resources approach that we're taking in the Republican River Basin and throughout the state. The second division will be addressed by Chairman of the Appropriations Committee, Senator Heidemann, Sections 23 through 30. These sections address the state's funding component to this package. The third division will be handled by Senator Loudon, Chairman of the Natural Resources Committee. He will be discussing Sections 14 through 22, and these sections address additional regulatory authority and additional duties for the Department of Natural Resources and natural resource districts. The final component will be handled by Senator Tom Carlson of Holdrege. You will recall that he introduced a bill earlier this year funding a project that would remove vegetation from the river basin. AM965 addresses vegetation management. To understand all of these components, we must first understand where we have been in the Legislature. There are three ways to manage water--we can regulate use, we can retire uses, and we can reinforce supply. Regulating use is the limiting of the amount of water a producer can use or limiting the number of acres that can be irrigated. Retiring uses, either in the short term or the long term, involves purchasing water rights, and reinforcement of supply includes augmenting the available supply from other sources or reducing the water used by invasive plant species. In 2004, this Legislature passed LB962. Please differentiate that from AM962, which I am speaking to right now. This legislation addressed the state's water issues by taking the first and most difficult step of setting up a regulatory process that would bring our water use into compliance with a sustainable water supply in each of the state's river basins. The Legislature also provided state funding and matching funds for federal dollars to retire up to 100,000 acres of irrigated land through the CREP and EQIP programs. In 2006, the Legislature adopted LB1226 which addressed the issues that the cities in the state of Nebraska and the municipalities had regarding LB962, and they were treated differently. The Legislature also provided state funding so that we could buy out water from the Bostwick Irrigation District in the Republican River Basin. During the debate on LB962 and LB1226, many senators called for a local funding mechanism or contribution to be part of the state's solution to the process. LB962 and LB1226 did not provide any specific authority to local regulators to raise the local contribution for irrigation retirement programs. Those two bills did not provide any specific authority to local regulators to reinforce supply through augmentation and

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vegetation management. The Legislature stopped short of doing those things. This bill, LB701, if amendments are adopted in the four parts, closes the loop on our water management system and gives local regulators the needed funding authority and flexibility to meet their obligations under LB962. Let's shift our focus to the component that I'm discussing. Under this portion of the amendment, those qualified districts and only those qualified districts will have the authority to issue bonds for qualified projects, payable by an occupation tax on irrigation activity and/or a property tax levy. What is a qualified natural resource district? Well, right now, the only district under the law that would qualify is the Republican River Basin. It's districts whose jurisdiction includes a river basin subject to an interstate compact among three or more states and that also includes one or more irrigation districts within the compact river basin. What kind of projects will this money pay for? Number one, acquisition and ownership of surface and/or ground water rights within the compact river basin; number two, acquisition by purchase or lease of canals and other works within the compact river basin, pursuant to a mutual agreement; number three, vegetation management, including the removal of invasive species; and number four, augmentation of stream flow. Currently, the only...in this open class, the only NRDs that would be affected would be the Upper, Middle and the Lower Republican NRDs. The potential for future class members exists, should the Legislature choose to negotiate interstate water compacts among three states with our neighboring states. Three things I need to touch on: An irrigation tax--an occupation tax on the activity of irrigation can be levied up to \$10 in this amendment, per irrigated acre. Irrigated acres will be those classified as irrigated by the county assessor. Landowners will have the opportunity to opt out by certifying the nonirrigation status of such acres. Number two, property tax. A property tax levy used to repay bonds is limited to the qualified NRD and may be up to ten cents per \$100 of taxable valuation. Number three, the extension of the three-cent levy for all NRDs in the state. Implementing LB962, Section 10, of this amendment extends the three-cent levy and budget authority for those NRDs until fiscal year 2011-2012. Let's talk for a second about what happens if we don't do...don't pass this bill as amended by the Natural Resources Committee. DNR Director Ann Bleed, former director Roger Patterson, they've acknowledged in public before: Our compact obligations in the Republican River Basin cannot be done in the short term only by regulation, and that doing it all by regulation in the long term threatens the viability of the economy of a significant portion of the state. We recognized that fact when we adopted funding last session for the DNR to purchase water from the Bostwick Irrigation District. The qualified NRDs don't have the ability to raise funds to purchase water right now. They bring this proposed funding mechanism to us with serious contemplation of the economic ramifications of using this authority versus the alternative of not having such authority. It's a pay now or pay later process, and if we choose not to act today, we send southwest Nebraska to court, a court says you write a check to the state of Kansas for multimillion dollars--this is all potential--and irrigators have no rights...could have serious limitations on their allocations, so much so they could be completely shut off. To meet their statutory obligations, the qualified NRDs must have the flexibility to balance the severe regulations already in place--water

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restrictions, metering--and the additional authority contemplated with the ability to purchase surface water from basin irrigation districts. In the Republican River Basin, those statutory obligations include the ground water component of compact compliance and the sustainability of water use and supply within the economic and social fabric of the basin. Let there be no mistake: This bill is not a substitute for regulation. The current rules and regulations on ground water pumping will continue, and let's also be clear in this: Ground water irrigators will likely face even more cutbacks on how much water they can use. I want to repeat that, so that we reinforce that. Even with the passage of this bill, ground water irrigators will face additional cutbacks on the water they can use, so that surface water flows originating from ground water do not continue to decline. Entering into surface water leases does not lift the restrictions in place, but it does help to mitigate... [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SPEAKER FLOOD: ...the seriousness of future regulations. In conclusion, Madam President, I want to offer the following: I want to repeat again, the cost of inaction is too great. This amendment represents a thoughtful, comprehensive approach. If you're opposed to the provisions of AM962, AM963, AM964, or AM965, what's your solution? The table is open, and we're ready to take into consideration your ideas, but you've got to come to the dance with a partner. You've got to come to the dance with a plan. If you simply vote down these components, you haven't done anything to forward the state's policy on water. You've simply put off the state writing a very large check from General Funds in the future. In my first year, I was here when we wrote a \$150-some million check to the...as a result of the low-level radioactive waste site. That's no way to work in the Legislature, with those kinds of obligations looming. Do nothing--Kansas sues us. Do nothing--the court makes decisions. [LB701]

SENATOR SCHIMEK: Time. [LB701]

SPEAKER FLOOD: Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senator Flood. You've heard the opening on the first part of the committee amendment, which is AM962. Mr. Clerk, are there amendments to the committee amendment? [LB701]

CLERK: There are, Madam President. Senator Christensen would offer FA64. Senator, I have a note you'd like to withdraw FA64 and substitute AM957. [LB701]

SENATOR CHRISTENSEN: That's correct. [LB701]

SENATOR SCHIMEK: Seeing no objections, it is so ordered. [LB701]

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CLERK: Senator Christensen, AM957. (Legislative Journal page 1119.) [LB701]

SENATOR SCHIMEK: Senator Christensen, you are recognized to open on your amendment to the committee amendment. [LB701]

SENATOR CHRISTENSEN: Thank you, Madam President, fellow senators. AM957 is...inserts the following in Section 7: The authority to issue bonds for qualified projects granted in Section 6 of this act terminates on January 1, 2023, except that any bond already issued and in existence for qualified projects shall continue to be authorized for the life of the bond and any subsequent refunding of a bond or bonds issued solely for the purpose of the original qualified project. And the purpose of this is, you know, none of us want to have endless amount of taxes placed upon us. The idea of this bill or intent was to go after long-term solution for the basin that could eventually have a sunset to the need of this tax. Using an occupation tax is a new tax, and I'll admit, it's very scary to me to have a new tax placed on the books, because you know how often it is they're extended or reissued and put on. But I offer to you, look at the benefits to the state of Nebraska, the benefits to southwest Nebraska, that placing LB701 into law will do for you. It allows the local control to make the decisions to bring the district into compliance. Within this bill it talks about four ways to come into compliance; that is, surface water purchases, that's vegetation removal, that is quick response buyouts, and...maybe it was three. I've got to think here a minute. But anyway, what we're doing here with this amendment is just putting a cap onto how long that this bonding authority can go on. The reason it is so long...I realize that's a long time to be looking at 2023--15 years. But the purpose is, when you look and you deal with the Bureau of Reclamation and you look at other projects that have been altered, it has taken up to ten years to get the process done with the federal government, okay? So let's say they decide to go to a long-term purchase of surface water rights. Then they would have to also negotiate with the local people to get this accomplished, because this is going onto a willing buyer, willing seller situation. Yes, not all of them may be willing, but it's going to take, according to the by-laws of an irrigation district, whether that would be 50.1 percent or they may change the rules to take two-thirds or three-quarters. That's up to them. That's the local control on that district, if they decide to go that direction. There's other directions that they can choose to go, but the reason the sunset is set so far out, which this amendment is, is because it could take up to two or three years to negotiate with the local farmers on this long-term buyout. They're all agreed that we got to do an immediate surface water buyout, that you've heard about out of Medicine Creek Dam, that is coming out of Riverside, that is coming out of Bostwick, things this way. That is covered in this bill, too, the funding from the state, as well as funding from the NRDs, to get Nebraska into compliance for 2007. But the biggest part, and the reason I'm addressing the long-term right now, because this amendment puts a sunset to that, is it could take a long time to get this approved by the Bureau of Reclamation or Congress to approve any agreement that would come from the district. You know, we have been able to talk to the farmers. In Frenchman-Cambridge District I happened to participate in

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that meeting. I have land in that district, where we went in and we visited with individuals about doing a single-year buyout, and with the possibility of looking long term, whether it's long-term leases, that we lease it for X-many years for a certain price, or we do a permanent buyout. I've been in favor of a permanent buyout, but these are going to be the local decisions. This bill is just giving the NRDs and irrigation districts the ability to share with one other, to discuss, to be able to come out and work for this long-term solution. If they choose to go a different direction--say they choose to do vegetation management--that's still going to be a long-term solution that they're going to have to work on, under this bill. They may choose to do the augmentation. That may be inner basin transfers. That may interbasin transfers. But it's going to take time to find the right locations, to get it built, set up, and done. This is not a short-term, quick fix. A one-year buyout is a short-term, quick fix. But this bill is coming in to address not only short term, but long term. This sunset is to give the people of my district comfort, that they know this isn't going to be a forever tax, a forever running new tax that they can't get out from under. It is going to be difficult on the district. Any time that you're looking at pulling \$10 to \$15 million out of a basin, it is difficult. But you've got to look at the advantage of it. This money pretty much is all going to be replaced into the district. It's going back to the...like this first-year buyout is going back to the tenants. If it's crop share, the owner will get his share, the tenant will get his share. It goes back right to the basin where it come from. That's a very positive benefit, and that's what we got to remember here. This is a local solution, working on a state problem. The state signed the compact, the state settled the agreement, but you're seeing the Republican River Basin take a huge step, taking on a lot of responsibility to meet the obligations of this 1943 compact. They deserve a big salute. They deserve a lot of state funds. Yes, there's \$7 million, \$8 million here being proposed to work on this, but if you look at some of these long-term things that could cost \$200 million, the state is spending a drop in the bucket. You can't ask for anything more from a basin to step up and take the challenges on, head on, to bring a solution to us. So I'd just have you think about the step that the NRDs, the local people, the irrigation districts are looking at. You know, I'm looking at possibility of having to give up an irrigation right on some of my land. I don't like that, but I also know that might be part of the solution. [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR CHRISTENSEN: Sometimes we don't always get what we want. But this amendment again, I'll remind you, is just that sunset, that once we get this long-term plan in place, that we have the comfort that these bonds will end, the bonding authority will end, that we'll have the plan in place, it will be going forward, so that the state of Nebraska, the Republican River shed, that whole basin, has the ability to be in compliance, have local control, and have it running to the benefit of all Nebraskans. So I think you need to step up and commend the district for their boldness, because this is an extremely bold move. And so I ask for your support on this amendment, because I believe a sunset is very important in here, for the peace of mind of my district, of the

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people. I believe they deserve to know that there will be an end to this tax... [LB701]

SENATOR SCHIMEK: Time. [LB701]

SENATOR CHRISTENSEN: ...when the long solution is in. Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senator Christensen. Before we move on to debate on AM957, the Chair would like to announce that cookies were distributed today to celebrate the birthday of Senator Erdman, who turned 30 on Saturday, April 7. Happy birthday, Senator Erdman, and thank you. (Applause) Moving now to debate on the amendment, the first light on is Senator Carlson, followed by Senators Kopplin, Flood, White, Christensen, and others. Senator Carlson. [LB701]

SENATOR CARLSON: Madam President and members of the Legislature, I stand in support of AM957, introduced by Senator Christensen, and believe that that's a good step. I'm going to use the remainder of my time to discuss some other issues concerning LB701. This is a bill attempting to deal with the difficult challenges concerning water in the Republican Basin and our compact with Kansas. It involves a combination of state of Nebraska commitment, as well as Republican Basin commitment. The overall purpose of LB701 is to allow the creation of a structure that will give authority to the three basin NRDs, the natural resource districts, to take the steps necessary to be compliant with Kansas on the Republican River Compact. It is also the goal of LB701 to move the basin into a sustainable position, so we are in compliance year by year for future generations of basin residents. We believe it's necessary for the NRDs to have authority in two areas: first of all, bonding authority for the buying of surface and ground water rights; and secondly, the taxing authority to repay the bonds. I appreciate the recommendations of Governor Heineman, the work of the DNR and the NRDs, and the consideration of the Appropriations Committee in the recommended funding of LB701. I would disagree with Senator Christensen. This commitment is not a drop in the bucket. This is substantial, and we appreciate everything that is being attempted to address the water problems. Under the proposal of LB701, the state of Nebraska will contribute \$7.7 million in 2007, while the basin provides about \$9 million. The basin portion would be 54 percent of the total, and the state of Nebraska would be 46 percent. That's a significant amount. In 2008, the state of Nebraska would contribute \$4.7 million, while the basin contributes about \$12 million. The basin portion of 2008 would be 72 percent, and the state portion would be 28 percent, unless additional dollars are appropriated. In 2009 and beyond, it depends on legislative action for the state of Nebraska commitment for future budget years. Please listen carefully to this next point. Under the authority of LB701, the taxpayers of the Republican Basin, who represent less than 2 percent of the total number of taxpayers in Nebraska, would pay 72 percent of the requirement on an ongoing basis. I mention this to prove a point, that the people of the Republican Basin seem willing to step up to the

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plate and go beyond expectations to help solve this difficult problem. This is a sobering decision for the NRDs to deal with. I ask you to keep this point in mind as the various parts of LB701 are presented and debated. Another critical point to the water issue must be considered. No farmer or group of farmers is to blame... [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR CARLSON: ...for the water crisis. We are all citizens of Nebraska, and we are to follow Nebraska laws as enacted by the Legislature, or we are to follow rules and regulations as set down by state agencies. Farmers have followed the law in expanding irrigated acres or drilling new wells. Each of the decisions to expand farm businesses was within the law and done for economic reasons. The farmers follow the laws--they don't make the laws. It's an insensitive, incorrect attitude to say, they made their mess, now let them solve their own problems. We made the laws, we authorized the divisions of government that oversee the farm programs, and we need to be a major part of this solution. I have more that I would like to say to this, and I'll wait for my next turn. Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senator Carlson. (Visitors introduced.) Senator Kopplin, you are recognized to speak. [LB701]

SENATOR KOPPLIN: Thank you, Madam President, colleagues. I'm going to stay neutral on AM957 for a little bit, until more discussion goes on, but I would like to comment on this bill as a whole. For a long time we've been putting Band-Aids on the water problems in this state. This is a little stronger than that. Maybe we call it an elastic bandage that we're placing all over the other Band-Aids we've placed on water before. We will pass this bill, very quickly it appears, because we must. We must respect our compact requirements and we must never let various parts of our great state meet their trials alone. This bill is about money, lots of money, millions of dollars. It is about convincing ground water users that they are indeed a major part of our problems. It is about convincing dryland farmers that they have some obligation to purchase water from the irrigators who took more than their share. It is about convincing rural communities to tax themselves so that water will flow and they can protect their own economies. It is about convincing people statewide that they have an obligation to uphold legal commitments and avoid future lawsuits. What this bill is not about is being a finely tuned piece of legislation to govern our actions in meeting water problems statewide. It is not about lessening our overuse of ground water. It is not about healing our dying rivers. It is not about protecting our valuable water resource for future Nebraskans. It's not even about accountability, because it has no requirements for the NRDs to do anything. But we must pass this bill in a very short time. We have nothing better on the table. Someone asked me what it would take to get to support this bill, since I voted no in committee. Well, depending on the amendments, I plan to vote for the bill. But what I want to do is slow down the pace at which we are digging wells. I

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want to stop killing our rivers and streams, our lakes, our wetlands. I want to give our aquifers time to recharge, and I want Nebraska to limit the amount of water we use to an amount that will let us sustain those aquifers, and that we don't end up in other legal predicaments for misusing this valuable resource. Is that so much to ask? I don't think so. But it takes time to get this done, time we don't have with this bill. There are those who wish you to believe there's no water problem at all. They contend that it is Kansas who is holding back the water that should be flowing into Harlan County Dam. Nebraskans first would contend that on a scale of one to ten, the effect of ground water pumping on the Republican River flow is about a one. The culprits, they contend, are the conservation practices used over the years, terracing farm ponds,... [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR KOPPLIN: ...conservation tilling, and others. Perhaps they truly believe that ground water was never intended to be a part of our obligations under the compact. Perhaps it was not. But ground water use can certainly be shown to affect the surface water in our rivers and streams, not only in the Republican Basin but in basins throughout the state. We must deal with that fact, and this bill, as hurried and as shallow as it may be, is a start. Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senator Kopplin. Senator Flood, you are next to speak. [LB701]

SPEAKER FLOOD: Thank you, Madam President, members. And Senator Kopplin, thank you for your thoughtful comments. You know, the Natural Resources Committee, in my opinion, has done a nice job of listening to a lot of public comments, and I know that Senators Carlson and Christensen are fully invested in their district, listening to irrigators and citizens about the impact of LB701, as amended, in their area. Senator Kopplin mentioned a couple of times he didn't feel this went far enough to address some of the concerns that he has regarding a firm boundary on what we're expecting the folks in the basin that we're talking about. And I think AM964, which will be discussed by Senator Loudon, parts of which have already been adopted on General File and remain on Select, does make several references to additional authority that the...and expectations of the NRDs. They now would have temporary...the ability to temporarily stay new irrigation development in a district, so that we don't have this problem where the talk about the town is that the NRD is going to do this, or they're going to do that, and they give a date certain that they're going to go ahead and put a moratorium on--this applies to every NRD in the state--and then everybody rushes to get their well drilled inside 90 days. This bill does attempt to close that loophole. It attempts to close loopholes with regard to gravel and sand pits. I think you're going to find that this is a thoughtful, comprehensive approach to augmenting what we did with LB1226, and more importantly, LB962 in 2004. And I want to commend the fact that representatives from the Republican River Basin have been at the table working with the committee, working

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with its chairman, working with the different offices that have been involved and engaged in this process, and most importantly, our director of Natural Resources, Ann Bleed. I just can't stress enough, from my standpoint, how important it is that we move forward with this bill in a timely fashion, so that we send the message to not only our neighbors to the south in the state of Kansas, but to folks in the basin that there's going to be some certainty in your world. If we don't proceed with the plan in LB701, and absent a different solution that we can rally behind, bankers, irrigators, citizens--basinwide, districtwide in the 38th Legislative District and in the 44th Legislative District--will continue to wake up each day not knowing if a judge is going to come in and make a decision that destroys the economic vitality of southwest Nebraska. Imagine what would happen if ground water irrigation was no longer an option at all. Imagine what that would do to land values and to the economy. It would take an area of the state that's been in drought for eight or nine years into a depression that we could not climb out of very easily under a court order. And I think it's important to note that already these irrigators face and live under restrictions--11 inches, 13 inches, whatever it may be--with metering; concepts that in my corner of the state are completely foreign, because we have not lived in the kind of drought that southwest Nebraska has endured. And on top of the fees imposed and the property taxes levied under this component, they still face additional reductions in allocation. But my hope is that by passing this bill, we mitigate that reduction in allocations so they can still raise a crop, so that local people can make decisions about what those allocations should be, while augmenting in-stream flows in the Republican River Basin and complying with the terms of the three-state compact. I'm invested in this problem, because it requires a solution this year, and if we don't develop... [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SPEAKER FLOOD: ...and work toward a solution, we leave a problem for next year and the year after and the year after, and eventually, someone is going to get tired and they're going to come in, and we're not going to like what happens. So I'm supportive of this component, supportive of all the components, and the bill, as amended. Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senator Flood. Continuing discussion on AM957, Senator White you are recognized to speak. [LB701]

SENATOR WHITE: Thank you, Madam President. This is an issue that does address a concern of the entire state, though for my constituents, the primary concern is going to be the cost that they must bear to solve a problem that does not really, in their minds at least, impact them on a daily basis. That's something I'm going to watch with real concern as the bill progresses. Another concern that I have is, to my knowledge, not been addressed, and that is historically how the state, under its constitution, has treated water. Water in the state of Nebraska can never be owned by an individual, certainly not

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ground water. Water in the state of Nebraska belongs to the entire state, and the constitution then sets a priority of use--first for families, then for agriculture, and then finally for industry. The concern that we have going forward is not just how we will get Kansas the water that we have legally promised to get them, or to pay them the money. Senator Kopplin made a very good point. We're not looking at it necessarily, nor do we have time to look at it, in a global perspective. But as we do, I ask all of you to remember that the constitution says no one can own water. Water is a common resource. So as we move into this idea of who shall pay, who can be compensated, whether we can buy rights, at least under the state constitution with regard to ground waters and existing opinions, there is no question that we have a serious constitutional issue as to whether we can pay someone for water under the ground, because we are paying them for something they do not own. Having said that, please know that I am deeply concerned with how the state has treated the residents of the Republican Valley, and indeed, how we've treated many who have relied on our lack of action to develop and invest in irrigation. I look at this issue at this point in terms of how we handle it, and as a matter of compensation, of the state stepping up to protect citizens of a particular river basin, whom we bargained away their rights. We entered into this compact, not as the people of the Republican Valley, but as the people of the state of Nebraska. Therefore, I agree, it is a statewide problem. It is a responsibility of my constituents, as well as those in rural areas. I do, however, ask, and I have to applaud, that we continue to balance those interests. I am very impressed with the additional burden that the irrigators in the Republican River Valley are willing to take on in this. That is a substantial concession. It shows that they understand that perhaps primarily they are being benefited by the use of a public resource, this water, and should carry the greater burden. On the other hand, I am also accepting of the fact that water in the rivers benefits my constituents, as well. Intact ecosystems, rivers that are alive and viable, and the economic benefits from the irrigation systems certainly have helped my constituents. Many of the people who manufacture Valmont irrigation systems live in my district, and that is how they've made their livelihood. Not as directly, perhaps, as the farmer irrigating, but directly nonetheless. I want to thank my colleagues for their hard work on this bill. I hope to understand it better. I hope that the interests of the urban areas are kept in mind in the sacrifices we will be called on to make, and properly should make, in order to find a statewide solution. Thank you. [LB701]

SENATOR SCHIMEK: Thank you, Senator White. The next speaker will be Senator Christensen, followed by Senators Erdman, Langemeier, Mines, Loudon, and others. [LB701]

SENATOR CHRISTENSEN: (Microphone malfunction)...Madam President. Again, I just want to continue to emphasize the point that I believe this amendment is very necessary to give accountability to the people, to give peace for the constituents. I get a number of phone calls, and my phone has been ringing since before seven this morning down here, and people concerned about this bill and concerned about not having sunsets.

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And I told them that this sunset was coming, and that...how important this was for peace of mind for people. And you know, I appreciate Senator Carlson correcting me earlier here, when I said the state is only doing a drop in the bucket compared to the basin. Well, I'll clarify that a little bit. You know, I appreciate everything the Governor and the state is doing. I...my analogy probably was poor, but don't take me wrong. I appreciate everything that is in here from the state and the help that they are doing. I hope they continue to support the basin and this concept, to support them in giving more money to solving this solution, because this will not be paid off in one or two years or so. We can get the long-term solution in place, but we can't get the bills paid off in that short a time. In fact, it could take two or three years just to happen to get the long-term solution in place. So again, I just wanted to correct that. I do appreciate everything that the state is doing here, and again, I want to ask for your support on this amendment that gives the sunset. I know water is a very difficult issue in this state. I know that we all know the importance of it, and if you're involved irrigated agriculture, you know very much how important this is. But think about the other ramifications, how important it is to our cities, municipalities, too, to our industries, you know. And you know, I like to show this bond here and sunset just to like a school bond. You know, we go out, we build buildings to expand our schools, to better our school districts, and they have an ending time period on them, and the same thing is here. We want to make sure that there's an ending time period. I know this bill without the amendment would sunset as the bills were paid, or as the bond was paid off. But this was an agreement between the NRDs and myself that would make sure that people had the peace of mind that it wasn't going to be one project after another, that they were definitely looking for that long-term solution that we all want, to better meet the water challenges of the state of Nebraska. And so again, I'm going to urge you to support this amendment. I'm going to continue to urge your support on this bill because we need to put the control of the basin in the hands of the people of the basin, and you know, if you want to give us more support from the state dollarwise, I welcome that, too. But at the same time, I appreciate what the state is doing. I appreciate the support of my urban friends here, as well as my rural friends that are allowing us to bring forth this bill,... [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR CHRISTENSEN: ...to discuss this bill so we can bring forth that solution. You know, and if you've got questions, I encourage you to come up and ask me, and I encourage you to utilize the NRDs. We got, I think, all three managers out here in the back, as well as the NARD representatives that can answer questions on that direction. I'd be glad to answer, Senator Carlson would, and a number of them. You know, we questioned them on it at hearings, of making sure that we're doing a long-term solution so we could have this sunset and things in here. So again, I'm going to ask you to support this amendment, and go on to support this bill, too, as we continue this debate here. Thank you, Madam President. [LB701]

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SENATOR SCHIMEK: Thank you, Senator Christensen. Senator Erdman, your light is next. [LB701]

SENATOR ERDMAN: Madam President and members of the Legislature, I want to commend the Natural Resources Committee for the work that they have undertaken here with LB701, and want to thank Senator Christensen for his insight in bringing this bill as a vehicle. Obviously, it's a little different than what he had introduced, but there is a lot of merit, I think, in his attempts to bring this issue before the Legislature this session, and I think he and Senator Carlson definitely should be commended. The division that's before us right now I think is an appropriate one for us to make sure that we understand. And ultimately, I think we have some options on the table, but I would tell you that if you don't have any other options, that doesn't mean you should rush to simply make up your mind that we have to do this and just move on. I think you should sincerely understand what we are doing. I can look around the floor of this Legislature and recognize there are a few faces who were here when we debate the last major water policy legislation. That's either a testament to the policy that we passed, and that we haven't revisited since then, or the recognition of the reality that there are a number of new members, and it's maybe a combination of both. The first division, as I would read it, compared to the original amendment, AM938, deals with Sections 5 through 13 and Section 31. The Speaker has effectively outlined that there are provisions in this division that deal with bonding. That's accurate. There are also provisions in this amendment that deal with the extension of the property tax rate of three cents for all NRD districts, in addition to those subjected to the interstate compact in the Republican Basin. Further, if you continue to read, you look in Section 10, it clarifies that authority is granted to a district with jurisdiction that includes a river subject to an interstate compact among three or more states. It would be my understanding--and I hope that this is accurate; I believe this is what Senator Loudon said--that this language specifically refers to a compact, and that is the Republican Basin compact, not a cooperative agreement. And it's important to point out the distinction, because currently in the state of Nebraska, we have entered into a cooperative agreement with Wyoming and Colorado. That is not, as I would read it legislation, and I hope that the record is clear that it is not my understanding of this language, and I think that's not the intent of the writers, that this is narrow in scope, and that it does not apply to those basins that are in agreement with neighboring states that is not a compact. And I want to make sure that that is clear, because there is some concern from some of the folks in my part of the state, that this may apply and reach to them. And I think it's clear that as we go through this language in LB701, that we understand the intended reach. If you read further on, Section 11 does extend beyond the Republican Basin. As I would read Section 11, it would grant the authority of a natural resource district to do a number of things that are in current law, and the key point that is being changed is in Subsection 3 of Section 11, that the NRD district can acquire by purchase, lease, or otherwise mutually arranged to administer and manage any project works undertaken by the United States or any of its agencies, or by the state or any of its agencies. The language that is being changed is

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that current law prohibits that situation from applying to a reclamation district or irrigation district. There is no qualifier in this language that it only applies to the Republican Basin. As we work through this language, as we understand what we're attempting to accomplish, again, I think it's imperative upon us as lawmakers to understand that even though LB701... [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR ERDMAN: ...is intended to address some specific concerns, it also is a general policy that applies to general concerns. And in regards to the striking of reclamation district, irrigation district, I'm in discussion with individuals and will continue to be, to make sure that there is an understanding of why this language is being stricken, and if there's an attempt necessary to clarify that, that we pursue that, because there are other areas of the state that are going to be affected by LB701, in addition to the folks in southwest and south central Nebraska. And again, it comes back to the reality of understanding the law and making sure that as we proceed, that we are cognizant of the decisions that we're making here on this floor, in addition to the specific areas of interest by Senator Christensen and Senator Carlson. And we will continue this discussion, I'm sure. Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senator Erdman. Senator Langemeier, you are recognized to speak. [LB701]

SENATOR LANGEMEIER: Thank you, Madam President, members of the body. And I rise in support of LB701. I've been asked on a number of occasions do I like this bill. What I don't like is the consequences on the other side. This bill, Senator Kopplin has stated it well, may be Band-Aids on Band-Aids in the past. I think this LB701, with the committee amendment--let me stress that, the committee amendment to LB701--is put together in a number of ways to offer a number of potential solutions, with the Republican River Basin bearing the majority of the cost. We've heard a lot of discussion over the years in my time here. And I came in after LB962; however, studied that pretty well before I got here. Senator Erdman had brought up a point off the floor a little while ago, is that not many of us were here when LB962 was passed, and that piece of legislation gave us the components to couple with the committee amendments to LB701. LB962 was a comprehensive plan that also incorporated some of the penalties, some of the ability for DNR to reduce the use of water in the Republican River Basin. I've been asked if this committee amendment has anything in it that has penalties and restriction capabilities in it, and it really doesn't. That was in LB962 that we passed in 2004. So what this bill--and I'll talk again, because I'm going to be brief in this regard--what this offers us is an ability to come up with local funding to solve a local issue. That's been the argument over my now three years here is, is this Republican River Basin and the compliance with this compact a state problem, or is it a local problem? Some at the east would want to say it's their problem, it's local to the

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Republican River Basin, and I would argue that they didn't negotiate the compact. However, their actions directly affect the Republican River compact and the flow of the streams in the area. However, this gives them, their local NRDs, the ability to levy a \$10 fee as well as a 10-cent levy, and my first question out of the gate was, will they levy it all? Do they need to levy it all? And it looks like they do need to levy it all. So there were some concerns out there that they won't...how can we make the NRDs levy it all and do what they need to do to make this work? The local people understand the consequences of inaction. Nobody likes to raise taxes--I'm probably the leader in that group--but this does allow us to give the NRDs who are willing to sign interlocal agreements between the Upper, the Lower, and the Middle, to work together to do comprehensive short- and long-term buyouts of irrigation throughout the Republican River; gives them a tool to create some local funds to do this over the next 15 years, and I think that's a crucial component to this. So do we like to raise taxes? No, we don't. Do we like the potential outcome of what's going to happen to us in the negotiations between Kansas and Nebraska? We'd like to think that we've met the compliance, and we would...personally, I'd like to have that be the solution, and we don't need any of this, but unfortunately, we need to be prepared if that's not the solution. And with that, I would thank the Chair. Thank you, Madam President, and we'll speak again in a little bit. [LB701]

SENATOR SCHIMEK: Thank you, Senator Langemeier. Senator Mines, you are recognized to speak. [LB701]

SENATOR MINES: Thank you, Madam President. Good morning, colleagues. Let me just first say that I don't understand. I don't understand water. And I understand that we're short of it in the Republican River Valley. I don't know how or why. And I trust my colleagues, both on the Natural Resources Committee and including Senator Christensen. I trust they know how to fix the problem and I trust that they will do it fairly. But I don't know that. Senator Erdman said we should ask questions. And as a literal look at this document, I need to ask some questions, and have been doing that off the floor, have been talking to Senator Louden and the Speaker, as well as members from the NRDs outside. Let me just start with, we're in Section 5. Actually, it's page 7 of the amendment, where it talks about bonds. And we all seem to think that we're all talking about bonds in the generic sense. These are not generic bonds and these are bonds that we need to understand before we actually approve something. If you look on line 5, it just says that they may issue negotiable bonds, refunding bonds, and entitled river-flow enhancement bonds. So we've got three different types of bonds. They're all payable and due to the pledge granted to the districts by the state and federal government. And we're going to go into that in a bit. Here's the difficulty I've got perhaps with this. If we're looking at negotiable bonds, understand that the industry is moving away from negotiable bonds. Negotiable bond is an instrument that can be sold or transferred to anyone else without the signature of the bond holder. In other words, it's like a check. You get a check and it's assigned to you. You can either cash it yourself or

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you can endorse it and give it to someone else. That would be a negotiable bond. In today's world, we're using registered bonds and those coupons can only be cashed by the bond holder. It's a technicality. But, and again, this whole thing is put together by bond counsel and ultimately they're going to decide if these bonds are worthy of being sold. But I think between now and Select, if the body decides to move this amendment forward, we need to look at the definition and how we ultimately respond, whether a negotiable bond or, I believe, a registered bond is probably more appropriate. The refundable bonds or refunded bonds are simply those bonds that are used to retire old bonds if the interest rate is better in a new environment. And that would make some sense to me as well. The question I think we should all ask is that we're creating a new class of bond, an entitled river-flow enhancement bond. I don't know what it is. I believe that repayment of those bonds is similar to the other two, the negotiable and refunded. I don't know that. And I'll be working on that between now and Select. And then ultimately with the entitled river-flow enhancement bonds, the pledge to repay that is by funds that are granted to the district, the NRD I assume, by the state or federal government. So they're going to use state and federal funds... [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR MINES: ...to retire the bond on one or more projects. So I think we need to understand the bonding process more clearly. I'm not sure that there's been discussion yet and there will be. And additionally--I'll push my light again, Madam President--we also have, the bonding authority that's allowed in this bill is on page 7, lines 12 and 13 and 14. It just simply says that a district may issue bonds for refunding bonds directly or such bonds may be issued by any joint entity. And then it refers back to Section 13-803 and 13-2503. Joint public agencies, by definition, can be any public agencies; school districts, can also be sanitary improvement districts, could be any form of... [LB701]

SENATOR SCHIMEK: Time. [LB701]

SENATOR MINES: Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senator Mines. Senator Louden, you are next to speak. [LB701]

SENATOR LOUDEN: Thank you, Madam Chairman and members of the Legislature. I would support Senator Christensen's amendment to put a sunset on bonding issues. I think this is something that was discussed early on in the process as we were trying to come up with the bills. And of course, it was, when we talked with the bonding company and stuff, they were considerably lukewarm to the idea. So that was dropped by the wayside. But I think it's probably an issue that should be in the bill. And since they seem to be comfortable with it now, why, we went ahead and it will be. I'll certainly support it. Some of the other issues that have been discussed this morning, I think, mentioned

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what effect this has on some of the other irrigation districts around the state of Nebraska. And right now, this is mostly focused on the Republican River compact and mostly where you have a three-state compact and it's the only three-state compact that we have. And I'm sure there won't be anyone in the future that will want to enter into another three-state compact. I think Senator Christensen outlined it quite well in his opening remarks and when he went on the history of when the compact started. It had to be done back in the early forties. And the reason for that was so that the federal government would go in and build some of those dams and reservoirs in there. And they had to have the three states on the Republican River agree to it because at that time that river did run through three states, starting in Colorado, Kansas, Nebraska, and back into Kansas again. So that was, I think, part of the focus has been to try and narrow it down so that at the present time this amendment and this LB701 and everything directs most of the bonding authority and the authority that we're giving the NRDs at the present time and the three NRDs in the Republican River project and agreement. So I think that's one of the concerns, that we tried to narrow it down so it didn't affect a lot of areas in the state. There are portions of the bill that does, of course, affect other NRDs, such as those that are overly appropriated will get an increase on their levy authority to that three cent where it would have went down to two. That part, of course, would affect statewide on those NRDs that are fully appropriated or overappropriated. Some of the other temporary bans, of course, will be statewide. But for the most part, this was strictly focused and drafted so that we could do some work, try to solve the problems that are going on with the Republican River area, NRDs, and what we can do to bring Nebraska in compliance with Kansas and on some of our surface water issues going down the Republican River. If something isn't done, then we will be facing a big bill somewhere along the line and it may make the low-level nuclear bill be something that we would rather pay than what this was. So we don't know where that would come out at. So this something that people in that district are certainly picking up the tabs. And I think Senator Carlson has mentioned that, that it is something that came forward, that the people in those NRD districts will be shouldering a heavy load on that part. And this is where, what they wanted to do. This is what their NRDs have been asking for so this is where we came so far with the amendment up to now. [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR LOUDEN: One of the things, different bonding companies, this is mostly done through a bonding company, wrote the bonds. Yeah, there could be a different, a new bond probably brought out and it would be a river enhancement flow bond. And that's something that was the discussion with the bonding company, that no one has ever sold bonds yet to an NRD to do river enhancement. So the question is, is what the price would be and how they would be accepted. And so therefore that was the reason we went with the levy and also the occupation taxes, so that they would be comfortable with the fact that they will get paid back their money on the bonding issue. So you about had to have a tax levy in order to sell a bond and the occupation tax was put in there so

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that they would be able to generate enough revenue to pay off their bond. Because this is new ground, I guess, we're breaking according to, what would the sod busters say in the early days, this is all new sod we're turning over. So... [LB701]

SENATOR SCHIMEK: Time. [LB701]

SENATOR LOUDEN: ...it's going to have to have new ideas. Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senator Louden. (Visitors introduced.) The Chair will recognize Senator Carlson, followed by Senators Wightman, Avery, Wallman, and Dubas. Senator Carlson. [LB701]

SENATOR CARLSON: Madam Chairman, members of the Legislature, I'd like to finish my statement that I was making earlier when I ran out of time. But first of all, I'd like to acknowledge a statement by Senator White indicating that he recognizes the state of Nebraska is responsible for a percentage of the obligation for the water solution. And that percentage could be anywhere from 1 percent to 100 percent, but it's obviously someplace in between and that's kind of the struggle, as to how we arrive at an agreement on that. But we must get to a sustainable position where the water used each year is equal to or less than the amount allowed under the compact with Kansas. We have to learn how to be productive with less water. We must be sustainable. We must allow farmers to have enough water to raise crops and pay the bills. And we must act in such a manner that we don't decimate local economies. As a part of this solution, I encourage UNL to aggressively pursue the development of corn with lower consumptive uses of water. I encourage UNL to take an aggressive stance and report on such practices as no-till and minimum-till farming. I had a report this week from a farmer in western Nebraska with no-till practices that raised 180 bushel corn on seven inches of water. And there's a lot that we can do in that area and we should do. Going back to complete my statement earlier, we as a Legislature made the laws, we authorized the divisions of government that oversee the farm programs, and we need to be a major part of the solution. Now because this is a serious taxing issue that's been requested, I've talked to and received calls from several interested parties about this bill. Most of them don't like the tax consequences to the point one or two have said, let's not do anything and just like the low-level waste problem, make the state pay for it. The risk of that option, in addition to being totally irresponsible, is so huge it's not an option. The risk of no action is a judge's decision to shut off all irrigation and force Nebraska to pay a huge fine to Kansas. As Senator Flood mentioned earlier, when money is paid to Kansas and leaves the state and does not go through any Nebraska residence, all value of that money is lost. That guarantees disaster. It's much better to pay Nebraskans and keep the bulk of the money in the state to circulate. But doing nothing is not an option. This bill must be good public policy and I look forward to the remainder of discussion on LB701. Thank you, Madam President. [LB701]

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SENATOR SCHIMEK: Thank you, Senator Carlson. Senator Wightman, you are recognized to speak. [LB701]

SENATOR WIGHTMAN: Thank you, Madam President, members of the Legislature. First of all, I would like to also congratulate the Natural Resources Committee in coming up with the bill. Whether it needs amendments or not is going to remain to be seen. Thank Senator Christensen for his part in bringing the entire Platte River situation to the attention of this Legislature, Senator Carlson for his part in the vegetation and control of vegetation part of the bill. That having been said, I can say that I want to support this bill in some form. I'm not certain that it doesn't need some changes. And to try to assist the body in making that determination, I guess I would have some questions of Senator Carlson first, and maybe then Senator Louden. [LB701]

SENATOR SCHIMEK: Senator Carlson, would you yield to a question? [LB701]

SENATOR CARLSON: Yes, I would. [LB701]

SENATOR WIGHTMAN: One of the concerns I have, and it's really not part of the bill, but the negotiations that are taking place by the natural resource districts, of course, will be authorized by the bill. And one of the concerns I have is the amount. And we have information that's been furnished us by e-mail and other sources as to what the amounts that may be paid for these temporary water easements are. Are you aware of some of those that are being discussed? And I think some of them were paid last year over on the Cambridge-Frenchman irrigation project. Are you familiar with some of those amounts? [LB701]

SENATOR CARLSON: Well, Senator Wightman, I'm familiar with some of the amounts that were paid. And I know that when we get into a situation, let's put it between you and me. I want to buy out your ability to irrigate. And depending on the price of corn, that determines what the value of your water is. And we negotiate back and forth until we come to an agreeable decision as to whether you're going to sell and I'm going to be able to buy. If we can't reach that decision, there's no sale. But it's a significant amount because water has value. [LB701]

SENATOR WIGHTMAN: Now I'll assume that that's all true and will concede that that's true, that it's going to be a difficult situation to buy it. Now as I understand it, one of the things that's being considered, even though high amounts are being paid in some of these instances in compared to what cash rent would be in the area. There's also discussion that perhaps the appropriator, say, on the Bostwick canal or irrigation ditch, sells his appropriation right for this amount. He may still be allowed to irrigate from well irrigation on the same land. Are you familiar that that may be the case? [LB701]

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SENATOR CARLSON: I'm familiar with that as being a possibility. That concerns me. That's a problem that the NRDs need to deal with. It's easier, I believe, for you and I to talk about that that is a situation and that it's a concern. It's easier to talk about it than it is to really address it and fix it in a short period of time. But yes, that's a concern. [LB701]

SENATOR WIGHTMAN: But that is part of the negotiations, as far as you know, that are taking place? It may well be that the ditch appropriator may still be entitled, even though he sells his ditch appropriation or water easement for one year. He may still be able to irrigate from wells located on the same real estate. [LB701]

SENATOR CARLSON: I think on a one-year basis, that maybe is a possibility. And I go back to if you and I are... [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR CARLSON: ...negotiating back and forth, we'd have to come to an agreement on that. But it could be a part of the mix, yes. [LB701]

SENATOR WIGHTMAN: I'd have one other question. Right now, is there any authority, as you understand it, on the part of NRDs to buy land itself as opposed to buying temporary and permanent water easements? [LB701]

SENATOR CARLSON: Senator Wightman, I really don't know those regulations well enough to give an accurate answer to that. [LB701]

SENATOR WIGHTMAN: Do you think this could be an important tool, the possibility of buying the land and then selling it back without the water right in some prescribed period? [LB701]

SENATOR CARLSON: That may be a possibility. And to be honest with you, I haven't thought in that direction enough to really give a good opinion. Sorry. [LB701]

SENATOR WIGHTMAN: Thank you. I would just say, in closing, that this is...or two of the things that I think had to be considered if we're looking at a permanent fix as opposed to a Band-Aid approach. Again, I want to support this bill and will look forward to the rest of the debate. Thank you. [LB701]

SENATOR SCHIMEK: Thank you, Senators Wightman and Carlson. The next speaker is Senator Avery. [LB701]

SENATOR AVERY: Thank you, Madam President. I have grappled with this issue, thought about it and read about it, as I'm sure all of you have. I've talked with my

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constituents about it, as I'm sure you have. When I conducted an issues poll in the district last year, my urban constituents ranked water policy among the top ten issues facing the state. But to be honest, they didn't seem to like using General Funds to deal with the problem. I think that there are some things we need to do to begin a proper analysis of this difficult problem. And we need to begin by asking some fundamental questions. First, how do we get in the mess we're in? And the way we answer that has a lot to do with the second question. And that is, who should pay the cost of the solution and is the solution being proposed a fair one? And finally, how do we make sure all the participants in this proposal are held accountable? With respect to the first question, how did we get into this mess, it is my understanding that there is enough blame to be spread around to cover most of the state. First, the state itself was reluctant to tackle the issue decades ago. This contributed to the problem that we now face. NRDs reacted too late with too little. Irrigators were concerned only with the immediate gains of largely unregulated access to the water. So I suggest that we're all in this, we're all in it together. And this brings me to the second question, who should bear the costs and is it fair? My answer to that is, all of us should pitch in to deal with the problem. This is a state problem. It is not a problem just for the Republican River Basin. The state's General Fund is being asked to contribute \$2.7 million annually for a period of time. But the lion's share of the cost, as I read this legislation, will be borne by the people most affected by the problem, people in the Republican River Basin itself. Is this fair? I think it is. It spreads the cost around. It does, in fact, address it as a statewide problem. And I think that's proper. Third question, how do we make sure participants are held accountable? How are we going to make sure that they implement these provisions? How, for example, do we make sure that the NRDs use the levy authority that we are proposing? I don't have all the answers to this set of questions. But I call upon this body to pay more attention to them. I look forward to hearing your ideas. I think that the outlines of the LB701 are good with the committee amendments. In fact, I am leaning towards supporting these amendments to the main bill. I intend to listen carefully to what you all have to say. Many of you, of course, know more about this complex issue than I do. After that, I will make a final judgment. Convince me. Show me where this is the right thing to do. I do believe it's a statewide problem. I think Senator White was right about that. I think it needs to be addressed on the statewide basis. And that's what I'm going to be looking at. Thank you. [LB701]

SENATOR SCHIMEK: Thank you, Senator Avery. Senator Wallman, you are recognized to speak. [LB701]

SENATOR WALLMAN: Thank you, Madam President. I want to thank the committee people for, especially Senator Christensen and Senator Carlson. They put a lot of time in this. This is a complicated issue. And if we go back to Genesis, the whole world was supposedly water. God created it, heavens and the Earth, separated it. So we had water beneath the land and above the land, created the seas and the aquifers. And what a wonderful world we live in. Not all the world has aquifers because they've

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depleted them. And I think, too, with the rest of the senators, this is somewhat of a state issue. The only trouble I have is, why should residential people help fund this? And maybe, you know, I'm not going to vote against this bill. But I just have trouble with the residential people paying quite a bit of money here, I'm not going to give you any figures, and also commercial. You know, as these farms got larger and larger and larger in this basin, you have less and less people to do business at your local grocery stores, your hardware stores. And then pretty soon the farmers are paying the taxes to keep the school open and real estate taxes, which I just abhor. As everybody knows, I run against property taxes and you get more property taxes. And here we're really putting more property taxes or water use taxes or whatever we want to call it. But we have to do something. State water issues, we own the water. That's the way the bill, that's the way the law is. So we own the water. So we let farmers put down holes. We didn't pay for those holes in the ground, they did. And I think we're giving the NRDs a lot of power here and hopefully they'll make good decisions. And it's hard to tell your neighbor you can't irrigate or you can. I think we have to look at water levels in the basin and surface water buyouts is not an option to my book, eventually, because we all like recreation. I like water. So now where do my friends go? They don't go to Harlan County. They don't go to Lake McConaughy. Where do they go? They go to Kansas, Milford Lake, Tuttle Creek. Where does this water come from? There's no place like Nebraska. The Blue River originates in Nebraska, Nemaha, much of the other rivers, they originate in Nebraska. Stream flows; if we drop the aquifer, the stream flow goes down. Conservation was mentioned, the stream flow goes down. Is that a bad thing? I was taught, keep the soil where it is, keep the water where it is, and you will raise pretty good crops. Most years we do. But Republican River, we never discouraged any development. So actually we encouraged it. And they pay taxes just like everybody else. So I think the state does have an obligation, whether it's retiring irrigated acres or buying them out, like Senator Wightman said here. I think that's a tremendous option that the NRDs can use. Buy out irrigated acres. Does that seem like a terrible thing to do to a nonirrigated farmer? Yes. But does it seem like that I should stick nonirrigated people for part of this bill on the basin? I don't live in the basin but if I did, I guarantee you, I would not vote for this. But being as I'm a state senator here, I will not oppose this bill. But the funding here, residential, commercial, other. Ag pays 67 percent, so who pays the rest? [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR WALLMAN: You live in town, you have a retirement home, and you gripe about property taxes now. So what are they going to do to Senator Carlson or Senator Christensen now? I feel sorry for them. The NRDs really step forth and put forth a plan here to fund a lot of this themselves. And so we have to step up to the plate as a state. And I admire the Governor and his staff, there's a lot of work in water. Water is way more important than gold or silver or oil. So let's pay attention to what we're doing and hopefully hammer out a solution of some kind that we all can live with and our farmers

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can live with it. Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senator Wallman. Senator Dubas, you are next in line to speak. [LB701]

SENATOR DUBAS: Thank you, Madam President, members of the body. I appreciate the comments that have been made on the floor this morning. I rise in support of Senator Christensen's amendment. I really do believe taxing authority does demand accountability at every level and I think this addresses that. This bill is giving NRDs some authorities that they have not ever had in the past. And as taxpayers, we owe them a recognition of this responsibility and I think it's right and good that we're putting this sunset into this bill. I appreciate the fact, some of the questions and concerns that Senator Erdman and Senator Mines raised. While we are spending a lot of time and energy talking about the Republican River Basin, this is water policy that's affecting the entire state and we need to keep that at the forefront of our minds. There's been a lot of work done in the past on water policy. Some of it is proactive and that's good, but a lot of it is reactive. And I hope we will be able to continue to move forward with proactive policy because the water does belong to the state. And we need to make that recognition and help people, the citizens of Nebraska recognize that fact. Susan Seacrest, who's the president of the Groundwater Foundation, had a column in the Lincoln paper this weekend. I really appreciated the comments that she made and she does really sum it up well, that ground water consumption is more complex than it appears. The water situation is much more complex than it appears. Some of the comments that she makes in this column is realizing that pumping less water does not necessarily lower total water consumption. Some of the conservation practices that agriculture has put in place, while it has saved water, it has also decreased some of the flows in our streams and our rivers. So lowering total consumption through a combination of policy and practice will, in time, make more ground water available as it slowly moves towards the rivers and streams. I think the key word in that paragraph is slowly. And while we owe Kansas water right now, the things that we're going to be able to do is not going to be able to get water to them in a quick fashion. Complying with the Kansas lawsuit is only the beginning of a much bigger effort that is sorely needed: the conservation, management, and protection of Nebraska's ground water over the long term in every basin, whether currently threatened or not. And again, I think that goes back to recognizing that this is a state issue, that we need to be crafting policy that's proactive and addresses the water across the state. Urban residents also have directly benefited from irrigated agriculture and the low cost of irrigation water over many decades. Everyone's food has been supported by ground water irrigation and all of us consume water every time we eat. Understanding this, in my opinion, means that everyone needs to be a part of funding water programs, not just in the Republican River Basin, but in every part of Nebraska over the long term. Water management and conservation is not just about practices on the farm and the ranch. It is also about how Nebraskans in every community value the water we consume and how we live our lives

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every day. And I think, speaking for myself, I know I've taken water for granted. It's there when you turn on the tap. It's there whenever we need it. And I think the ice storm at the end of the year and the drought has definitely heightened my level of awareness about water and how we use it. And it's, you know, we sit on top of the largest aquifer. [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR DUBAS: It's a resource that has been readily available to us. We've never questioned its availability. But I think the situations that we've dealt with over the last few years with the drought has definitely brought that situation home to all of us. And I hope through this bill we're going to be able to move forward with water policy that is going to recognize just how valuable the Ogallala Aquifer and water is to our state, whether we're in agriculture or any other business. Again, I support Senator Christensen's amendment and will also be supporting the bill. Thank you. [LB701]

SENATOR SCHIMEK: Thank you, Senator Dubas. Mr. Clerk, are there items for the record? [LB701]

CLERK: There are, Madam President. Your Committee on Enrollment and Review reports LB198, LB232, LB338, LB415, LB415A, LB457, LB502, and LB562 as correctly engrossed. I have a gubernatorial appointment and a reference report referring that appointment to standing committee for confirmation hearing. Your Committee on Judiciary, chaired by Senator Ashford, reports LB377 and LB674 to General File with committee amendments attached. An announcement: Senator Raikes would like to have a meeting of the Education Committee at noon in Room 1126; Education Committee at noon in Room 1126. And I have a priority motion, Madam President. Senator McDonald would move to recess until 1:30 p.m. (Legislative Journal pages 1119-1122.) [LB198 LB232 LB338 LB415 LB415A LB457 LB502 LB562 LB377 LB674]

SENATOR SCHIMEK: Thank you. You've heard the motion to recess until 1:30 p.m. All in favor say aye. All opposed, nay. The ayes have it. We are in recess until 1:30 p.m. []

RECESS []

SENATOR SCHIMEK PRESIDING []

SENATOR SCHIMEK: (Recorder malfunction)...W. Norris Legislative Chamber. The afternoon session is about to reconvene. Senators, please record your presence. Roll call. Record, Mr. Clerk. []

CLERK: I have a quorum present, Madam President. []

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

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CLERK: Just one item, Madam President. Enrollment and Review reports LB564 to Select File. That's all that I have. (Legislative Journal pages 1123-1128.) [LB564]

SENATOR SCHIMEK: Thank you. We will now proceed to the first item on this afternoon's agenda. Mr. Clerk. []

CLERK: LB701 on General File. Pending is the first division of the committee amendments, specifically AM962. Senator Christensen had pending AM957 as an amendment to AM962, Madam President. (Legislative Journal page 1119.) [LB701]

SENATOR SCHIMEK: Thank you, Mr. Clerk. We will now go back to discussion on AM957, and the speakers are Senators Hansen, Chambers, Mines, Loudon, Erdman, and Flood. Senator Hansen, you're recognized to speak. [LB701]

SENATOR HANSEN: Thank you, Madam President, members of the body. Is...Senator Mines is here. Senator Mines, could I ask you a couple questions? [LB701]

SENATOR SCHIMEK: Senator Mines, would you yield? [LB701]

SENATOR MINES: Yes, Madam President [LB701]

SENATOR HANSEN: Senator Mines, you said a little while ago before lunch that you didn't understand the water situation in the Republican River Valley. Do you understand what gravity does? You understand the concept of gravity? [LB701]

SENATOR MINES: I believe I do, sir. [LB701]

SENATOR HANSEN: Do you understand the concept of temperature change? [LB701]

SENATOR MINES: Yes, I do. [LB701]

SENATOR HANSEN: You understand what's happening in the Republic River Valley. Thank you. [LB701]

SENATOR MINES: Thank you. [LB701]

SENATOR HANSEN: What happened every year before the compact was signed, before the reservoirs were built in the Republican River Valley, was that the snow would melt, it would go downhill. Runoff from all the fields from miles and miles away would run into the Republican River Valley. The reason the Republican River Valley was having problems was because of the annual flood. Every spring the melt, the snow melt, the rain, the runoff would flood that river. It would damage the roads. It would damage

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the railroad property to the point where they were having extreme time just living there because of the washed out bridges, washed out railroad, and the lack of roads to get stuff back and forth. And about the early forties...now this is coming from someone who didn't live down there but I've had relatives down there for years and I thought maybe Senator Mines would enjoy the explanation of why maybe some of this stuff happened. The reservoirs came in first, and then Kansas said, well, wait a minute, we've got reservoirs coming in down here but we want to be sure we get some of that water, so they said, well, let's get together with Kansas and Colorado and Nebraska and we'll form this compact; just make sure we get water. Well, the floods continued until the farmers starting doing conservation tillage or the conservation, and that added the terraces, it added different tillage process, and they started stopping some of that runoff. And then with the advent of the several reservoirs down there, that would take care of some of the flooding problems and the snow melt. From there, when they stopped the runoff from the fields, the river quality, water quality, was improved, but still they, you know, the quantity of the water was headed less and less every year. And then we get into droughts and dry spells and the river starts to slow down from that. People started putting in irrigation wells. It was not...it was never a single well put in illegally down there. I think we need to keep that in mind. Nothing was ever done illegally. The United States has a cheap food policy and that's probably the most underlying policy of the whole thing. We need to produce food cheaply in this country. The federal government pays farmers for conservation projects. They paid for almost all the terraces there, at least an 80-20 split on the terraces that were put in that conserves the water. The feds paid for low prices through the loan deficiency payments that they paid farmers for years and years. Farmers down there have never been in a situation where corn prices were high enough to pay for the price of the crop to be put in, harvested, and sold until this year. Now we have \$4 corn or more and they're getting out of the LDP and the whole federal program, which is great, and that's what they've always wanted to do. But we've had too much water, and now we don't have enough water, and a lot of it is due to federal programs, federal conservation programs and I think just a cheap food policy. There's less sediment in that river now. [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR HANSEN: There's seven years of drought that we've gone through. I think we need to step back, take a look at this amendment and this bill. Unfortunately, this is where we need to go and I favor the amendment and the bill. Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senator Hansen and Mines. Senator Chambers, you're recognized to speak. [LB701]

SENATOR CHAMBERS: Madam President, members of the Legislature, I've been listening to the debate and this is one of those issues which is, as has been pointed out,

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very complicated and things are going to have to settle before we will know exactly where we are. I heard somebody who sits near me who said he doesn't know much about water. Let me help him. Senator Mines, H<sub>2</sub>O, that's all you need to know. (Laughter) Now you know everything there is to know about water. I've watched some of my colleagues read their statements this morning so...and I don't know whether they handed them out. I'm going to read something. Many years ago I was reading an article about the origin of the Amazon River and that led me to write something which I did pass out to my colleagues, but there are people not on the floor so they won't have the benefit of what I handed out, and it's based on the concept that things can start out very small, then as time goes on they grow and sometimes become larger than anybody anticipated. So while people are waiting to exhale, I'm going to read what I call, "A TALE OF THREE RIVERS." "Where do rivers come from? / They come from small beginnings; / Just as successful gamblers, / Start with minuscule winnings. / High in the cloud-cloaked Andes, / Strange as it may seem, / The AMAZON, MIGHTIEST of rivers, / Starts as a modest stream. / Then, there's the l o n g e s t river, / Torrenting mile upon mile, / From Kenya to Mediterranean -- / Father of Waters: The Nile. / Somewhere in Eastern Africa, / The Father's a toddling child; / As it flows it grows into / That great flood, l o n g and wild." And the flood here doesn't have any reference to our Speaker, by the way. "Sojourn to North America. / What, there, does one see / Starting in Minnesota? / The l o n g, wide Mississippi. / Humble in its origin -- / Humbler, far, than the rest; / Pause and hear its story, / Nothing is offered in jest. / In Northern Minnesota, / Way, way, w a y Up North, / From a tiny trickle, / The Mississippi bursts forth." In northern Minnesota, remember, is where it started. "Up There, a poor Old Woman, / Dwells in a poor old house; / She is a poor Old Widow, / Who buried her pool old spouse. / She has a leaking faucet, / (Long, has its washer been gone) / To which, a hose she attaches, / With which, she waters her lawn. / Slowly, that trickling water, / Carved a small groove in the ground, / Making its way to a gully, / Close by the Widow's house, found. / Deeper and deeper that gully / Grew, for it was not resistant / To the eroding propensities / Of running water, persistent. / Out from that gully, that water, / Into a small stream did GROW; / Deeper and wider that stream grew, / As, southward, the water did go. / Volume increased and waxed greater, / 'Til finally, the 'Widow's sliver', / Swelled and swelled till it became / THE MISSISSIPPI RIVER!" Now this moral does not necessary attach to what we're doing here today, but when you write rhymes you want to leave people with a message, Senator Carlson. "Giant things start as small ones, / (Nature's directing this Show.) / Rivers emerge from small trickles, / Huge oaks, from small acorns grow. / Learn from the Story of Rivers, / Greatness attends those who wait: / Starting out small's not important -- / What is, is ending up great." [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR CHAMBERS: Now we're starting out relatively small with this bill, although some substantial amounts of money are being poured into it. Senator Mines raised some questions about the creation of a new financial instrument, this bonding. I'm going

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to listen and I've been told that there will be some narrowing language. But even though I'm under the balcony doing some work, I have my eyes on you, my ears attuned to you, and if I have any questions I'll ask them. But as everybody else has said, something needs to be done. I don't know if in its present form this bill is the best thing, but it's the best thing at this point and will be a good basis for starting. Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you,... [LB701]

SENATOR CHAMBERS: You can hold our applause. [LB701]

SENATOR SCHIMEK: Thank you, Senator Chambers. (Laughter) Senator Mines, you are recognized to speak. [LB701]

SENATOR MINES: Thank you, Madam President, members. And, Senator Chambers, thank you for the segue. I did, just to recap this morning, I brought on mike just for discussion purposes the bonding mechanisms that are used in the bill, and since that time I've met with NRD representatives, as well as I think a representative from Ameritas. And as I understand, language will be cleaned up, but we talked about negotiable bonds and refunding bonds, and then those I think we kind of understand. The entitled river flow enhancement bonds is nothing new, as I understand it. It is merely a definition for another type of bond that will be used by the districts, creating no new functions or abilities, but simply another name for a negotiable or refunding bond. The one point that I didn't get a chance really to discuss and that I think is important--and I have been assured by those outside the glass that it will be cleaned up between General and Select--if you look at the bill and particularly page 7, line 12, it says, the district, and I think we know what district we're talking about, the district may issue the bonds or refunding bonds directly to any...excuse me, directly or such bonds may be issued to any joint entity. Now it then goes on to refer us to Section 13-803 and 13-2503 in statute, and if you look up a joint agency or entity in those statutes it says that a joint public agency means any county, city, village, school district, or agency of state government of the United States, any drainage district, sanitary improvement district, or other municipal corporation or political subdivision. And as I discussed with the members outside, I believe that's a bit broad for the intention of what we're talking about here. I foresee some unintended consequences and have been assured that we can narrow this down so that it relates specifically to the issue at hand. And as I mentioned before, I don't understand a lot about what we're doing but, Madam President, could I have Senator Hansen yield, please? [LB701]

SENATOR SCHIMEK: Senator Hansen, would you yield? [LB701]

SENATOR HANSEN: Yes, I would. [LB701]

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SENATOR MINES: Thank you, Senator. Specifically, I've picked on you because you and Senator Christensen, I trust your knowledge in this area. On page, let's see, you won't have to look it up, page 8, line 2, it refers to storage water rights. It says storage water rights with respect to the river or any of its tributaries. What's a storage water right? I don't know. [LB701]

SENATOR HANSEN: May I refer you to Senator Christensen? [LB701]

SENATOR MINES: Yes. Madam President. [LB701]

SENATOR SCHIMEK: Senator Christensen,... [LB701]

SENATOR MINES: Thank you. [LB701]

SENATOR SCHIMEK: ...would you yield? [LB701]

SENATOR CHRISTENSEN: Yes. [LB701]

SENATOR MINES: Thank you, Senator Christensen. I hope you heard the question. [LB701]

SENATOR CHRISTENSEN: Yes. [LB701]

SENATOR MINES: I'm not sure what storage water rights, again, with respect to river or its tributaries means. Could you enlighten me, please? [LB701]

SENATOR CHRISTENSEN: Okay, like right now the Bureau of Reclamation owns storage rights in, like, Harlan County Dam or any of the other dams to be allowed to use for irrigation. In here it's going to allow them, if they're buying out people, that storage right so it could be delivered for compliance. [LB701]

SENATOR MINES: So the storage water rights belong to the Harlan County Dam, or they belong to individuals along rivers and tributaries? [LB701]

SENATOR CHRISTENSEN: It actually belongs to the Bureau of Reclamation,... [LB701]

SENATOR SCHIMEK: One minute. [LB701]

SENATOR CHRISTENSEN: ...but the rights to use that belongs to the individual farmers which would now be transferring to, if they bought this project out, to the NRD. [LB701]

SENATOR MINES: And those rights have value? In other words, they could be...those

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water rights could be purchased from the individuals? [LB701]

SENATOR CHRISTENSEN: Well, basically, that's what you'd be doing, yes. [LB701]

SENATOR MINES: Okay. Thank you. I'll have more later, but thank you, Senator. And thank you, Senator Hansen. Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senators Hansen, Christensen, and Mines. Senator Louden, you are next to speak. [LB701]

SENATOR LOUDEN: Thank you, Madam President and members of the body. Just to elaborate a little bit on Senator Mines', there's also water rights that your Fish and Game and Parks have such in some of your reservoirs around. They get to keep a certain amount of water in those reservoirs so they're not completely drained. So that's part of your storage water rights in some of your dams. I wanted to point out what we're working on, the Republican River Basin deal, and myself, I don't refer to the Republican River Basin as an unsolvable problem or a mess. I think we must remember that there was a time when there was plentiful...when water was plentiful in the Republican Basin. Water usage was increased and the economy of the area was expanded by irrigation and the raising of crops. It produced more income for the area. This was all well and good, as that was all implemented back there in the seventies, when we had pivot systems and that sort of thing. Then water began to be an issue. Kansas served notice through various means that there was a problem with the amount of water they were receiving. Ground water then became scrutinized. Then a drought began to form. Water restrictions and well drilling moratoriums was implemented in some of the NRDs. Kansas put a moratorium on well drilling in western Kansas over 20 years ago. And everyone, of course, said it would surely rain a little bit more next year, but it didn't. So now we are at this point in history that we must take decisive action. Are we to do nothing and let, you know, a federal judge decide and probably pay a huge amount of money out of the General Fund to another state, or should we work to solve the problem? We must also look at a way to lower the water consumption and still have a soft landing for the economy in the area of the Republican River. AM938: through the work of the people from various agencies, and the staff of the Natural Resources Committee, and those of us that met with various groups over the last six or more weeks have put together this plan. It is the first plan to come forward to outline a method to solve the Republican River Basin situation. AM938 gives the NRDs more authority. They have asked for that authority to do some of the things that need to be done for this enormous task. They need money and they need bonding authority, and they're willing to do it. When the total cost is considered, it may well be worth the money. It may well be the cheapest and most economical way to do it is to let the NRDs work this out as they have outlined they wish to do. We have to start somehow to address the Republican River Basin Compact. This is the first attempt we've done at this. I think this is a very good bill, very good amendment that we've brought forward in this bill, and I

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believe it has been and probably be the best approach to take. Thank you, Madam President. [LB701]

SENATOR SCHIMEK: Thank you, Senator Louden. Senator Erdman, you are recognized to speak. [LB701]

SENATOR ERDMAN: I'll waive off. [LB701]

SENATOR SCHIMEK: Senator Erdman waives. Senator Flood, your light is next. [LB701]

SPEAKER FLOOD: Question, and I'd request a call of the house. [LB701]

SENATOR SCHIMEK: The question has been called. Do I see five hands? I see five hands. The question is, shall debate cease? Did he say...I'm sorry, Senator Flood. The question is, should the house go under call? All in favor vote aye; all opposed vote nay. Record, Mr. Clerk. [LB701]

CLERK: 26 ayes, 0 nays, Madam President, to place the house under call. [LB701]

SENATOR SCHIMEK: The house is under call. Will all senators please return to the Chambers and record their votes. The house is under call. The house is under call. Senators, please return to the Chambers and record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record. Senator Preister. All are present and accounted for. The question has been called and the question is, shall debate cease? All those in favor vote aye; all those opposed vote nay. Have you all voted who wish to vote? Record, Mr. Clerk. [LB701]

CLERK: 25 ayes, 4 nays, Madam President, to cease debate. [LB701]

SENATOR SCHIMEK: Debate ceases. Senator Christensen, would you care to close on AM957? [LB701]

SENATOR CHRISTENSEN: Thank you, Madam Chairman. This amendment here, remember, just brings the sunset date to the committee amendments that has become the bill. So what it does, after a period of 15 years, no more bonds can be issued. So it just brings the...an end to the fees or taxes that have been placed upon the basin. So that's what the amendment is doing. That's what I wanted to make sure and point out here. Thank you. [LB701]

SENATOR SCHIMEK: You have heard the closing on AM957. The question is, shall the amendment be adopted to the committee amendments? All in favor vote aye; all opposed vote nay. Have you all voted who wish to vote? Record, Mr. Clerk. [LB701]

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CLERK: 36 ayes, 0 nays, Madam President, on the adoption of the amendment to the committee amendment. [LB701]

SENATOR SCHIMEK: Thank you, Mr. Clerk. Are there further amendments on the first portion of the committee amendment? Oh, and the call is raised. [LB701]

CLERK: Madam President, Senator Wallman would move to amend this component of the committee amendments with AM959. (Legislative Journal page 1129.) [LB701]

SENATOR SCHIMEK: Thank you. Senator Wallman, you're recognized to open on your amendment. [LB701]

SENATOR WALLMAN: Madam President, members of the body, AM959 simply states, "Prior to the expenditure of any revenue raised under Sections 6 to 9 of this act, all districts governed by Section 6 of this act shall enter into an interlocal agreement under the Interlocal Cooperation Act to jointly manage and operate the project or projects financed by such revenue." This would require the NRDs to work together to jointly manage and operate the projects financed by the taxes and fees allowed, and I think it would help interlocals, and it had this language, and I have a real problem with having no sunset clause on this bill also. This amendment requires the NRDs to put in place a long-term solution by January 1, 2009, or return to the Legislature to ask for an extension and to explain why they have not been able to implement this solution. This amendment is very short. It simply states the authority to issue bonds for qualified projects granted in Section 6 of this act terminates on January 1, 2009, except that any bonds already issued and in existence for qualified projects shall continue to be authorized for the life of the bond. Thank you, Mr. President. [LB701]

SENATOR FRIEND PRESIDING [LB701]

SENATOR FRIEND: Thank you, Senator Wallman. Members of the Legislature, you have heard the opening on AM959 to the Natural Resources Committee amendments. Senator Carlson, you're next to speak and you're recognized. [LB701]

SENATOR CARLSON: Mr. President, members of the Legislature, I want to engage in a little exercise before I speak to the amendment: This, the tenth day in April, / I'm in the Chamber, you see, / Listening to Senator Chambers / Read his poetry so eloquently. / We are here this week to address water, / And pray the Republican flows / And grows as it winds eastward, / Before off to Kansas it goes. (Applause) Senator Chambers, you didn't get that kind of reaction. (Laughter) I want to address the amendment of my good friend Senator Wallman. A mandate that requires the NRDs enter into an interlocal agreement I think isn't necessary and is maybe counterproductive. This requirement appears based on a notion, and not necessarily Senator Wallman's, that NRDs cannot

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and do not work together. There's no factual basis for that opinion that they are not capable of working together. Since the Legislature first adopted integrated water management legislation, the NRDs in the Republican River Basin have been working hand in hand without exception. They immediately collectively initiated LB108 process; they entered into interlocal agreements with themselves and other basin subdivisions; they jointly assisted in the defense and settlement of the litigation with Kansas; they jointly cooperated on establishing the basin compact compliance plan in 2003; and they collectively worked with the DNR to establish the integrated management plans pursuant to LB962 in 2005. And I believe that such a mandate also unnecessarily limits the potential solutions the NRDs may undertake. By requiring all three to cooperate on each project, excludes any project that may only benefit to one or two districts, but not to all three. And so I would oppose this amendment. I do applaud the three NRD managers--Mike Clements, Dan Smith, and Jasper Fanning--for their untiring efforts recently working together to try and make LB701 a good bill. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Carlson. Senator Langemeier, you are next and you're recognized. [LB701]

SENATOR LANGEMEIER: Thank you, Mr. President, and I'd like to yield my time to Senator Wallman. [LB701]

SENATOR FRIEND: Senator Wallman, 4 minutes and 55 seconds. [LB701]

SENATOR WALLMAN: Thank you, Mr. President. Thank you, Senator Langemeier. I inadvertently, Senator Carlson, read two bills. AM959 is strictly the expenditure of revenue and it's about interlocal cooperative acts. And I drove through the basin Saturday and spent some time with local farmers, some of them on the edge of one NRD district to the other, and they definitely felt there had to be some kind of interlocal agreement, especially those that were not in the pact. So this, I think, enhances their abilities to work with one another, and I wouldn't want to hinder their ability, and so they could jointly manage, because watersheds sometimes kind of slop over into one another. I'm in, like, the Nemaha and Salt River Basins in my district, and Blue River and all these rivers are in my district, so they do "interlap" with one another, like we...some property goes to one NRD and the other half goes to the other. So you have to have these people work together. And being and having it in statute, I think it'd be very good to help them out. And if it doesn't work out, so I just thought I'd try to help them, and that's my statement. I thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Wallman. Senator Flood, you are next and you are recognized to speak. [LB701]

SPEAKER FLOOD: Thank you, Mr. President, members. I'd like to ask Senator

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Wallman a series of questions. [LB701]

SENATOR FRIEND: Senator Wallman, will you yield? [LB701]

SENATOR WALLMAN: Yes, I would. [LB701]

SPEAKER FLOOD: Senator Wallman, just so that the record is correct following your opening statement, is it your intention that any NRD be bound to this 2009 date that you previously reported, or is that amendment not coming today? [LB701]

SENATOR WALLMAN: That amendment is not coming today. [LB701]

SPEAKER FLOOD: So any of your prior floor discussion about this idea that bonds shall be issued prior to 2009 is not relevant to the discussion on AM959. Is that correct? I'm just making sure that I understand, because I looked at the computer here and I'm reading the amendments to LB701 but it has to do with interlocal agreements. So any of the discussion about bonding authority after 2009 would not be correct. Is that true? [LB701]

SENATOR WALLMAN: Yes. [LB701]

SPEAKER FLOOD: Okay. So then let's go to this amendment that we have in front of us here regarding the requirement that the NRDs in the basin shall enter into an interlocal agreement under the Interlocal Cooperation Act, and I want to focus your attention on the following language in line 5, page 1 of your amendment, that begins with the word "to jointly manage and operate the project or projects financed by such revenue." Is it your understanding that the NRDs have already agreed upon the projects that they have a design on completing in the basin? [LB701]

SENATOR WALLMAN: Well, the financing issue, you know, hasn't been addressed yet, the bond issues, and I think you had three districts in the Republican--... [LB701]

SPEAKER FLOOD: Right. [LB701]

SENATOR WALLMAN: ...Lower, Middle, Upper--so we need some kind of a sunset clause in there also, I think, you know, to do this. And I just have trouble giving that kind of money to any entity, government entity, whether it be us or anybody, to have some cooperation to... [LB701]

SPEAKER FLOOD: Okay. [LB701]

SENATOR WALLMAN: ...enhance their ability to work with one another. [LB701]

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SPEAKER FLOOD: Okay. With regard to your sunset clause, let's deal with that here in a moment, but let's go back to your requirement that an interlocal be entered into before any projects are underway. They already have the ability at this time to enter into an interlocal agreement, is that correct, absent the requirement that you place in this amendment? [LB701]

SENATOR WALLMAN: Under this amendment? [LB701]

SPEAKER FLOOD: Well, actually I'll withdraw that,... [LB701]

SENATOR WALLMAN: Oh. [LB701]

SPEAKER FLOOD: ...but I think my question to you is they already, NRDs already can enter into interlocal agreements without the language that you have here in LB...or in AM959. [LB701]

SENATOR WALLMAN: Yes, they can. [LB701]

SPEAKER FLOOD: Okay. And your interest is forcing them into an interlocal agreement before any money is spent, is that...? [LB701]

SENATOR WALLMAN: Yes. [LB701]

SPEAKER FLOOD: Okay. Does it comfort you to know that there will be a letter circulated soon that was made available last week signed by each one of the district managers for each NRD representing that they plan to jointly cooperate on these issues, or is that not enough for you to...? [LB701]

SENATOR WALLMAN: Yes. Yes, it would. [LB701]

SPEAKER FLOOD: So you're satisfied. [LB701]

SENATOR WALLMAN: Yeah. [LB701]

SPEAKER FLOOD: So if we can produce a letter signed by the three NRDs indicating their willingness to work jointly together, you would withdraw this amendment. [LB701]

SENATOR WALLMAN: Yes, I would. [LB701]

SPEAKER FLOOD: Okay. No further questions. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Flood and Senator Wallman. Senator Loudon, you are next and you're recognized to speak. [LB701]

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SENATOR LOUDEN: Thank you, Mr. President and members of the body. I certainly can't support Senator Wallman's amendment as he's drawn it up to the committee amendment, AM938. First of all, they would have to form their interlocal agreement before they could start doing anything or managing any money or filing for ways that they can proceed with their operation. I think this kind of ties their hands, and as it's been stated already, there are...they can form interlocal agreements. I think it's something that would probably work to their detriment. They wouldn't be able to operate as well as they should, and if the more things we put in there that slows them down to get the job done is something that I certainly couldn't support. I think it's been agreed that they would form an interlocal agreement to work on this. Also, if they have to form that before they do anything else, there would be a time frame in here that would probably delay the situation somewhat where they could get anything done within the next year or so. So with that, I can't support Senator Wallman's amendment. I'd be pleased if he can...and find it with the letter to be willing to withdraw this amendment. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Louden. Speakers: Senator Langemeier, Senator Mines, Senator Fischer, and Senator Wightman, in that order. Senator Langemeier, you are recognized. [LB701]

SENATOR LANGEMEIER: Mr. President, members of the body, I appreciate Senator Wallman taking the time over this holiday weekend. I want to commend him for taking a tour of the district. I've had the opportunity to be out across the district over this past summer and there's a lot of miles to travel, a lot of concerns, and a lot of people want to give you some input. I really appreciate him taking his willingness to do that. As you see, there's a letter being handed around that Senator Flood and Senator Wallman had talked about a moment ago that the three NRDs have signed off on, kind of declaring their intent of what they're expecting to do in some kind of a cooperation. I also want to bring up some other ideas, and I have to explore these a little further as we talk here, is a policy standpoint of this interlocal agreement. I think it's crucial that these NRDs, however, have to work together. All have some little different avenues they need to go down to try and help solve this problem within their own particular district, and I think the interlocal agreement, I don't know that we could get one with enough teeth that would do what Senator Wallman would like to do and not be so vague that it doesn't pin them down to be able to not address the issues in which they face within their particular NRD districts and basins. So I think, however well intended, and I appreciate Senator Wallman's interest in this, I just don't think how you're going to get a interlocal agreement to be fully encompassing everything he would like to see in it to address every issue that may be out there, but yet not limit them and their abilities to address some of the issues as they come up on the fly. So with that, I'd yield my time back to the Chair. Thank you. [LB701]

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SENATOR FRIEND: Thank you, Senator Langemeier. (Visitors introduced.) Senator Mines, you are next and you are recognized. [LB701]

SENATOR MINES: Thank you, Mr. Speaker. Colleagues, this is to Senator Wallman's amendment. Certainly in principle, I believe that NRDs working together, or any government body working with another government body, makes great sense. I think...I believe that they can work collaboratively and we have less confusion about an overall area. However, I also have concern, here's an unintended consequence perhaps, that levy authority--again, it's a governing body with a levy authority of 4.5 cents per \$100 of value--if we form an interlocal agreement then you...any...those monies or there are monies that will be outside of a levy limit. And if one is concerned about maintaining levy limits, that's problematic; if not, it is what it is. So I just bring up the point that consolidation and merging together through an interlocal agreement can work, and work well; however, unintended, those revenues allocated to that interlocal agreement can be outside their levy authority or levy limit, thus, they are not controlled by the levy lid. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Mines. Senator Wightman, you are recognized. [LB701]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the body. I had some of the same concerns that Senator Mines has expressed. I have one additional concern. I, frankly, don't know of any interlocal agreements or statutes providing for interlocal agreements that are as mandatory as this would appear to be, and so I might have a question or two of Senator Wallman. But in effect, we would be making it mandatory before they could expend funds and, to me, that goes against the interlocal agreement. I also have a concern as to whether or not that might take it off of a levy limit. But, on the other hand, I think even if they form a local...interlocal agreement on a voluntary basis, that it still may take it off. So that may require some special legislation to do that. So I do have a couple of questions. I would ask Senator Wallman if he would yield. [LB701]

SENATOR FRIEND: Senator Wallman, will you yield? [LB701]

SENATOR WALLMAN: Yes, I would. [LB701]

SENATOR WIGHTMAN: Senator Wallman, are you aware of any requirements as stringent as this may be that would require interlocal agreements before they could even expend funds? [LB701]

SENATOR WALLMAN: No, I'm not. [LB701]

SENATOR WIGHTMAN: Would that make a difference to you if there aren't any such provisions at the present time in any other section of law? [LB701]

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SENATOR WALLMAN: It might, but we was ask, it is constitutional, to my belief, and that's a tremendous amount of money we're giving to one entity of our state and I'm, you know, I'm hard on mandates, I'm hard on accountability. And I hate to do this to somebody else's people--I'm not in the district--but I'd want all the accountability I can get. [LB701]

SENATOR WIGHTMAN: But, on the other hand, I think you have indicated that you would be willing to accept an agreement as to the three NRDs involved in this situation, that they would be willing to cooperate and to consider interlocal agreements... [LB701]

SENATOR WALLMAN: Yes, I did. [LB701]

SENATOR WIGHTMAN: ...as a substitute to your bill. Thank you, Mr. Wallman. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Wightman and Senator Wallman. (Visitors introduced.) Senator Wallman, there are no other senators wishing to speak. You are recognized to close on AM959. [LB701]

SENATOR WALLMAN: Thank you, Mr. President. And Senator Carlson, with his poem, I'd like to have a little poem: The bear went over the mountain to see what he could see. He seen water on the Rocky Mountains, he seen snow, he seen water just tumbling down the waterfall, seven falls. There was water. Colorado now keeps more of the water, so we're going to get less and less. So bear in mind, as we pass this legislation, surface water is going to be pretty iffy and I think we're going to have to go with ground water too. So I would withdraw this motion, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Wallman. It is withdrawn. Members of the Legislature, we are back to discussion on the first component of the Natural Resources Committee amendment. Those...any wishing to speak? I see no lights on. Senator...excuse me, Senator Louden,...I'm sorry, Speaker Flood, this is your division and this is your right to close. You're recognized. [LB701]

SPEAKER FLOOD: Thank you, Mr. President. Members, I think we've had a really good conversation on the first of four components with regard to LB701. I'm sure that these issues will continue to surface, the ones that surround bonding, and they should so that we get this bill in the best shape possible. I want to respond to Senator Wallman's amendment that he just withdrew. I think the message that he's sending, and it's a good one, is that as we go down this path in the Legislature we expect cooperation within the Republican River Basin, and to the extent that we can find ways to police accountability but, more importantly, to see that the people's money in that area of the state is being spent by the three NRDs in the best way possible to not only ensure compliance, to

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protect our water resources, but to keep the area economically viable. Senator Wallman has brought forward a concern that I think needs to be addressed as we go through the process and I do feel that between General and Select, should we get there, we have to really look at a super amendment that would maybe address some of those concerns in a way that he's comfortable with, given his amendment. The other amendment that Senator Christensen offered that was adopted, it was a good step in the right direction, in 2023 ceasing the ability to issue bonds. This portion, in summary, basically does three things. Qualified areas, under the definition found in the sections, qualified natural resource districts are those districts whose jurisdiction includes a river basin, subject to an interstate compact among three or more states that can also include one or more irrigation districts within the compact river basin. This bonding and the occupation tax and the property tax and the extension of the three-cent levy statewide are for qualified projects in the river basin, the acquisition and ownership of surface and/or ground water rights within the compact river basin; number two, the acquisition by purchase or lease of canals and other works within the compact river basin pursuant to mutual agreement; number three; vegetation management; and number four, augmentation of streamflow. It will be accomplished in three different ways: the irrigation tax, up to \$10 per irrigated acre; property tax, up to 10 cents of...per \$100 of taxable valuation; and of course, I want to be very clear that in Section 10 of the green copy of the amendment it would be the extension of the three-cent levy and budget authority for those NRDs until fiscal year 2011-2012. This is the hardest pill to swallow in a tough solution because it is a commitment by the Legislature to granting authority to a basin that needs to tap into a source of revenue to help protect our water resources, comply with the interstate compact and...but, most importantly, keep the area economically viable. I want to thank everybody that's spoken on this, and I urge your adoption of AM962. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Flood. Members of the Legislature, you've heard the closing on AM962, the first division of the Natural Resources Committee amendments. All those in favor of adoption vote aye; all those opposed vote nay. Have all those voted that wish to? Record please, Mr. Clerk. [LB701]

CLERK: 36 ayes, 0 nays, Mr. President, on the adoption of the first component of the committee amendments. [LB701]

SENATOR FRIEND: The first component is adopted. [LB701]

CLERK: Mr. President, the second component consists...the second component of the committee amendment is now being characterized as AM963. (Legislative Journal pages 1129-1135.) [LB701]

SENATOR FRIEND: Senator Heidemann, it is my understanding you are to open on the second division of the committee amendments. You are recognized. [LB701]

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SENATOR HEIDEMANN: Thank you, Senator, Mr. President. Just to briefly let you know what we're dealing with here, I have Sections 23 through 30. Section 23, as amended by the Natural Resources Committee, this section creates the Water Resource Cash Fund in the Department of Natural Resources. The fund would be used by the department to aid in management actions taken to reduce consumptive use of water in basins deemed to be fully appropriated or overappropriated and are bound by an interstate compact or decree. The fund would also be used to conduct statewide assessment of short- and long-term water management activities and funding needs. I also do want to point out the fund would not be used to pay administrative expenses or salaries for the department or for political subdivisions. The natural resources district receiving funding from the Water Resource Cash Fund would be required to provide a 40 percent match to state funding and would be required to report to the Legislature. Districts would be required to repay funding if they fail to comply with their integrated management plans. Section 23 also establish legislative intent that \$2.7 million of General Funds would be transferred to the fund annually through the fiscal year 2018-2019. Section 24 eliminates obsolete language in Section 66-1345 governing cash funds in the Department of Natural Resources. Section 25 authorizes that the unexpended balance of Ethanol Production Incentive Cash Funds, including all investment interest, would be transferred to the Water Resource Cash Fund on December 31, 2012. Section 26 establishes a one-half cent checkoff on corn and grain sorghum sold on or after October 1, 2012, and on or before October 1, 2019. Section 27 specifies that the excise tax on corn and grain sorghum that is assessed on or before October 1, 2012, be remitted within 30 days after the end of every quarter and deposited in the Water Resource Cash Fund. The Department of Agriculture would collect the excise tax and would be authorized to recover administrative cost. Section 28 authorizes the transfer of \$2.7 million of General Funds in fiscal year 2007-2008 to the Water Resource Cash Funds. Section 29 authorizes the transfer of \$2.7 million General Funds in the fiscal year 2008 and 2009 to the Water Resource Cash Fund. Section 30, and my last section, establishes legislative intent that Department of Natural Resources may undertake measures in fiscal years 2006-2007 to further facilitate compliance with the interstate compact or decree stipulations. What this section would do would allow the department to negotiate with the Bostwick Irrigation District for the purchase of surface water rights. That's the sections that I deal with. Just weighing in very briefly on this, the whole bill, on my part of it, and on LB701. And I haven't spoken yet today, but I just want to let the members know that I believe as a state we need to do something and this is...we finally found a direction that we can go and start going down the road to address a problem that we have in this state, so I think it's very important that we move forward with something and start down that road. We might change things a little bit or tweak things down the road, but I believe it's very important that we start down that road. And with that, I'll end my part of it, and I'm open to any questions that I...that you might have and I'll try to answer them. Thank you. [LB701]

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SENATOR FRIEND: Thank you, Senator Heidemann. Members, you have heard the opening on the second division of the committee amendments. Senator Schimek, you are first to speak. You are recognized. [LB701]

SENATOR SCHIMEK: Thank you, Mr. President and members. First of all, I rise to ask some questions, to pose some questions about the water issues in Nebraska. And I want you to know right up front I'm a product of the Republican River Valley. I grew up on the Republican River. I remember when it flooded in 1945 and the water came nearly up to the edge of town. I think it was '45, maybe it was '47, somewhere along there. I was told stories about my father and his friend and two young men who were in a car going over a bridge over the Republican River down by Naponee and they got washed off the bridge and they nearly lost their lives in the flood of '35. So I remember the kind of flooding that used to happen. I know why a lot of the reservoirs were built on the Republican River and, in fact, I remember the Harlan County Dam being built when I was in grade school, and don't start counting and adding up in your head, but it was some time ago. I also remember what a great recreational area it is and was, but I also remember going to Alma, oh, probably four or five years ago and seeing how awful the lake looked because the water had, over the years, receded until there was little left along the shoreline but mud flats and some spotty vegetation. So I know that this problem has been building for some time. I also...so I guess what I'm trying to say is I'm sympathetic to what the problem is that we're dealing with, but I also know that the urban problem...the urban parts of the state also face a problem and that is the storm water issue, and the urban areas of this state are also under a mandate. They are under a federal mandate to solve their storm water problems, and it doesn't just apply to Lincoln and Omaha anymore. It applies to Columbus and Kearney and Scottsbluff and North Platte and all the larger towns along the way, and it eventually may apply to all. The problem that we face with storm water is, because of expansion and development and building, there's a lot of runoff that's going into our rivers and streams that's not always good and it sometimes causes flooding. So this Legislature has talked about that particular aspect of the water issue for several years and nothing has happened. The reason I got up on this particular part of the bill is because I know that \$7.7 million is going to be appropriated out of the General Funds if we pass this bill for the first year, and \$4.7 million for the second year. And I'm thinking, but what happens to the urban water issues in all of this? And I've had some discussions with Senator Heidemann off the floor about a bill that the Appropriations Committee advanced to the floor and I believe it's LB420, as best we can remember, and I think it's Senator Erdman's bill, actually. And, Senator Heidemann, if you would be willing to answer--I started to say happy, but maybe I should say willing--to answer a question or two about that bill, just so the body will know what's going on. Sometimes it's so difficult to keep all the different issues... [LB701 LB420]

SENATOR FRIEND: One minute. [LB701]

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SENATOR SCHIMEK: ...that are interrelated straight on this floor, and I think I'm going to run out of time, but let me just ask the first question, Senator Heidemann. [LB701]

SENATOR FRIEND: Senator Heidemann, will you yield? [LB701]

SENATOR HEIDEMANN: I'd be more than happy to. [LB701]

SENATOR SCHIMEK: (Laugh) Thank you, Senator Heidemann. I may get to answer...or ask my question and I may not, and you're probably not going to have time to answer, so why don't I turn my light on again and then we'll have that discussion. Thank you. [LB701]

SENATOR FRIEND: Thank you, Senator Schimek and Senator Heidemann. Members wishing to speak: Senators Erdman, Loudon, Chambers, Wallman, Heidemann, Synowiecki, Schimek, and Stuthman. Senator Erdman, you're recognized. [LB701]

SENATOR ERDMAN: Mr. President and members of the Legislature, I do also have some questions for Senator Heidemann, but they may wait a few minutes, unless he'd like to...we'll do them now then, I guess. Mr. President, would Senator Heidemann yield to a question? [LB701]

SENATOR FRIEND: Senator Heidemann, will you yield? [LB701]

SENATOR HEIDEMANN: More than happy to be. [LB701]

SENATOR ERDMAN: Senator Heidemann, as I read what I would consider to be the LB33 provisions of the committee amendment, which is the second division, I had asked you specifically about the language on page 49. It appears that there's a gap in the timing of the funds that will be remitted to the EPIC Fund and then at what point that fund gets transferred into the Water Resources Cash Fund. You explained to me off the mike that there is a gap but it's being addressed in another bill. The gap that I observe in the bill is that from December 31, 2010, until January 1, 2013, it appears silent as to how that...those funds will be treated. Can you explain to me and for the benefit of the body what other vehicle is being used to address that time gap? [LB701 LB33]

SENATOR HEIDEMANN: In LB322, which is a funding bill or one of the mainline appropriations bills, because of a shortfall in the EPIC Fund, the Governor extended the corn checkoff at seven-eighths of a cent, which it is right now to 2010, extended it to 2012 at seven-eighths of a cent. At that time it would sun...that would sunset or it would transfer over to a half a cent and would be transferred or go into the Water Resource Cash Fund. So that part of it is being taken care of because it deals with EPIC and not the Resource...Water Resource Cash Funds. It's being dealt with in LB322. [LB701 LB322]

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SENATOR ERDMAN: And that would also be the case further down then. I think it's just redundant or repetitive language that clarifies further down on page 49 of the original amendment. And so I appreciate the information and the response and will be looking forward to that discussion as well. Thank you, Senator Heidemann. One of the other things that I brought up earlier this morning that I think needs to also be pointed out here, one of the concerns that was brought to my attention by some folks in western Nebraska was whether or not the language referred to in the first division of the committee amendment affected them. It would have been my understanding, as I shared with the body, that that dealt with a compact. That compact generally, as has been defined in the bill, refers to the Republican Basin. If you look at the language in this division, I believe it's going to be in Section 23, you see a different definition of how these funds may be used, or under what circumstances these funds may be used, and specifically the language is on page 40, lines 14 through 16, "or are bound by an interstate compact or decree or a formal state contract or agreement." As I mentioned earlier this morning, we not only have a situation where we have a compact with Kansas in the Republican Basin, but we also have what we would call the cooperative agreement. The funding, as has been outlined in this section of the committee amendment, would allow for that agreement to be eligible for these funds as well. If you step back and recall the fact that over the past number of years, in fact it's been over a decade, that we have been in somewhat of a negotiation between the three states, we have signed an agreement which is not a compact. We can withdraw at any time and we have that opportunity, but there is a perceived or real need for assistance in meeting some of those targeted goals under that agreement. And so I wanted to make sure that, for the record, that not only are we addressing the issues of a definition of a compact is, but there are other areas of law that are expansive beyond that language to include the agreement. And I would point out that that language is necessary because it is not intended to be the same language. This applies to both compacts and agreements. The previous language that was adopted in the bonding and occupational tax... [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR ERDMAN: ...applies specifically only to those areas in which we have entered into a compact, and I think that's a key point to differentiate. If you would like to discuss the issues in the Platte Basin, we can do that as well, but for the sake of the discussion this afternoon I thought it was important to point that out to the body and look forward to other comments this afternoon. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Erdman. Senator Louden, you're next and you're recognized. [LB701]

SENATOR LOUDEN: Thank you, Mr. President and members. This second division, as we come through here on this afternoon of this tidy work, is a part that the Governor had

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brought forwards from his LB33 from the Appropriations Committee. This is a part that has the short-term money in it. This is something that is very important to it. Some of the negotiations have been going on and, of course, there has to be money whenever you have negotiations. So this is very part of the bill and I certainly want to thank the Governor for bringing this forwards and working with us on this entire project to get this AM959 all put together. And this was a case where we have the agreement among several agencies, the Governor's Office and his staff, people from the Department of Natural Resources, of course, Attorney General, and then of course the Legislature through the Natural Resources Committee. So I certainly support this division. I think it's something that's very important. In fact, it has to happen, has to go along with the rest of it. And I want to thank Senator Heidemann for presenting it. Thank you, Mr. President. [LB701 LB33]

SENATOR FRIEND: Thank you, Senator Louden. Senator Chambers, you are recognized. [LB701]

SENATOR CHAMBERS: Thank you, "General" Friend. Members of the Legislature, I'd like to ask Senator Heidemann a couple of questions if he is available. [LB701]

SENATOR FRIEND: Senator Heidemann, are you available to answer a question from Senator Chambers right now? [LB701]

SENATOR HEIDEMANN: Yes, right now. [LB701]

SENATOR CHAMBERS: Senator Heidemann, you had mentioned that if a certain set of circumstances arose and a district were required to pay back some funds that it had received. Do you recall discussing something like that? [LB701]

SENATOR HEIDEMANN: Yes. [LB701]

SENATOR CHAMBERS: How would they...where would they get the money with which to pay back that which would be required to be paid back? [LB701]

SENATOR HEIDEMANN: You're very alert (laugh) I will say that. I have probably come to the same conclusion that you have. It's going to come from property tax, I would have to think. [LB701]

SENATOR CHAMBERS: I can't think of any other place that it could come, unless they would try to raid the General Fund, which is not likely to happen. Would you agree? [LB701]

SENATOR HEIDEMANN: It would have to come from the local NRD. It would have to come from the local side because they couldn't raid the General Fund at that time.

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[LB701]

SENATOR CHAMBERS: Exactly. So has this aspect been discussed with the people who have agreed to whatever this component would be referred to as? Do they realize that if an NR...if this district had to return this money they would probably see their property taxes increase in order to provide that money. Had that issue even been raised? [LB701]

SENATOR HEIDEMANN: They...I have been informed, yes. [LB701]

SENATOR CHAMBERS: And what was the conclusion, if one was reached? You guys are going to have to work out some hand signals (laugh), but that's okay. I don't use the computer. I'm old school when it comes to that, so I ought to let ordinary communications be the ticket here. [LB701]

SENATOR HEIDEMANN: I think it appears that the local NRDs want to be in compliance and they'd do their utmost to be in compliance, and if not, I suppose they would realize that they would be obligated. I think this bill also gives them the authority to increase their property tax the way it is now and also agrees that to put a fee on irrigated acres, and they could probably, within the means that we are giving them within this bill, have the means to repay this money. [LB701]

SENATOR CHAMBERS: Okay. The NRD people know that, but do the citizens whose taxes will be increased, do you think they know that? This is something like that bill we had the other day on liability where the political subdivisions were taken into consideration but not the children who might be hurt. So the leaders of NRDs may have agreed, but the people whose property will be taxed may not have been informed. Were there meetings that informed the people that this could very well happen, the increase of their property taxes? I'm just asking. [LB701]

SENATOR HEIDEMANN: There have been hearings and probably what they have read through the press. [LB701]

SENATOR CHAMBERS: Okay. I hadn't read anything about this in the press, so I guess I know a little bit more than what I read in the newspaper. But here's something else I would ask you. The corn checkoff that you mentioned is how much right now? [LB701]

SENATOR HEIDEMANN: Seven-eighths cents per bushel. [LB701]

SENATOR CHAMBERS: And how long has that been in place, if you know? What do you think the price of corn per bushel was at the time that was put in place? We know it was not \$4 a bushel, don't we? [LB701]

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SENATOR HEIDEMANN: Correct. [LB701]

SENATOR CHAMBERS: So, percentagewise, that amount today is a lot smaller than it was... [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR CHAMBERS: ...at the time that it was first put per bushel when the per bushel value of corn was a lot less. What would it have to be today at \$4 a bushel to be the same, the equivalent amount? [LB701]

SENATOR HEIDEMANN: I'd have to research some history there to find out when the corn checkoff actually started. It increased I think two years ago to seven-eighths of a cents, but the corn checkoff has been going since, I think, the mid-nineties and that's just my memory. [LB701]

SENATOR CHAMBERS: But we know that the reason corn is increasing is because it's being used for ethanol, and as corn is being used for ethanol and the price of corn is increasing, other grain farmers are now starting to produce corn because they want to get on that wagon. Would you agree? [LB701]

SENATOR HEIDEMANN: There is an increase or intention to increase planted acres of corn this year. [LB701]

SENATOR CHAMBERS: Now would you be willing, and we probably will run out of time before you can answer,... [LB701]

SENATOR FRIEND: Time. (Laughter) [LB701]

SENATOR CHAMBERS: I knew it. (Laugh) [LB701]

SENATOR FRIEND: (Visitors introduced.) Senator Wallman, you are next and you are recognized. [LB701]

SENATOR WALLMAN: Thank you, Mr. President, members of the body. And I'd like to ask Senator Christensen a question. [LB701]

SENATOR FRIEND: Senator Christensen, will you yield to a question? [LB701]

SENATOR CHRISTENSEN: Yes. [LB701]

SENATOR WALLMAN: Under this funding thing, how much would my property taxes increase on a \$225,000 house in, say, Imperial? [LB701]

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SENATOR CHRISTENSEN: Well, it amounts to \$100 per \$100,000 valuation, so you talk \$225. [LB701]

SENATOR WALLMAN: And dryland farm the same? [LB701]

SENATOR CHRISTENSEN: Figures on a...I took it a little different approach when I figured it out. I took an average 1,000-acre farm, dryland, is going to amount to \$500. [LB701]

SENATOR WALLMAN: Thank you. And corn checkoff, Senator Chambers, would be around...where's he at? (Laugh) If it was \$4, you know what it would be, don't you? Around \$1.56. But anyway we're taxing everybody's corn, everybody's milo, and nobody's soybeans, nobody's sugar beets. If we actually want more money into this fund we just kind of tacked it on something pretty handy. We already got a checkoff in place. And are we paying these grain terminals any money for this checkoff business? No, which is getting done for nothing. So these checkoffs, we did it voluntarily--beef, pork, grain--and has it been working? I think we got to promote our own products, I honestly do, and we got to conserve water, I honestly do. And so these checkoff dollars, they probably bother me about as much as anything. We just keep extending things on. It's supposed to be done in 2012. So we just added on. So I think we have to be very careful what we do here with these monies, how we get the resources, how...and Senator Wightman here, \$3 million here, \$3 million there, pretty soon it amounts to some real money. (Laugh) And does it bother you? Does it bother me? To some degree, but I think we have to be very careful that as a state, if we do fund this bill, if we fund this bill through surface...buying out surface water, which is immediate solution, but the long-term solution is not surface water. It's aquifer, coming out of the aquifer. So I think we got to help the NRDs here and they got a tough job and I appreciate for what they do. And Christensen, Senator Christensen and Senator Carlson, I know they've been working on this and amend this and amend that. And so that's all I'll say. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Wallman. Senator Schimek, you are next and you're recognized. [LB701]

SENATOR SCHIMEK: Yes, thank you, Mr. President and members. I'd like to go back to my questions to Senator Heidemann, if I might. [LB701]

SENATOR FRIEND: Senator Heidemann, will you yield? [LB701]

SENATOR HEIDEMANN: Senator Heidemann would. [LB701]

SENATOR SCHIMEK: Thank you, Senator. Would you explain to this body what LB420

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does, basically, without going into a lot of detail? [LB701 LB420]

SENATOR HEIDEMANN: LB420 was a bill that came before the Appropriations Committee, and it was carried by Senator Erdman, that would create a fund that would help agriculture research. When we looked at that bill, there was a funding mechanism. How he was going to fund this was going to take some money from cigarette tax money and divert it to fund his bill. We actually didn't do what he had intended there, but what we did was to take LB420 and fund his bill by an increased tax on cigarettes. For each penny that you increase tax on cigarettes, you bring in about \$1 million worth of revenue. We raised it 6 cents with the intent that 1 penny would go to fund Senator Erdman's LB420 agriculture research, 3 cents would go to fund what we were talking about right now, the Water Resource Cash Fund. Would be about \$3 million in lieu of probably, but this wasn't...wouldn't be up to us, the \$2.7 million transfer from the General Fund. Also in that we had included 2 cents of an increase in cigarette tax to fund the storm water grant program. That's a short version of it. [LB701 LB420]

SENATOR SCHIMEK: Okay. Thank you, Senator. So if I'm understanding right, 3 cents of this would actually replace what's in this bill? [LB701]

SENATOR HEIDEMANN: That was probably our intent, but we couldn't go there and actually say that. This body could probably put it on top of or replace it, one of the two, but that, you know, would be up to this body's decision. [LB701]

SENATOR SCHIMEK: Okay. And how is...how is LB420 going to be addressed in this session? [LB701 LB420]

SENATOR HEIDEMANN: The committee advanced it. It's sitting on General File right now. [LB701]

SENATOR SCHIMEK: Is there any thought of amending it onto this bill, by any chance? [LB701]

SENATOR HEIDEMANN: The thought is there. The intention right now probably would be we'd have to wait and see, I'd say. [LB701]

SENATOR SCHIMEK: And I don't mean to put you on the spot, I mean what you intend to do, if there's something that's not decided yet. I certainly don't mean to put you on the spot. But let me tell you the problem I have with the approach of LB420. I'm delighted about the attempt to cover these different areas, but cigarette tax money has almost always, with some exceptions, gone for health issues, and here we're earmarking it for water issues, which doesn't seem entirely appropriate to me. And...but I understand how these things come about and certainly you had a willing, maybe, vehicle here. But I guess what I would like to see, and this is just my own thinking at this point and I don't

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know if anybody else would agree or not, I would rather see this bill that we're discussing today left as it is and some money put into this bill that we're discussing today for storm water, and my preference would be, and I know you'll probably not like this,... [LB701 LB420]

SENATOR FRIEND: One minute. [LB701]

SENATOR SCHIMEK: ...but I think it should come from General Funds. I don't think it should come from cigarette money. And, you know, you are talking about an increase in cigarette taxes and there's, you know, there's always room to debate that. But it's not what we usually use cigarette tax money for. I'm just throwing that out for people to think about and maybe react to, but that would be my preference if we're going to do this. And I don't think I'm going to vote for this bill unless I see some way to address the urban issue of storm water, because that's going to be...that's going to be a healthy ticket item, too, for the urban areas. So it's hard to ask my constituents to help pay for rural water issues if we're not going to address the urban water issues, and that's where I'm coming from right now. I can be convinced otherwise perhaps, but I just wanted to put that into the thought processes here. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Time. Thank you, Senator Schimek. Senator Wightman, you are next and you're recognized. [LB701]

SENATOR WIGHTMAN: Thank you, Mr. President. Members of the Legislature, as a member of the Appropriations Committee, I rise to support the use of General Funds, which I think is what we are really talking about in this part of the amendment to support the entirety of LB701. We've talked some about noncompliance and I think Senator Chambers brought up that question. I think the noncompliance can come about as a result of two different possibilities. One would be that an individual farmer might not comply and that might put an NRD out of compliance, as far as its overall plan, because it specifically refers to as execution of the plan. Then the NRD would be required to repay the fund if the Legislature finds the district failed to implement and enforce its control. So in some instances that might actually be able to be charged back against a farmer or group of farmers who failed to comply. For example, if their water appropriations were bought out and then they failed to comply, that is at least one other source of funding, I suppose, that the NRD could enforce. I'd also like to address Senator Schimek's inquiry with regard to the use of the cigarette tax. Actually we, preliminarily at least, created a six-cent increase in the cigarette tax subject to the approval of the entire body, a part of which would be used to fund the \$2.7 million payments to the Bostwick Irrigation canal, part of which would also be used to fund storm water runoff in the Lincoln and Omaha area. And there's at least one other component of that as to what that additional tax would be used for. So it isn't an all or nothing, that all of this goes to fund the implementation of LB701, but it would be used for other purposes as well. So...but I do, at this point just want to say that I support the

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general funding, whether it be from the implementation of additional cigarette tax, and I would point out that this is an additional tax. We're not spending part of that currently being raised by a cigarette tax. And of course, all of that is subject to approval of this entire body. So with that, I thank you, Mr. President and members of the Legislature. [LB701]

SENATOR FRIEND: Thank you, Senator Wightman. Members wishing to speak are Senator Mines, Chambers, Karpisek, Gay, and Pirsch. Senator Mines, you are recognized. [LB701]

SENATOR MINES: Thank you, Mr....thank you, Mr. President. Would... [LB701]

SENATOR FRIEND: You're welcome, Senator Mines. [LB701]

SENATOR MINES: ...(laugh) would Senator Heidemann yield, please? [LB701]

SENATOR FRIEND: Senator Heidemann, will you yield? [LB701]

SENATOR HEIDEMANN: Yes, I would. [LB701]

SENATOR MINES: Thank you, Senator Heidemann. Going through your figures and the appropriations that will be made through, yeah, 2018 and '19, and like usual, government is backwards. We are deciding how to appropriate monies and we don't know what programs we're going to implement or what they're going...what they should cost. And that's no fault of Appropriations. That's what you do. You find revenue and you appropriate revenues. I'm just saying the cart is before the horse and we're going to try and raise about \$33 million, and this is the way that's being proposed that we do it. Having said that, Senator Heidemann, I've also got, in addition to the \$33.5 million that's shown, total, there are also other sources of revenue that fall into this bucket of money. We have the occupation tax that's \$10 an acre. We also have an annual levy of up to 10 cents per \$100 of value. Each NRD has a one-cent restricted levy for ground water management protection. They also have their normal levy of 4.5 cents per \$100 of value. And there's also a ground water management fee that they can charge of 3 cents per \$100 of value. My question, Senator Heidemann: With the other taxes that are not listed on your sheet, is there an idea...does your committee have any idea what kind of revenues will be generated by these property taxes and the occupation tax? [LB701]

SENATOR HEIDEMANN: I've been told \$10 million to \$14 million. I think Senator Carlson actually...he's turning around and looking at me right now, that's (laugh)... [LB701]

SENATOR MINES: Should I direct it to Senator Carlson? [LB701]

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SENATOR HEIDEMANN: ...but I think he has a very good idea exactly how much money this is going to raise at the local level. I was told it was \$10 million to \$14 million per year. [LB701]

SENATOR MINES: Per year. [LB701]

SENATOR HEIDEMANN: It has the capability of doing that. [LB701]

SENATOR MINES: Right. [LB701]

SENATOR HEIDEMANN: Doesn't mean that they would have to access that all. [LB701]

SENATOR MINES: Exactly. Exactly. Thank you. Maybe I'll direct these questions to Senator Carlson. Mr. President, would Senator Carlson yield? [LB701]

SENATOR FRIEND: Senator Carlson, will you yield? [LB701]

SENATOR CARLSON: I will try. [LB701]

SENATOR MINES: Senator, again, you heard the question. I don't expect specifics, but have you or anyone taken time to understand where the local portion...how much might be coming in to solve...help solve the problem? [LB701]

SENATOR CARLSON: Okay, Senator Mines, I think it's good to keep in mind that what's requested in this legislation is a maximum amount that could be raised, and that's the \$10 per acre on occupation tax, which I believe would raise about \$11.5 million to \$12 million. And the other is the up to 10 cents on the property tax increase, which has the potential of another \$4.5 million. Now... [LB701]

SENATOR MINES: So you're not necessarily going to take it to the limit. I would expect that wouldn't happen, is that correct? [LB701]

SENATOR CARLSON: I certainly hope it would not happen. [LB701]

SENATOR MINES: Okay. [LB701]

SENATOR CARLSON: To satisfy bonding authority requirements, that's why those figures are in there. [LB701]

SENATOR MINES: Right. [LB701]

SENATOR CARLSON: And I would look at that as an absolute worst case scenario. I hope it doesn't happen. [LB701]

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SENATOR MINES: Well, Senator, and I ask you to respond to this, if you don't mind. Again, government figures out how much money we can get and then we come up with a plan, but it appears to me that given the revenues that will be generated we don't know if this will fix the problem or not. Do you think, given the... [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR MINES: ...\$14 million a year plus \$10 million, do we know what this will do to help solve the problem? [LB701]

SENATOR CARLSON: We do not have a guarantee that this will get us into compliance and satisfy Kansas. But we're putting tools in the tool box of the NRDs to allow them to make necessary steps forward to make progress toward coming into compliance. [LB701]

SENATOR MINES: Okay, so we don't know what will...what will fix the problem, but this is money that will be used to help start that process. Is that what I'm hearing? [LB701]

SENATOR CARLSON: We don't...we don't have a guarantee, but we've got a nightmare if we think in terms of doing nothing. And those are our two choices. [LB701]

SENATOR MINES: Thank you, Senator Carlson. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Mines and Senator Carlson. Senator Chambers, you're next and you're recognized. [LB701]

SENATOR CHAMBERS: Thank you, Mr. President. [LB701]

SENATOR FRIEND: You're welcome. [LB701]

SENATOR CHAMBERS: Senator Carlson, I'd like to ask you a question. Senator Carlson, you had said... [LB701]

SENATOR FRIEND: Senator Carlson, will you yield? [LB701]

SENATOR CARLSON: Yes. [LB701]

SENATOR CHAMBERS: Senator Carlson, in response to a question that Senator Mines asked you about some figures, you said they're in there because of bonding requirements and you would hope that those levels would never have to be reached. [LB701]

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SENATOR CARLSON: I certainly do. [LB701]

SENATOR CHAMBERS: Okay, so right now, since they're just theoretical, they're bonding. But if they had to be reached, they'd be more like bondage, right? [LB701]

SENATOR CARLSON: I agree with you. That's what it would be. [LB701]

SENATOR CHAMBERS: Now you said something must be done and I believe all of us here today agree with it. If pumping were reduced, that would help us reach a solution, wouldn't it, whether people like it or not? [LB701]

SENATOR CARLSON: Yes, it would. [LB701]

SENATOR CHAMBERS: Why don't we consider that? [LB701]

SENATOR CARLSON: We are. [LB701]

SENATOR CHAMBERS: And to what extent will that be considered? [LB701]

SENATOR CARLSON: I can't answer that because I'm not in on that particular part of the equation and the determination. But that is definitely a part of it and everybody hurts through this. [LB701]

SENATOR CHAMBERS: Okay, and that's all I'll ask you. I want to get back to asking Senator Heidemann a question or two. [LB701]

SENATOR FRIEND: Senator Heidemann, will you yield? [LB701]

SENATOR CHAMBERS: And Senator Heidemann, as you come to the mike, I just want to say a couple of things. Senator Schimek grew up on the Republican River. Senator Schimek watched the Republican River flood. Senator Schimek watched reservoirs built on the Republican River. Senator Schimek watched great recreational areas develop around the Republican River. That's why she's a Democrat. (Laughter) Senator Heidemann, I'd like to ask you a question now. [LB701]

SENATOR FRIEND: Senator Heidemann, will you yield? [LB701]

SENATOR HEIDEMANN: Yes. [LB701]

SENATOR CHAMBERS: Senator Heidemann, although I'm not going to hold you to an amount that that seven-eighths of a cent would be based on a \$4 per bushel corn price, it would be more than seven-eighths of a cent, right? [LB701]

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SENATOR HEIDEMANN: It depends on where you start it from. I understand that this corn checkoff was started in the mid-1990s. And if my memory goes back that far, the price of corn probably back at that time was looking at \$3.50 and \$4. There was a short rise in prices and then when we hit, I'd say 2000, late 1990s to 2000, it dropped back down. So probably when it was started, you're looking at, it would be fairly level to where you're at right now. [LB701]

SENATOR CHAMBERS: But most of the period between when it started and today, the price was considerably lower than \$4 a bushel. Would you agree? [LB701]

SENATOR HEIDEMANN: Yes. [LB701]

SENATOR CHAMBERS: But even when the price dropped from what you said that it was when this checkoff was first put in place, even after the price dropped, that seven-eighths of a cent was maintained once it was put in place. [LB701]

SENATOR HEIDEMANN: It's a little bit like gas tax. Even though gas has gone up \$3, you're still paying 27.1 cents. [LB701]

SENATOR CHAMBERS: Would you be against raising the checkoff amount to three cents? [LB701]

SENATOR HEIDEMANN: Yes. [LB701]

SENATOR CHAMBERS: Why? We want to solve this problem. Isn't there a relationship between a corn checkoff and the problem we're trying to solve? Isn't there a relationship? Are people who grow corn people who also help produce this problem that we're trying to solve? [LB701]

SENATOR HEIDEMANN: They are and they have stepped up to the plate by... [LB701]

SENATOR CHAMBERS: Okay. (Inaudible) the question. Do people who smoke cigarettes have any responsibility for this problem by virtue of their smoking cigarettes? [LB701]

SENATOR HEIDEMANN: You would... [LB701]

SENATOR CHAMBERS: No. The answer is no. That was a trick question, I shouldn't have thrown it at you. That's all I will ask you. Thank you, Senator Heidemann. Members of the Legislature, the other day when I was speaking against LB305, and I'm still against it, you'd raid the General Fund to... [LB701 LB305]

SENATOR FRIEND: One minute. [LB701]

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SENATOR CHAMBERS: ...put some money in the Highway Trust Fund. Senator Carlson asked me, isn't there a relationship between the sales tax on vehicles since they do use the highways, and I agreed. There is no relationship whatsoever between the cigarette tax and this water problem. So if that is going to be the basis for showing a justification for a course of action, you've just wiped out the basis for increasing the cigarette tax to do anything about this water unless you're going to say if a cigarette caused a fire then water would be used to put it out. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Chambers. Members, the discussion continues on the second division of the Natural Resources Committee amendments. Senator Karpisek, you are recognized. [LB701]

SENATOR KARPISEK: Thank you, Mr. President, members of the body. I support the bill. We do need to do something and I support General Funds paying for this. And we do need to find a way to pay General Funds back. I stand to say if we're going to use cigarette tax, I am going to stand here and talk a long time. We just went through a big talk about how terrible secondhand smoke is, how terrible cigarettes are. But when we can use their tax money, they're good enough. Amazing to me. I don't think that that is anywhere to go to try to get money for this issue. I don't know how that got dreamed up and I don't like it. Let's pick on something else. I don't know what, but we can dream something up. I just don't see where we can even draw a line on those two. I also really don't like the checkoff program because the checkoff program was started to help sell corn. It's an advertising tool. This is not for advertising the corn. I agree that someone is going to need to pay for it and I think everyone needs to pay for it. We all use water. There's some industry that use an enormous amount of water. There's municipalities that use an enormous amount of water and it is a state program. So I think that we need to sit down and try to find a way that we can all chip in and help pay this out. The checkoff plan, again, I don't think is the way to go. We have dryland farmers that produce about half the acres in the state are dryland corn and they produce maybe about 40 percent of the crop, 35 to 40. So then the dryland farmers that grow corn are also going to have to put into the checkoff. I guess my question is, could we try to go per gallon used? I don't know, maybe that seems too simplistic or how are we going to do all that, how are we going to meter the wells, how are we going to do any of that, should it cost more if you're irrigating or should it cost less if you're making drinking water. I don't know, but those are the questions that I have. If we're all using water, let's help out the situation and not try to put the whole brunt of it on one set of the people in the state. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Karpisek. Senator Gay, you are next and you're recognized. [LB701]

SENATOR GAY: Thank you, Mr. President. I rise...Senator Schimek brought up a good

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point about the storm water runoff issues. I do have some concerns after initial discussions if we start getting into a cigarette tax to, what I think we're trying to, working to abolish or get rid of. It seems it's an unreliable source of income to fund something through for an extended time period. So I have some concern over that. I did want to rise and support this, the whole compromise that we're forging here today and possibly tomorrow because I do think the urban areas need to participate and it is a Nebraska problem. I think we've, Natural Resources and people have worked hard, that we have a nice coalition of everybody contributing here. And I do think money should come from the General Fund to help support this. But when I did hear that, I have some concerns and I don't want to get too far ahead of ourselves in the budget process. And many of us will be learning how that works, many new senators. But I do have a little concern if some of this funding is going to come from cigarette taxes, which I think, like I say, we've been usually using those for healthcare issues and other things. And relying on that, if that's kind of where we're going, I don't agree with. I think we should find something in the budget and take our licks and find out whatever we need to get it from. But I kind of would lean against, if that's where we're going. And maybe I misunderstood that but I just wanted to rise and say that. Because the next thing you know, like I say, in the urban areas we have storm water issues that are unfunded mandates that are a tremendous, tremendous amount of money. And is it the next thing that we want to add a few more cents for that, and this and that. But I just wanted to rise in support. I do commend everyone so far, a lot of work and effort has gone into this. I'm looking forward to more discussion. But I think that is something we should file in the back of our brain here as we're discussing this, that if we're going to fund this for that long, these water problems, they probably aren't going to go away. We need a reliable source and I think that needs to come directly from General Funds, not something that could be, you know, on a declining revenue basis or we could find ourselves in trouble. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Gay. Senator Pirsch, you're next and you're recognized. [LB701]

SENATOR PIRSCH: Thank you, Mr. President, members of the body. A journey of a thousand miles begins with a single step. I think it was a wise man who said that, perhaps Senator Pahls or Confucius, I really can't remember. But this is the beginning of the dialogue and I think it...I'm optimistic about the direction that we're headed here. I think it is very warranted to have a debate. It has profound implications for the future of the state. So I just encourage us to continue this thorough deliberation, to be thoughtful and comprehensive in our debate, and to take the time to consider each of the details here in this plan. I was wondering at this point in time if Senator Christensen would yield to a series of questions. [LB701]

SENATOR FRIEND: Senator Christensen, are you available to yield to a question from Senator Pirsch? [LB701]

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SENATOR CHRISTENSEN: Yes. [LB701]

SENATOR PIRSCH: You're pretty fast there, Senator Christensen. You ran track apparently. (Laughter) I guess my questions are directed at the state of Nebraska's involvement in this particular problem. General Funds are proposed as part of the solution. And so could you comment on the possible harm that could devolve upon to the state of Nebraska as a whole by not addressing this particular issue and having the state involved in that? [LB701]

SENATOR CHRISTENSEN: Yes. In the 1943 compact being signed by the state of Nebraska, and again in the settlement in 2002, it is a state agreement with Kansas and Colorado. So any shortages we come up with will be paid for by the state, just like the waste dump was. The liability will fall back onto the state, not to individual farmers. [LB701]

SENATOR PIRSCH: Okay. And so could that be...and you've been made aware of the particular amounts that we've been discussing here today and as far as the state of Nebraska's contribution towards this particular bill. Is that correct? [LB701]

SENATOR CHRISTENSEN: Yes. [LB701]

SENATOR PIRSCH: And have other states experienced, have they had experiences when the state has not played a role in that, in crafting a solution, where a solution was imposed by factors that the state could not control then? [LB701]

SENATOR CHRISTENSEN: Yeah. If you take down the Kansas River when Kansas sued Colorado, the judge levied a fine against the state of Colorado and then they also...I can't answer whether it was a judge or the state then shut off the wells in the state of Colorado. But currently there is the state shutting off more wells in Colorado. [LB701]

SENATOR PIRSCH: I guess my question is, is the possibility exist that it may be more expensive to take a reactive role for the state of Nebraska rather than a proactive role for the state of Nebraska? [LB701]

SENATOR CHRISTENSEN: That is definitely right. If we pass this bill and let the basin manage the shortages and levy this tax authority to come into compliance, takes a burden off of the whole state, which affects Lincoln, Omaha, and all the cities and people across the state. [LB701]

SENATOR PIRSCH: Without the state of Nebraska as a component in crafting a solution, does it seem likely that just a regional solution can be reached that would solve

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the problem? [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR CHRISTENSEN: Well, yeah, I believe we can. But it is worked with the state because the DNR works with the natural resources districts on the amount of water that they have to use and their allocations. It's a joint effort worked together. [LB701]

SENATOR PIRSCH: Okay. I just wanted to briefly, because I just have a few seconds left, I could ask if Senator Heidemann would yield to a question, a quick question. [LB701]

SENATOR FRIEND: Senator Heidemann. [LB701]

SENATOR HEIDEMANN: Yes. [LB701]

SENATOR PIRSCH: And this will be with respect to the amendment, AM963, as written, page 2, in line 23 in particular. It deals with the beginning of that sentence, begins in line 19. In line 23, however, you have the year 2007 written down. Is that year, did you intend for that particular year to be listed for funding for every subsequent year that occurs so that all requests have to be done by this... [LB701]

SENATOR FRIEND: Time. Senator Christensen, you are next to speak and you are recognized. [LB701]

SENATOR CHRISTENSEN: Did you say me? [LB701]

SENATOR FRIEND: Senator Christensen. [LB701]

SENATOR CHRISTENSEN: Okay, thank you, Mr. President. Just wanted to address a little bit on this, the reason property tax and occupation tax are both in this. The bonding counsel, because there's no history on an occupation tax, will not rate a bond as well or may not rate them at all if we don't have property tax in there. So the intent here in the first year to do the surface water buyouts is to put on the property tax and they'll have a two-year bond with a one-year call, meaning that they can pay it off in one year using the occupation tax or property tax or combination of. That there will give them the ability to see how an occupation tax works so that bonding counsel will be able to see some history so that they could rate it upon an occupation tax. That's why both has to be in here. That's why the property tax has to go first, because an occupation tax is new. And that's the reason that, if people are concerned about what happens to the urban dwellers and things in the district, that's why that's important in there, is it has to be used as a tool to gain credibility on the occupation tax. And while I've got a little time here, I might also address Senator Schimek's comments of, you know, working on

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storm water and things also here. And she probably heard me address Senator Pirsch in the fact that if we don't do this bill and we don't work towards a solution, the cost is going to fall back on the state. And unfortunately, everyone pays in that. And my basin is stepping up very boldly with a lot of tax dollars to go to work on this issue when they could step back and say, well, we're going to take allocation cuts and we're going to let the state take a big fine and we're going to stay behind the scenes. But I think you've got to commend this district, the district that Senator Carlson and I are in, that they're willing to step up and address the issue and try to tackle it head on. And I want you to think about, you know, the important role the district is playing or the area residents in stepping up to address this issue and not just washing their hands, saying this is a state issue, I'm not going to worry about it. Yes, it can affect us, by the wells shut off that I mentioned with Senator Pirsch. But at the same time, we're stepping up with huge amounts of dollars to address this issue. So again, I'm going to encourage you to vote for this set of amendments and pass this bill to allow the people to work in what's the best interest of the state. Thank you, Mr. Chairman. [LB701]

SENATOR FRIEND: Thank you, Senator Christensen. Members wishing to speak, Senators Flood, Carlson, White, Heidemann, Stuthman, Chambers, and others. Senator Flood. [LB701]

SPEAKER FLOOD: Mr. President, members, I just wanted to step up to the plate a little bit and talk about some of the discussions that we've already had regarding AM963. And one of the questions that was raised earlier was, well, do we have anything that's going to reduce the water allocations for folks in the Republican River Basin. And the truth is, we do. LB962 is a regulatory scheme that requires integrated management plans to be formed through these cycles and the next cycle comes up in the 2008 growing season. So yet this year, NRDs are going to sit down with the DNR and they're going to look at the hydrology studies and the data available and they're going to determine what the basin allocation will be in an NRD district. That's a fairly significant control on the amount of water being pumped in the Republican River Basin. I think it's important that we underscore how much and how far the NRDs in southwest Nebraska have come to the table. And I kind of resist this idea that, well, they don't deserve any funds or we have to get something that we want. They've come the journey. They have done their part. It's hard for any of us, I think, to criticize the work that's been done in the Republican River Basin, given what they've come to the table with. I remember at the beginning of the session reading articles where they wanted a \$3 or \$4 match for every dollar the basin provided. Well, the tables have been turned, my friends. The tables have been turned and it's the state now talking about \$2.7 million General Fund appropriation this year and next year and ongoing until 2018 for the Water Resources Cash Fund, which could be used in other basins across the state down the road. And then the \$3 million that's in this goes to buy out water in the Bostwick Irrigation District. I really think we have to really focus on the fact that these irrigators and the folks in southwest Nebraska have come to the table and we need to do what we can to make

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this work given how far they've come. And I'll make this comment: if you don't like AM963, you're going to hate a court order and judgment that the state of Kansas has. If you don't like paying \$3 million here and \$2.7 million here, you're not going to like the unconscionable number we could see down the road. And I think it's important to note that our options aren't that great. And the other thing that I want to mention, and I don't think we've tied this into the rest of the picture, but agriculture, under the bill as amended and proposed, is doing its part; corn checkoff at seven-eighths of a cent, property taxes increases and occupation tax increases in the Republican River Basin. This isn't a situation where we have a corner of the state freeloading off the rest of us. This is a situation we have in a corner of the state at the table finding solutions to a problem that all Nebraskans will pay for if we don't find the solution now. Granted there's an incentive for the folks in the Republican Basin to be at the table because the other option for them is zero water. And if you want to watch a corner of Nebraska wither up during the toughest of economic times when land values plummet, that's what we're heading for if we don't get serious about this. So I've seen the movement in Senators Carlson and Christensen in what has been a very difficult consideration and decision for them to come to the table. And to suggest to them that they're not worthy of the appropriations outlined in AM963, quite frankly, I think it's a little offensive because they are at the table working through a problem. And I know there's an additional appropriation, the vegetation... [LB701]

SENATOR FRIEND: One minute. [LB701]

SPEAKER FLOOD: ...issue that we're going to see as Senator Carlson's portion of this. But I think we need to give these folks a little bit more deference than I've seen so far on the floor. And the last thing I want to say is regard to storm water. And Senator Schimek is absolutely right to be paying attention on this issue. We have been neglect in addressing the storm water issues statewide. Omaha has a problem, it needs to get fixed. Lincoln has got a problem, Norfolk has got a problem, Grand Island. Every community in the state, Louisville has a problem. Its former mayor is sitting there representing District 2. He'll tell you it's something we need to address. But the difference between where we're at on storm water and where we're at on the Republican River Basin, in my opinion, is a comprehensive solution in one and more effort needs to be put into the discussion on storm water. And rural senators, we have an obligation to be at that table, too, to figure out how we're going to come up with a solution on storm water. This isn't and shouldn't be about urban versus rural. This should be about the Nebraska Legislature identifying and tackling the tough problems in the state. [LB701]

SENATOR FRIEND: Time. [LB701]

SPEAKER FLOOD: Thank you. [LB701]

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SENATOR FRIEND: Thank you, Speaker Flood. Senator Carlson, you're next and you're recognized. [LB701]

SENATOR CARLSON: Mr. President, members of the Legislature, I would like to indicate that so far I appreciate the civility of our discussion. I appreciate what Senator Flood has said and would like to extend some comments in regard to what he has said. First of all, LB701, if passed, I look at it as being a work in progress through annual legislative sessions and two-year budget processes. And as long as I'm in the Legislature, if LB701 becomes law, I'm going to encourage that we look for another source before the corn checkoff is triggered in 2012. I'm also going to encourage that we fine-tune the occupation tax. And that is not to be a part of LB701 today but as time goes along. And an occupation tax that puts so much per irrigated acre I believe should be fine-tuned so that those irrigators that use more water pay more of the occupation tax. Those that use less pay less. We're not in a position to do that right now and we don't want to hold up the bill. I'm just, for the record, indicating I will be following that and trying to see that that could be come a reality in future years. I'd like to bring us back to one other point as we continue discussion. And earlier today I indicated that LB701 is what I'm going to call hurtful, scary legislation. Why would we do this? We are asking you to okay a bill that puts the largest tax increase in the history of the Republican Basin. And yet they're asking for that because many people there realize, again, that doing nothing is a horrible option and a nightmare is just around the corner. But I believe this piece of legislation and what comes of it is a blueprint for future legislation. And let me remind you that 2 percent of the taxpayers in the state of Nebraska are indicating a possible interest in paying 72 percent of the bill on an ongoing basis. And as we have other problems come up in other areas of the state, we'll refer back to this example of legislation. And because of that, as time goes along, certainly I believe Senator Christensen and I will also not be too timid in asking for the state to continue to help and maybe help even in a greater way. But we appreciate what's being considered now, we appreciate this opportunity. And so again, I look forward to the remainder of the discussion. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Carlson. Senator White, you are next and recognized. [LB701]

SENATOR WHITE: Thank you, Mr. President. I have a couple of concerns I'd like to address for the floor and ask them to direct their attention to these issues. As I understand the bill at this point in time, first, the General Fund will be required to make the contribution of the millions of dollars to help this problem. But the NRDs will not be required to levy the fee to permanently purchase and retire the surface water rights. I am concerned that we are being asked in my district to definitely contribute money but the NRDs may only have to contribute money in the future. It seems to me if we're facing a crisis, and I am a person who does not like to do, deal in half measures. I want to retire this problem to the extent we are able. I wonder whether or not it is a good idea

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to join the contribution of the General Fund money for certain by requiring the NRDs to go out, purchase the surface water rights, hold them, and raise the fees if necessary. If they don't need that water, there's no reason why they can't again lease it out and use it year to year and gain income from it. But if we're putting money out to solve the problem, I'd like to see them do that. And to that end, I have a question, I'd like to direct it to Senator Christensen if he would yield. [LB701]

SENATOR FRIEND: Senator Christensen, will you yield? [LB701]

SENATOR CHRISTENSEN: Yes. [LB701]

SENATOR WHITE: Senator Christensen, could you please address that concern? [LB701]

SENATOR CHRISTENSEN: Hit me with which one, I was in another conversation. [LB701]

SENATOR WHITE: The concern that the General Fund is being required to contribute millions of dollars, but the irrigators in this basin may have to raise their rates. It seems to me, if we're in for sure, perhaps it's only fair that they have to ante up for sure, too. Can you explain to the members of the Legislature your position on that point? [LB701]

SENATOR CHRISTENSEN: Sure, thank you. The situation sits, is we'll only have a two-year commitment from the Governor of getting the water cash reserve fund money into the Republican River district. And after that, that money can be used on the Platte or any other river district that is needed. And the reason that we don't want to have to put the maximum on is if we don't need it, we get into wet spells or if we get a long-term solution that doesn't take all the tax dollars, we do not want to have to put it all on. But this first year, they're doing a one-year buyout which will take the state dollars that's being put in, will take the dollars being put in by the basin to get this accomplished, to get a one-year compliance. But we don't want to be strapped to a long-term high amount of taxes if we don't need them. And it's not tied to what the Governor or the state is putting in more than two years. [LB701]

SENATOR WHITE: Thank you, Senator Christensen. I have a concern. This is being billed as a matter that is driven by the necessity of dealing with an emergency in the Republican River Basin. But it is now my understanding, in fact, a large part of the money may be directed to the Platte River Basin. This does not strike me as consistent with what we were advised was the driving force behind this bill. So I would like to better understand the interrelationship between what we do here today and money that may be spent in water, river basins that are not under a compact. Senator Heidemann, would you please yield for a question? [LB701]

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SENATOR FRIEND: Senator Heidemann, are you available for a question? [LB701]

SENATOR HEIDEMANN: Yeah, I am now, yes. (Laughter) [LB701]

SENATOR WHITE: Senator Heidemann, one of the components of this bill that assists me... [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR WHITE: ...as an urban senator is the corn checkoff promise, which would not become operative in 2012. Two concerns; one is it's my understanding that many rural senators will seek next year to remove that should the General Fund money be committed which, of course, is predominately all citizens but urban area money comes in first. And second, I have a concern that such a checkoff funding is unconstitutional. Can you please address those concerns, if not now, when you next have an opportunity? [LB701]

SENATOR HEIDEMANN: When you talk about the constitutionality part of it, we have been told that this has been ruled constitutional. So we're not aware of why it would be unconstitutional. The other part, I will not say that there probably won't be efforts in future years to probably address the corn checkoff from some senators that are sitting in this body. [LB701]

SENATOR FRIEND: Time. Senator Heidemann, your light is next and you are recognized. [LB701]

SENATOR HEIDEMANN: I will continue on with Senator White if he would like to. If he has more questions with me, just to address him, I have a few things that I would like to talk about. But continuing on with you, I'm not saying that down the road there won't be efforts. You look at...the checkoff alone, you have concerns I believe with what the rural areas are willing to put in with this. The checkoff alone, starting in 2012, 2013, will kick in \$6.2 million to \$6.3 million a year compared to the General Fund at that time at \$2.7 million. And even though there might be an effort down the road to maybe address this, the way the bill is written now, this is what the law will be. [LB701]

SENATOR FRIEND: Senator White. [LB701]

SENATOR WHITE: Yes, to refine my question, Senator, with regard to constitutionality, Senator Wallman raised a perfectly valid point. A dryland farmer who does not irrigate is being taxed on corn to pay for irrigated corn. You could alone there have constitutional questions regarding rational classifications. There are other aspects of it as well. But beyond that, again what I hear, from an urban senator's perspective, is we are being asked for sure now to put our money in. And what I'm now understanding is maybe the

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rural senators will put their people's money in, maybe later, and maybe only then, and maybe only if they can't win a subsequent battle. If we're truly to reach together to get a statewide compromise and recognize that we truly are one state and we're in this together, don't you think that if you are going to commit our money, the rural area money should also be committed? [LB701]

SENATOR HEIDEMANN: You know, I really believe they're stepping up to the plate here. I realize that it's not mandated that they are going to raise their levy by ten cents, it's not mandated that they're going to raise the \$10 irrigation fee or occupation tax. But it sure is their intent. Just like it is the intent of this Legislature in the next biennium, we cannot tie the next Legislature but it's their intent to continue on with \$2.7 million. Thank you, Senator White. I do want to point out, we handed out, I believe it came from, I believe it might have come from me, a sheet that tells you how the Water Resource Cash Fund would be funded. And as we was looking at the totals when we was talking to Senator White before, we realized that we was in error with the totals. If you look at every year starting with the year fiscal '07-08 to fiscal year 2018-2019, those numbers are correct; we believe, anyway. It's the totals that are wrong. I wanted you to be alerted to that. We are running new totals now as we speak. And when we get those new totals in, we will get back to you to correct our error. And I apologize for that. Thank you. [LB701]

SENATOR FRIEND: Thank you, Senator Heidemann. Mr. Clerk, you have a motion on your desk? [LB701]

CLERK: I do, Mr. President. If I may, right before that, the Retirement Committee will meet at 4:00 underneath the south balcony; Retirement at 4:00, south balcony. Mr. President, Senator Chambers would move to amend this component of the committee amendment with FA65. (Legislative Journal page 1136.) [LB701]

SENATOR FRIEND: Senator Chambers, you are recognized to open with your FA65. [LB701]

SENATOR CHAMBERS: Mr. President and members of the Legislature, there was once a song called "Three Little Words." My amendment consists of two little words, so I'm asking that you adopt my amendment. And you might wonder what it is. If you turn to page 8, you will be looking at the area where my amendment will occur. On line 21, the first word on that line is October, October 1, 2019. But we need to go up a line before. Well, let's go to line 19. For any sale or delivery of corn or grain sorghum occurring on or after October 1, 2012, and before October 1, 2019, the tax is one-half cent per bushel for corn. In line 21, after the word "is," I would insert the two words "one and." Now who could have a problem with two words? I don't know how many pages the bill itself has. I don't know how many pages this division of the bill, of the amendment would have. But all I'm doing is inserting two words, "one and." Those are the two little words and I think

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they don't hurt the bill at all. They help us solve this problem, which everybody seems to be agreed exists. People will often say if you don't like what is being done currently, what do you have to offer in its place? You want me to tell you who may not like this amendment? An operation misnamed the Farm Bureau. I'd like to ask Senator Stuthman a question. [LB701]

SENATOR FRIEND: Senator Stuthman, will you yield? [LB701]

SENATOR STUTHMAN: Yes. [LB701]

SENATOR CHAMBERS: Senator Stuthman, have you ever heard of the Farm Bureau? [LB701]

SENATOR STUTHMAN: Yes, I've heard of the Farm Bureau. [LB701]

SENATOR CHAMBERS: Do they sell insurance? [LB701]

SENATOR STUTHMAN: Yes, they do. [LB701]

SENATOR CHAMBERS: Do they have membership? [LB701]

SENATOR STUTHMAN: Yes. [LB701]

SENATOR CHAMBERS: The majority of their members are not farm people, isn't that true? [LB701]

SENATOR STUTHMAN: I do not know. [LB701]

SENATOR CHAMBERS: I do. Thank you. I will ask somebody who's more knowledgeable about urban issues. I'd like to ask Senator Louden a question, and I want him to be "Louden" clear. [LB701]

SENATOR FRIEND: Senator Louden, would you yield to a question? [LB701]

SENATOR LOUDEN: Yes, I would. [LB701]

SENATOR CHAMBERS: Senator Louden, are you familiar with the Farm Bureau? [LB701]

SENATOR LOUDEN: Yes, I am. [LB701]

SENATOR CHAMBERS: And you know they sell insurance? [LB701]

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SENATOR LOUDEN: Yes, I do. [LB701]

SENATOR CHAMBERS: And you know that they have memberships? [LB701]

SENATOR LOUDEN: Yes, I do. [LB701]

SENATOR CHAMBERS: And you also know that the majority of their membership is not farm people? You know that, too, don't you? [LB701]

SENATOR LOUDEN: Well, I think that's true, because in Colorado, why, that was some of the major insurance company in Colorado. It was mostly the people living in suburbs that were buying that Farm Bureau insurance. [LB701]

SENATOR CHAMBERS: Thank you. And for that answer, Senator Louden, you get an A. [LB701]

SENATOR LOUDEN: Well, thank you. [LB701]

SENATOR CHAMBERS: He's correct. So why would the Farm Bureau be opposed to what I'm offering, if they were opposed? Maybe if they poll their membership, there would not be opposition. To tell you what this amendment does for the sake of the record, it would raise this corn checkoff from one-half cent to one and one-half cent. I do not think that will break anybody. There are people who raise corn who are beneficiaries of what the Legislature is being asked to do now. When taxes or burdens are imposed on urban people, they don't fall with the same weight on everybody who happens to live in an urban area. There may be some farmers who will not be directly affected by what this bill is doing. My understanding is that this bill is in existence because of the aggravators, the irrigators, and the alligators. Now that would not include dryland farmers anywhere, except they might aggravate some of those irrigators because they don't need to irrigate. So there is a connection between the growing of corn, the selling of corn, whether it's feed for animals or humans, or to put in the gas tank. It is going to be a crop that produces money. There is a relationship between that and what we're doing with this bill. And here's the way I would frame the question. Not what the Farm Bureau thinks one way or the other, but is this bill not worth slightly more than a half cent, one cent more? Is this bill worth a penny? Is it worth a penny? (Laugh) I see Senator Hudkins shaking her head no. If this bill ain't worth a penny, then what are we wasting all this time for? Why was all the effort put into it? Maybe the wrong people were at the table, not because the ones there should not have been there, but perhaps not everybody was at this table, wherever it was located, who ought to have been there. I'd like to ask Senator Christensen a question. [LB701]

SENATOR FRIEND: Senator Christensen, would you yield to a question from Senator Chambers? [LB701]

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SENATOR CHRISTENSEN: Yes. [LB701]

SENATOR CHAMBERS: Senator Christensen, were you one of the people sitting at this metaphorical table when these negotiations were going on on this bill? [LB701]

SENATOR CHRISTENSEN: During part of them, yes. [LB701]

SENATOR CHAMBERS: Who was there the whole time, if you know, or there a greater percentage of the time than you? [LB701]

SENATOR CHRISTENSEN: Well, might have been Senator Langemeier or... [LB701]

SENATOR CHAMBERS: He's not here, missing in action. (Laughter) [LB701]

SENATOR CHRISTENSEN: But I'll sure try to answer it. [LB701]

SENATOR CHAMBERS: Were there any people who could be described as being from the urban areas at this table? [LB701]

SENATOR CHRISTENSEN: Probably not. [LB701]

SENATOR CHAMBERS: You said time? [LB701]

SENATOR FRIEND: No, you may continue. [LB701]

SENATOR CHAMBERS: Oh, thank you. Malcolm X once said that if I'm sitting at the table and everybody else has food before him or her but I don't, I'm not a diner, I'm just a sitter, I'm not participating. Is it your view that this bill has nothing to do with the interests of urban people? [LB701]

SENATOR CHRISTENSEN: I think it is in the interest of everybody in the state. [LB701]

SENATOR CHAMBERS: Who was issuing the invitations to come over here and sit down at the table? [LB701]

SENATOR CHRISTENSEN: I guess I can't answer that. [LB701]

SENATOR CHAMBERS: Who invited you? [LB701]

SENATOR CHRISTENSEN: Senator Langemeier. [LB701]

SENATOR CHAMBERS: Oh, he's here. I'd like to ask Senator Langemeier a question,

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Mr. President, if he will answer. [LB701]

SENATOR FRIEND: Senator Langemeier, will you yield? [LB701]

SENATOR LANGEMEIER: Be my pleasure. [LB701]

SENATOR CHAMBERS: Senator Langemeier, who was issuing the invitations for people to sit at the negotiating table, if you know? [LB701]

SENATOR LANGEMEIER: I know I talked to Senator "Christen" and some others... [LB701]

SENATOR CHAMBERS: Senator "Christen," who? (Laughter) [LB701]

SENATOR LANGEMEIER: ...and others to come together and talk about this water plan. [LB701]

SENATOR CHAMBERS: Who is Senator "Christen?" [LB701]

SENATOR LANGEMEIER: Christensen. [LB701]

SENATOR CHAMBERS: Oh, okay. I just wanted to be sure. Put that "sen" on the end of it and make it emphatic. Okay, now we've got Senator "Sen" at the table. [LB701]

SENATOR LANGEMEIER: Note me as a hostile witness. [LB701]

SENATOR CHAMBERS: Were there any urban people sitting at that table? [LB701]

SENATOR LANGEMEIER: Not that I'm aware of. [LB701]

SENATOR CHAMBERS: Why not, if you know? [LB701]

SENATOR LANGEMEIER: I think a little of it was drawing in the majority of this bill, which was funding, out of the Republican River Basin. [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR LANGEMEIER: The big discussion we had was, is how can the local participants be the solvers of their own problem within the Republican River Basin. [LB701]

SENATOR CHAMBERS: Then if we agree to support only that part that has the locals contributing, would the bill be satisfactory to you? And we eliminate the General Fund

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and everything except what the locals are presenting, would that be okay with you?  
[LB701]

SENATOR LANGEMEIER: No. [LB701]

SENATOR CHAMBERS: Then why weren't some of those who were going to have a part to play in that other part sitting at the table? [LB701]

SENATOR LANGEMEIER: Number one, nobody expressed any interest at that time and I apologize for not extending an invitation to you because you do have some interest. But I think the key component we all have to remember in this is of the \$2.7 million that we're offering in General Funds. If we don't come to a resolution within this Republican Basin, the price tag of the \$2.7 million is going to be extremely higher.  
[LB701]

SENATOR CHAMBERS: And you didn't have to invite me, Senator Langemeier. I'm not just an urban fellow... [LB701]

SENATOR FRIEND: Time. [LB701]

SENATOR CHAMBERS: ...I'm a citizen of the world. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Chambers. Members, you have heard the opening on FA65. Those wishing to speak are Senators Stuthman, Chambers, Dierks, Loudon, Erdman, Fulton, and others. Senator Stuthman. [LB701]

SENATOR STUTHMAN: Thank you, Mr. President and members of the body. I haven't spoke on this issue at all today yet. And I initially intended to speak in opposition to an increase in the checkoff. And I'm going to still be on that side. But one of the checkoffs or the increase in tax on cigarettes, I mean, I will not support that whatsoever. I think that's pointing a finger at some place, some group, you know, to try to gather some more money, a very easy solution to try to generate some funds. And I truly oppose that part of it. I also oppose the increase in the corn checkoff or corn and grain sorghum checkoff, mainly because I think utilization of money from the state, those \$2.7 million, maybe should be more because that is from the state, from everyone. And I think the situation that we have is a designated area that we have a real concern with because of the compact and the amount of water that Kansas wants. I don't feel that people in my district, in the northern part of my district, they cannot irrigate. Their water level is about 290 feet down under the surface. They barely can get a farm well. And if we ask them to pay a little bit more of their checkoff dollar, I think we're pointing the finger at them and saying, you know, you people have got to help solve the problem. The way we need to help solve this problem is the state to do it and the people in the area. I don't feel that the people that are barely surviving with dryland crops--yes, dryland crops have been

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fairly good the last several years in my area, but there is no guarantee whether you're going to raise one bushel on a dryland crop. Yes, technology now does make our yield somewhat better. But I am totally opposed to an increase in the checkoff of the corn and the grain sorghum. And we continually talk on this body of \$4 corn, \$4 corn. Yeah, at one time it was a little bit over \$5, only for a little while. Nobody had any corn to sell then anyway, they all sold it at \$3. And I think right now when we're talking about \$4 corn and it's only like \$3.55, it was close to \$4 but very few people sold at \$4. Why didn't they sell at \$4? Because they had already contracted the corn for \$2.50, \$2.70, \$3, \$3.10, \$3.20. And they're delivering that corn now. Yes, we'll probably see corn at \$4 at some time and there is some corn that has been sold at \$4. But I will bet you, the majority of the corn will average around that \$3 a bushel. I do not think we should be taking money from a group, from a commodity, like the checkoff of corn. The checkoff for corn was initially started because of promotion, education, research. That is what the checkoffs were established for. We've got the beef checkoff. We've got the pork checkoff. We've got the corn and grain sorghum checkoff. We've got the soybean checkoff. Maybe we should, if you're going to tack it onto corn, put it onto soybeans, too. What is the difference between dryland soybeans and my dryland farmers... [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR STUTHMAN: ...corn farmers? What is the difference there? I see no difference there. So I just, I don't feel that we should be trying to add a little more tax onto the grain to try to solve the problem that is a state problem and an area problem. Thank you. [LB701]

SENATOR FRIEND: Thank you, Senator Stuthman. Senator Chambers, you are next and you're recognized to speak. [LB701]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'm aware that this amount will bring in more than what may be needed for the culprits to pay the full share that they owe. So I want somebody to tell me how much they're willing to add. (Long pause) Silent night, that's the way it always is. But before this amendment, there was a buzz going through the place, there were different little conversations and everybody was getting along and it had the appearance of a lovefest. This additional penny is not going to put anybody out of business. And if somebody is in that fragile a situation, he or she is not going to make it anyway. If this additional penny will bring in "too much money" for the purposes envisioned, reduce the amount, but it's got to be more than a half cent, in my view. Now you all have enough votes to pass this bill, I'm sure, no matter what happens. There is a lot in this bill that could be not only tinkered with or tweaked, but altered substantially and substantively. There could be an effort to address the concerns expressed by Senator Kopplin earlier. There could be an effort to reduce substantially the amount of pumping that is going on. There are large issues that are not being touched by this bill at all. So I offer an amendment dealing with a penny and you

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see how the hackles rise. All of a sudden there's not so much collegiality, is there? And if you talk about the urban areas, that is academic and off somewhere in the future or over the rainbow or beyond the horizon, or as Senator Wallman said, on the other side of the mountain. A penny. Is not the work that was done on this bill worth a penny? Somebody said no. (Laughter) Then we may as well kill the bill. Why have I been told that this bill is so important then? I might just decide how important it is. Do you realize how many amendments can be offered on this bill? And I don't mean frivolous amendments. This one is not frivolous. It's not liked by some people, but it's far from frivolous. It is as serious as anything in this bill and it has caught more people's attention than anything in this bill. Everything was supposed to have been worked out. But when not everybody who has an interest is at the table, then somebody might come up and raise an issue that is going to make people uncomfortable. But this is the place for the discomfort to manifest itself. Senator Stuthman was speaking and I didn't get to hear everything he said, but he had told me earlier that he's against the checkoff. I guess he means period. Having been on the Agriculture Committee, I know there are people who fought against a mandatory checkoff in various areas forever. But the checkoff is there. It's supposed to promote certain crops. The money goes to an outfit not in this state and decisions are made there. [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR CHAMBERS: So some people did not want their money to go in that direction. But the checkoff remains. A penny. If that's too much, tell me what is not. And if nothing is the only alternative, then Senator Stuthman will be here a long time with me, I'm sure. He's nodding yes. I'm sure Senator Carlson is prepared to stay as long as I'm prepared to stay. Well, he's noncommittal, he sat like a stone, didn't move at all. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Chambers. Discussion continues on FA65 to the second division of the committee amendments. Senator Dierks, you're next and you're recognized. [LB701]

SENATOR DIERKS: Thank you, Mr. President and members of the Legislature. I heard lots of reminiscings here and I wanted to visit with Senator Chambers a moment if he would, please. [LB701]

SENATOR FRIEND: Senator Chambers, will you yield to a question from Senator Dierks? [LB701]

SENATOR CHAMBERS: Yes, I will, if he wants to switch it from one and a half cent to a half percent, as is done with soybeans. (Laughter) I'll answer your question, Senator Dierks, if I'm able. [LB701]

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SENATOR DIERKS: Senator Chambers, I'm asking the questions. [LB701]

SENATOR CHAMBERS: Yes. (Laughter) [LB701]

SENATOR DIERKS: I see by this handout that Senator Heidemann gave us that we're taking money from the General Fund transfer, from the grain checkoff, and from Environmental Trust grant. And could also increase the property tax asking for NRDs. And I have to tell you, the rest of the body, that I appreciate the work that you've gone through to get to this point because I know it's a difficult procedure. The question that I wanted to ask Senator Chambers, you were here during LB775 wars. And so we are giving away tremendous tax breaks to corporate America, corporate Nebraska. [LB701]

SENATOR CHAMBERS: True. [LB701]

SENATOR DIERKS: And yet we are turning around and taxing our own citizens more to take care of our problems. Can you think of a solution in the way of saving some of those tax dollars that go to corporate Nebraska that could be utilized in this effort? [LB701]

SENATOR CHAMBERS: Any of those breaks that are pursuant to contractual arrangements cannot be touched. They're safe. The only way that that amount of break will not be extended is if the corporations fall down on their end. If their employment rolls fall drastically, if they don't hold up their end, then they're not going to get the breaks. Other than that, there is no way to touch it. [LB701]

SENATOR DIERKS: So they've got that pretty well locked in, haven't they? [LB701]

SENATOR CHAMBERS: Lock, stock, and a barrel, right. They had good lawyers, they had good lobbyists, and they had supine sycophantic senators who went along with selling out. [LB701]

SENATOR DIERKS: I recall, I recall that. There were nine, I think, in opposition on the final vote. [LB701]

SENATOR CHAMBERS: Yes. [LB701]

SENATOR DIERKS: Thank you very much. [LB701]

SENATOR CHAMBERS: You're welcome. [LB701]

SENATOR DIERKS: Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Dierks and Senator Chambers. Members

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wishing to speak are Senators Louden, Erdman, Fulton, Kopplin, Carlson, and others. Senator Louden. [LB701]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I think some of the discussion needs to go about, a while ago we were talking about a cigarette tax. And there's no place in this that that cigarette tax was. Part of that came about because I think last year when you talk about your storm water, the Natural Resources Committee advanced a bill, and I think it was passed, that put \$2.5 million into a storm water fund for some of these cities and towns to draw on. And that was used quite wisely and they did quite well with it. My understanding was that that got taken out this year. So there's a case where the Legislature did something one year and the next year something else was done. So I think that has to be clarified and that needs to be worked on at that angle. And that's where the cigarette tax money came from, is they was wanting to find a place to source their revenue. And this has nothing to do with what we're trying to do with Republican River Basin compact and funding down here. It's all quite obviously about the money that's going to come out of here, the \$2.7 million. And we got around to the discussion of the corn checkoff. The reason that corn checkoff in here is you remember when we presented this second division, that was the Governor's appropriation bill for creating the Water Resource Cash Fund. And I've been in many meetings, public meetings where he has stated otherwise. He'd ask anybody to give him any suggestions on where to find the money to fund that water. And he chose that because it was already in place. It was there and ready to go. Now he's always said that if anyone wants to come forward with other ideas, he's willing to listen. I was at one, I think the Water Policy Task Force, and several people mentioned that they were willing to have checkoffs on other grains and other products to fund water if that was necessary. So the reason this went in here is mostly because it was part of the package that came from the Governor's Office. And when you talk about whether urban people were at the table on the negotiation, there were people from the Governor's Office there all the time that were working on this bill to come forwards with it because everyone had to be on board. We didn't want to put something forward that the executive branch couldn't live with. So there were always people representative. And I think with the Governor's Office there, it certainly represents all the people in Nebraska, not just rural but especially urban in our state. So I think this, when you're discussing the corn checkoff, that's five years out or so. You're talking about 2013. I think the question is moot probably, where you're going to have discussion on it, whether it's a half a cent or a cent or whatever it is. There will be plenty of time to adjust whatever has to be done. I think Senator Carlson mentioned this is a work in progress and I think it will be. If you don't believe it, then look back at what we did with storm water last year. We put \$2.5 million in it and this year they took it back out. So I guess you always have to be careful when the Legislature is in session because nothing is safe for sure. So I think storm water needs to be addressed for these towns and cities. Ever since I've been down here in the Legislature, that's come up before the Natural Resources Committee every year. And I think something like that has to be done. I don't think it's something that needs to

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be done in this bill. I think we have to focus on what we're trying to get done in the Republican River Basin. We're trying to come in compliance. If we don't come in compliance, I think it's been stated enough on the floor that there will be some serious consequences and it will cost us way more money than what we're trying to talk about this afternoon here. We have some money that will be coming out of General Fund. But for the most part, there's a huge amount of money, percentagewise... [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR LOUDEN: ...that comes out of the local people down in that Republican Basin. I've been down here, I think this is my fifth year. I think we discussed Republican River Basin every year that I've been here on the Natural Resources Committee. And I think this is the first time when these people and everyone has come together and decided that they had to put up the amount of money that they have. This \$10 occupation tax, this is a huge deal. This is something that's very big. And mark my words, I think you'll hear more about it in the future as you run into water problems different places. But this is something new that's come about. And I think it's something that will be a tool that's usable for all natural resources districts because there's many of them that don't have enough money to do what has to be done to come in compliance with their water meters and flow meters and that sort of thing for their irrigation pumps. So with that, thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Louden. Senator Erdman, you're recognized. [LB701]

SENATOR ERDMAN: Mr. President, members of the Legislature, I rise in opposition to FA65. As I would understand the number, it approximately raises \$12.4 million annually. I think that's somewhat excessive. I think the point is being made by Senator Chambers that there are others who are interested in this discussion. And I think that's a point well taken. I wasn't invited to attend the meeting that Senator Langemeier held either. And so I have done my homework and researched the legislation and have asked questions. And I think that's an appropriate part of this process. I think we need to step back though and figure out, again, how we arrived at this place in our state's history. When LB962 was passed, there was a fundamental expectation by all parties involved that there would be funding available and that funding would be dependable. So we had two options and one of the options that was pursued was the local funding. And if you read the levy authority that natural resources districts have, they can go up to three additional cents on top of the four and a half cents that they have for the purposes of carrying out those provisions of law. Now the General Fund that was allocated by the Legislature was periodic. And so I think it's a point well taken that you want to make sure that people are interested in solving the problem before you commit the state to a solution. They're doing it now. They're going to continue to do that three cents. In the event that it's necessary in that Republican Basin, they're going to do what they need to do to

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control their own destiny. That was part of the balance that was struck with LB962. In trading the opportunity for having more state control, we gave the locals more tools and said here, does this help you solve the problem better. We have an integrated management plan. If you read the third division of the amendment to LB701, it outlines what that plan is supposed to entail. It outlines the consideration that natural resource districts are supposed to have locally in creating an integrated management plan, including municipalities and other water users, to make sure that everyone is at the table when those decisions are made as to how water is going to be utilized and, if necessary, allocated to balance those interests. That was the expectation under LB962. The expectation under LB962 also included the next step. And nobody knew exactly what that was. We said we need to put something in law. We need to give the local, accountable, and responsible entities in cooperation with the Department of Natural Resources the opportunity to manage this issue. So we did that. And the expectation was that we would come to a level of sustainability. That at the end of the day, whenever that was--whether it was 5 years, 10 years, 20 years, or maybe it was on into the future of the state of Nebraska--that the goal would be to reach a level of sustainable water use in those basins and to prolong that for the benefit of all water uses; municipal, industrial and commercial, and agricultural. That was the expectation. And we're here again to make sure that that expectation becomes a reality. The second expectation was that funding component. That expectation hasn't necessarily been a reality from the state. There have been, I would consider to be, generous efforts made to assist in that but not to the concerted and coordinated effort that needs to be taken. And that's that next step that LB701 contemplates. What does the role of the state play in these discussions? Senator Christensen is right. We don't have to do this. But in the event that nothing gets done, guess who stands to foot the entire cost? All of Nebraska. [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR ERDMAN: Urban, rural, doesn't matter the source. We will stand on the floor of the Legislature as we did three years ago and say we're going to write a check of X dollars. Then it was \$145.3 million. The provisions of LB701 are not simply designed only to solve problems in the Republican Basin. I would argue, and I think it would be an effective point, that had we been more attentive to the needs to manage water, we'd be in a better situation. The reality of the drought that we have been in in western Nebraska for the last seven years has contributed greatly to the problems that are now being exposed. And in light of that, there are other issues. Most of the money, as I read LB701, is geared towards the solution in the Republican Basin and there are funds available for the state of Nebraska to comply with a 13-year and other long-term goals that cooperative agreements and other proposals have in other basins. [LB701]

SENATOR FRIEND: Time. [LB701]

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SENATOR ERDMAN: It is broad-approached and it is long overdue. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Erdman. Senator Fulton, you are recognized. [LB701]

SENATOR FULTON: Thank you, Mr. President, members of the Legislature. I have not had many contacts from constituents about water policy. I have had some. I have not had any specifically with regard to LB701. Ostensibly, I had some concern that there could be viewed some inequity, that the city folks are paying too much and the country folks are not paying enough. After having heard some of the debate this morning, I do not believe that's the case. I'm thankful for the leadership, Senator Christensen, for what's going on in the Republican River Valley. And I think that's probably reflective of why I haven't had a lot of e-mails or contacts from my constituents because I think those who are paying attention recognize that the folks in the Republican River Valley, Republican River area have stepped forward, stepped up. And I'm appreciative of that. There is something that has not been communicated adequately, in my opinion, and I'm going to spend just a moment to do that. Somewhere in the state of Kansas right now, there is somebody watching the deliberations in the Nebraska Legislature. And I hope it's recognized that the efforts, the time, the energy, and the debate that's being put forward in this Legislature represents a good faith effort on behalf of the people of the state of Nebraska. Nebraska is doing a lot to honor our commitment and I hope whoever has the task of watching this down in Kansas will make note of that. And I hope the record reflects that. That's all I have. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Fulton. Senator Kopplin, you are next and you're recognized. [LB701]

SENATOR KOPPLIN: Thank you, Mr. President, colleagues. There's no question about the impact of irrigation on Nebraska's economy. A study released by the Nebraska Policy Institute says that irrigation generated \$4.5 billion in 2003, created 45,000 jobs. It was a drought year, but even in normal times the irrigation would have generated \$3.6 billion. Irrigation is responsible for about 17 percent of the total agribusiness activity. Purchases of irrigation equipment, farm machinery, and computer hardware by irrigators generated an economic impact of \$293 million and created 3,200 jobs. We could solve the Republican Basin's problems tomorrow by shutting down irrigation. But the financial impact would be huge. Estimates by the NRDs may be high, I would say probably are high. But the Lower Republican District estimates a \$182 million reduction in land value if irrigation shut down on 140,000 acres. Webster County could see land values on 62,100 irrigated acres drop by \$81 million. And if as a result of Kansas' court action and Nebraska had to halt irrigation on 2.1 million acres, land values could drop by \$1.5 billion. We need to do something now. But I'm not willing to let irrigators completely off the hook here either because you know that these requests that we're hearing today will

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be made year after year until we do turn off the spigots or turn them down. And the discussions of how we should pay for all of this, I'll be opposed to this floor amendment simply because it affects a lot of dryland farmers also. But there's other entities that were not at the table and aren't at the table. The bankers testified against a moratorium on irrigation wells. Why not a bank fee on all these tremendous amounts of money they loan out? The well diggers opposed a moratorium. Why not a fee on the wells they're going to dig? The irrigation equipment dealers testified against a moratorium. Why not a fee on those people? There's a lot of people that aren't here that should be. We've discussed a little bit about the storm water issue. I just find it incomprehensible that that would be removed after the hard-fought battle we had last year to get any money at all. And to suggest that somehow you can tax cigarettes to pay for that is almost an insult. That's as much as the water problem in this state as any of these irrigation problems. We have to continue the farm economy. We have to continue irrigation but not at the pace that we're doing it. We have to pay for the problems that we have in the Republican Valley, but we've got to keep... [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR KOPPLIN: ...others. There are other compacts. There's a compact with the Blue River Basin with Kansas. Right now, they're maybe three feet above having a problem. And they're doing some studying about it, I give them credit for that. But it would be very easy to slide another such problem. We have to take care of this issue and we have to slow down the pace that we're pumping water from aquifers. Thank you. [LB701]

SENATOR FRIEND: Thank you, Senator Kopplin. Senator Carlson, you are next and you're recognized. [LB701]

SENATOR CARLSON: Mr. President, members of the Legislature, before I speak to FA65, I would like to ask Senator White a couple of questions, if he would yield. [LB701]

SENATOR FRIEND: Senator White, are you available for a question, if you would yield? [LB701]

SENATOR WHITE: Yes, Mr. President. [LB701]

SENATOR CARLSON: Senator White, I need you to clarify something for me because earlier you talked about the state being obligated to pay so much money into the Republican Basin and satisfying that compact with Kansas. And I understood you say that now the farmers, it's a "may" situation rather than "shall" and I really don't understand that because of the property tax levy that we're asking to forward to the NRDs as well as the occupation tax. And certainly a combination of those would generate and obligate a lot of money. So I'm just wanting to understand where you're

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coming from on that. [LB701]

SENATOR WHITE: Well, my concern is that they don't have to pass those. And that was the question, Senator. I can't tell you they don't have to. I was talking to Senator Heidemann, Senator Christensen. And if the state is going to be putting in money, I do want the...and it is to solve an immediate problem, I do want commitment from the local areas that they are committed also. It is not just our money and maybe their money later. My understanding is, Senator, I understood the occupation tax, for example, would initially. And that's my fault. I mean, initially as I read the bill, I thought, okay, well, they'll have to put in their money. But now I understand they may not have to. Though I'm told, assured by members of the lobby that the actual realities, the economic realities, the geological realities will require them to go ahead with the occupation tax over time. But it's, to me, a concern. I mean, if we're being asked to make this sacrifice from the General Fund--which I am willing to do, by the way--I do want to know whether or not others are going to come in. My preference would be the occupation tax have to be levied and that we buy that water so we have really moved us forward to a permanent solution. I'm told that may not be realistic, in which case, you know, I mean this is not my area, obviously. But with those concerns are what I wanted addressed. [LB701]

SENATOR CARLSON: Okay, I thank you for your answer. But I can assure you, no more fund, and this legislation is to pass, that the farmers in the Republican Basin are committed big time and bigger time than they'd like to be. But there's some flexibility in how that commitment goes. [LB701]

SENATOR WHITE: My concern is that we solve a problem, not just buy a year or two. I really want to address this. And if that means, you know, for example, I strongly support the vegetation. That's important, I strongly support. If we have to, I'd much rather buy than rent because it's cheaper in the long run. That's one concern. The other concern I have is whether or not we are addressing this issue but the money may be going to the Platte River Valley when we're really being, I thought we were here to address the Republican River Valley problem. And so that was a secondary question... [LB701]

SENATOR CARLSON: Okay. [LB701]

SENATOR WHITE: ...and concern, which is still not addressed, to me. [LB701]

SENATOR CARLSON: Okay, thank you, Senator White. I would...how much time do I have? [LB701]

SENATOR FRIEND: One minute, twenty seconds. [LB701]

SENATOR CARLSON: I'd like to address some questions to Senator Chambers. [LB701]

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SENATOR FRIEND: Senator Chambers, are you available to answer a question?  
[LB701]

SENATOR CHAMBERS: I have to leave a high-level conference, but I'm willing to do it for Senator Carlson. [LB701]

SENATOR CARLSON: Okay, thank you, Senator. Your amendment would raise an additional \$12 million to go along with the \$6 million originally planned for, and that would be a little bit over \$18 million. That money would go to the problem in the Republican Basin to help solve the compliance with Kansas. Do you agree with that?  
[LB701]

SENATOR CHAMBERS: If it were raised, yes. [LB701]

SENATOR CARLSON: Yes. And that would be an immediate tax shift from the Republican Basin farmers to statewide farmers. Do you agree with that? [LB701]

SENATOR CHAMBERS: Yes, true. [LB701]

SENATOR CARLSON: Okay. I just wanted to clarify that with you. And I do not agree with that, although I'd jump for joy if that could happen and spread the responsibility further than the farmers in the Republican Basin. But I don't think that that's a responsible way to go. And I do not support FA65. Thank you. [LB701]

SENATOR FRIEND: Thank you, Senator Carlson. Senator Flood, you are next to speak and you are recognized. [LB701]

SPEAKER FLOOD: Thank you, Mr. President. Senator Chambers, with his introduction of two words, has introduced a concept that reminds me of another two words: Molotov cocktail. (Laughter) And that's where we find ourselves this afternoon at this hour of 4:30. You know, quite honestly, and I want to describe the process that we went through to bring this bill. There was no veiled or outward attempt to disengage any member of the Legislature. In fact, I was the one that called the meeting and I was the one that called in the Chairman of the Appropriations Committee, the Chairman of Natural Resources, the Chairman of Revenue at one point, other senators that had shown an interest, certainly the two senators from the basin, Senator Carlson and Senator Christensen. And I want the body to know that I made an attempt, and others have as well, to pass out copies of this, make sure people knew what was going on and, to the extent possible, be able to ask and get questions answered in advance of today. I think it's important that everybody is involved. And if I could have a meeting with all 49 every time I had an issue like this, I would engage that. But it's simply not possible, given all the other issues that we're confronted with. Senator Chambers has raised the idea of

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going from a half cent to a dollar and a half. Now that is a sizable increase. I come back to the fact that we've got, right now in front of us, property tax increase, an occupation tax authorization, certainly some General Funds. But nowhere near the General Funds that we see in the contributions from the basin. And now we're hitting ag up again for another component that takes effect 2013, I believe. This is not the right way to go. I think we have to put more time into a solution. I know that Senators Langemeier, Christensen, Stuthman, and Adams and I have been working with our senior senator to see if we can't find some middle ground. We're given some of his concerns. But simply, a cent and a half is just too much. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Speaker Flood. Senator Heidemann. Senator Heidemann, you are next to speak and you are recognized. [LB701]

SENATOR HEIDEMANN: Thank you, Mr. President. I think the question was asked at one time, what are we willing to put in? And I think the answer to that would be a half a cent, because that's what we came to the table with, was a half a cent per bushel checkoff. I would like to ask Senator Chambers a quick question, and maybe somebody has brought this up but... [LB701]

SENATOR FRIEND: Senator...excuse me, Senator Heidemann. Senator Chambers, will you yield? [LB701]

SENATOR CHAMBERS: Yes. [LB701]

SENATOR HEIDEMANN: You want to increase it to a cent and a half. My question to you, you would be then raising from \$6.2 million or almost \$6.3 million a year to almost, just in my head figuring, \$19 million. What is your intent to use that money for? [LB701]

SENATOR CHAMBERS: Well, (laugh) if the state can't think of anything to do with it, I'll take it and find plenty of things to use it for. But in reality, I know that it's unlikely that the body is going to vote to increase that half cent to one and a half. But we're starting to discuss some kind of increase, which would not have been the case. If that amount of money was made, then it means that money coming from other sources will not have to come from those other sources, whatever they are. But I don't expect the full one and a half cent to go. By that, I meant move and be adopted. Although if I was really hard-nosed, I think I could probably extort it. [LB701]

SENATOR HEIDEMANN: Do you realize, without the passage of LB701, what the checkoff will be in 2012 and beyond? [LB701]

SENATOR CHAMBERS: Would it be seven-eighths of a cent? [LB701]

SENATOR HEIDEMANN: It will be zero. It will sunset. [LB701]

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SENATOR CHAMBERS: After 2019, there will be no checkoff at all? [LB701]

SENATOR HEIDEMANN: No, in the year 2013, it will be nothing. And I'm just going to, I just want... [LB701]

SENATOR CHAMBERS: Wait a minute, you said 2213, the year 2213? [LB701]

SENATOR HEIDEMANN: 2013, and I just wanted to point that out to you, that we came to the table with a half a cent. Because at that time, there would be no checkoff to support either ethanol or anything else. And I want to point out to you that we came to the table with a half a cent. [LB701]

SENATOR CHAMBERS: Yeah, and you tempted me and showed me that it's an opportunity to get more. [LB701]

SENATOR HEIDEMANN: You lead me to believe then that we shouldn't have put it in the bill, that there was been nothing, and you would have tried for a half a cent then. [LB701]

SENATOR CHAMBERS: But we don't know what would have happened had that contingency arisen. What I have to deal with as a pragmatic politician is the reality placed before me. And you placed before me a half cent between 2012 and 2019, a seven-year period. So while that seven-year itch is growing, I want to add a little scratching. [LB701]

SENATOR HEIDEMANN: And as someone who wasn't real happy with the checkoff at all, I would love to put a floor amendment on it to take it back to zero. [LB701]

SENATOR CHAMBERS: Well, you have the opportunity to do that, just as I had the opportunity to do mine. That would be a very interesting move to make because it would show that the moochers want to mooch even more. I know that you felt you had no choice but to put this checkoff of a half cent on to give the impression that those who created the problem are willing to help pay for it. But by you putting the half cent on it, that 1.1 million acres of irrigated land is going to be subsidized by that 11-point-something million dryland farmers who did not contribute to the problem. [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR CHAMBERS: So even with a half cent, you're making people who have nothing to do with the problem ante up to pay for it. I'm just saying, let them pay a little bit more. They're all brothers, farmers, brothers and sisters. Where's brotherly and

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sisterly love? Where's family? The family that pays together, stays together. [LB701]

SENATOR HEIDEMANN: I do want to point out that even as it is written right now, and I handed out a new handout and I hope everybody looks at it. And I do believe that the totals are correct this time. And I apologize for handing out something out before that wasn't quite correct. But with just the years that the checkoff is enacted with the half cent, the checkoff people are going to be putting in \$44 million, \$44 million. The General Fund transfers will amount to \$32 million. On top of the \$44 million, you can add up to everything... [LB701]

SENATOR FRIEND: Time. [LB701]

SENATOR HEIDEMANN: Thank you, Mr. President. [LB701]

SENATOR FRIEND: You're welcome, Senator Heidemann. Members wishing to speak are Senators Burling, Langemeier, Gay, Erdman, Chambers, Loudon, Carlson, and Pirsch. Senator Burling, you are recognized. [LB701]

SENATOR BURLING: Thank you, Mr. Chairman. Good discussion. And we're talking about a problem that has been expressed by many of us, very serious, very important. We're talking now about how should this be funded. Most of my comments will be based on something that's already been said, but maybe I can add a few things to some of the discussion. Some of us have been watching this process for many years. Being in agriculture production myself, living in south-central Nebraska, I've watched irrigation development for the last 50, 60 years. This situation in the Republican River Valley and with the Kansas compact, the state did allow for the overdevelopment of irrigation in the Republican River Valley. The ag producers in that area have done nothing illegal in that regard. And I don't agree with all of the areas that the money is coming from in this bill. But it was proposed in the compromise, it was agreed to by all the parties at the table. Everyone on this floor would have a good reason not to vote for this bill. We can all pick something out, I don't like this part. And as already been brought out a few years ago, we had a five-state compact called the low-level radioactive compact, where Nebraska signed a contract to build a facility in Boyd County, Nebraska. We backed out on that. The court eventually said, Nebraska, you owe the rest of the states in the compact \$145 million, wrote a check out of the General Fund. Never even considered assessing anybody in Boyd County for a part of that bill. And it can be argued that the state did not cause the problem that we're talking about in the Republican River Valley. But I think the state is responsible for fulfilling the obligations of the contract. The entire state, has already been stated, benefits from irrigation. Senator Christensen is a long ways right now from where he wanted to be when he started this process, but I commend him for recognizing reality and sitting at the table and compromising. Another thing I want to point out is, I've heard what I thought might be insinuation that the General Fund contribution is our money and the NRD assessments is their money. General Fund is

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supported by every citizen of this state, including those people that live in the Republican Valley. They will be contributing to the General Fund part of this and also the assessments of the NRDs. Maybe we ought to kill this bill and sit around and wait for the federal government to shut off all the wells in that area and wait for the courts to say, Nebraska, you owe Kansas \$100 million or whatever it might be, and settle it that way. I'm not real comfortable with this bill either, but it's better than the alternative, in my opinion. So I ask you... [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR BURLING: ...for your consideration on those issues. Thank you. [LB701]

SENATOR FRIEND: Thank you, Senator Burling. Senator Langemeier. Senator Langemeier waives. Senator Gay, you are next and you are recognized. [LB701]

SENATOR GAY: Thank you, Mr. President. I wanted to rise. I'm opposed to FA65 and the reason why, I think what we're...as were discussing with Senator Chambers, we're forging a compromise here, and everyone has to give a little, and where you came with the checkoff, I don't know if a half cent or what number were right, just to go to that one cent, I think is wrong. If we have a...you know, we discussed earlier storm water. We have some urban issues on water, as well. Senator Carlson, I think, brings up a good point. If we're going to set a precedent, I think what's being said here is that those users in that Republican River Valley are the ones bearing the brunt of this. As an urban senator, do I like that we're taking money from the General Fund and funding this? No. I mean, no one likes that, but do I understand that it probably needs to be done to get to a solution that's not going to end up in a much bigger check down the road? Because if we don't comply, obviously, we're going to have a lawsuit, settlement. Who knows what will happen? But we run that risk. And everyone has said, well, doing nothing is not an option. Everyone here can agree with that. So I would say on this, as we set a precedent, this is...I think we're going to a good precedent where those who have the problem pay a majority, but the state helps somewhat to help out the statewide portion. Now if that works the same way back when we deal with storm water runoff issues or other things, I would expect the same somewhat, the same considerations to be lent on that. If we have another problem that happens in another basin, I think this sets that precedent, that you're going to solve your own problem. Maybe then we look at adding more to a checkoff, or we come to a compromise. But I think everybody here has been involved, the way it's coming together, and that's very beneficial. When you...one thing I did hear, though. Senator White had a good point. I want to know. If my money is being spent, is your money going to be spent? And I think it is, from what I'm hearing on the discussion. Part of that would be that this is their livelihood, so they're going to commit to fix these problems. Unfortunately, they're going to have to use this taxing authority that they're being granted. They don't want to, either, but when their livelihood depends on that, I have no question that they're going to do the right thing and step up and solve

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this problem. A lot of work has gone into it. When you look at it from the Omaha area, and I go to one of my constituents and they say, well, why am I paying for their problem? Well, in a way, because a lot of our jobs in Omaha are dependent on the ag economy, I think, so I think it's a small price to pay, because there are a lot of agribusiness jobs, and Senator Kopplin referred to that. There's a lot of agribusiness jobs and benefit that we get in the urban areas to promote a healthy ag economy. This helps promote that, so in the long run I think we are benefiting everybody in the state. So as I listen to more debate...and obviously, the discussion, I think, is turning very positive. We're getting more involvement, and we're discussing some key issues here. But as I say, I'm against this particular amendment, but I'm looking forward to more discussion. I think we're at the framework now where we're moving ahead, and I can live with what we have now, quite honestly. If there's something better comes along during discussions I see that are going on here, I'm more than interested in hearing those, too. But as we speak right now, I'd commend what we're working on. I support this amendment as it is. If we could improve it, I would support that, as well. And then ultimately, I'm going to vote for LB701, because I think it's the right thing to do. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Gay. Senator Erdman. Is Senator Erdman on the floor? Senator Erdman, you are next, and you are recognized. [LB701]

SENATOR ERDMAN: Mr. President, members of the body, I think we need to go back again and clarify part of what Senator Heidemann pointed out, but also from the standpoint of, that this does, as I have said, I think, every time I've spoken, apply to more than just one basin. And why is that? We need to make sure that we don't find ourselves in the same situation in other basins that we find ourselves in, in Republican and others. It's a fact that if we are able to be proactive and find the tools, whether it's money or not, we're going to be better prepared to manage. One of the things that's missing from the handout that Senator Heidemann pointed it, or that shared with us on the total cost that's going to be contributed by the grain checkoff versus the General Fund and the Environmental Trust, is that's only those three components. If you add in on top of that the ten cents per...the ten-cent levy in the Republican Basin and the \$10 occupation tax and the three-cent statewide levy for NRDs, you start to get an even higher level of proportion of amount of money that will be spent to solve this problem, from the folks who are directly affected. But I do think it's important. Everyone has an opportunity to be a part of this discussion, and I think it's a value to this process, as it was when we did LB1003, which was the process that created the Water Policy Task Force, which was LB962, which was the process that outlined our existing law. Some of you were probably here for LB108--I wasn't--but that was a major milestone of water law that was passed in the early nineties. You go through this process, and we must learn and be able to adapt our law to make sure that it's effective as we go forward. If you also go through and look at the existing law, it asks us as a state, and through our integrated management plans, to analyze the impact of conservation. It asks us to

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analyze the impact of the drought. It asks us to balance those interests out within those basins. Those are important, and those are important considerations that have to be driven locally, through those plans, but also under the oversight of the Department of Natural Resources so there is coordination. The funding that I believe has been available has been somewhere short of \$10 million, directly for the purposes as similarly outlined over the past four or five years, as what LB701 would accomplish. This is a substantial commitment, and it is designed to avoid a gut response or an emergency response into the future. And so I hope as we continue to have this discussion we understand how we have arrived here, and I'm continuing to understand that myself, researching the facts of how we have gotten here, understanding the politics and the practices that are in play, but also making sure that we're doing this right. And if this isn't right, I'm willing to be a part of that solution, as well. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Erdman. Senator Chambers, you are recognized, and this is your third time to speak on this amendment. [LB701]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I would like to ask...I will ask Senator Erdman a question or two, because he is unoccupied right now, but I see the brain trust is over there trusting their brains. [LB701]

SENATOR FRIEND: Senator Erdman, will you yield? [LB701]

SENATOR ERDMAN: To a question, yes. [LB701]

SENATOR CHAMBERS: Senator Erdman, the \$10-per-acre occupation tax will be paid by whom? [LB701]

SENATOR ERDMAN: It will be paid by the irrigators within the district that is affected by the compact between one or more states, including irrigation districts of one or more. [LB701]

SENATOR CHAMBERS: So the ones directly involved will pay that tax. [LB701]

SENATOR ERDMAN: I believe that's a... [LB701]

SENATOR CHAMBERS: What about the ten-cent levy? Do only the irrigators pay that, or would everybody in that district pay, whether they have anything to do with farming or not? [LB701]

SENATOR ERDMAN: Everyone who is currently subject to the levy of the natural resource district would pay that, Senator, including those direct...it would be my understanding that it would be broader than the occupation tax. [LB701]

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SENATOR CHAMBERS: So there are people who are going to be taxed who did not contribute directly to the problem that the tax is designed to raise revenue to address; is that correct? [LB701]

SENATOR ERDMAN: It would reach...short answer, I believe that is accurate. [LB701]

SENATOR CHAMBERS: Okay. Now with a corn checkoff, there are farmers who do not irrigate who pay that checkoff; is that correct? [LB701]

SENATOR ERDMAN: That is correct, Senator. [LB701]

SENATOR CHAMBERS: Why, then, is it so bad to have these farmers pay the checkoff, even though they don't irrigate, if you're going to levy an assessment against or upon people who just happen to live in a district, but they had nothing to do with the creation of the problem? In other words, in both instances, with the ten-cent levy and the corn checkoff, people who did not contribute directly to the problem--namely, through irrigating--are going to have to underwrite the solution to the problem; isn't that true? [LB701]

SENATOR ERDMAN: Those that don't irrigate or don't live within the basin that contribute to checkoff, I believe that is accurate. There are individuals who don't irrigate that receive more rain per year than those who do irrigate, as well, which... [LB701]

SENATOR CHAMBERS: Is rain what they've been wanting, Senator Erdman? [LB701]

SENATOR ERDMAN: Senator, the purpose of irrigation is to... [LB701]

SENATOR CHAMBERS: No, I don't mean just the irrigators, but is rain what people have been wanting? [LB701]

SENATOR ERDMAN: Absolutely. They want rain. [LB701]

SENATOR CHAMBERS: What didn't they ask me? [LB701]

SENATOR ERDMAN: Because... [LB701]

SENATOR CHAMBERS: Why didn't they just ask me? [LB701]

SENATOR ERDMAN: Senator Chambers, in my humble opinion, you're not the giver of rain. (Laughter) [LB701]

SENATOR CHAMBERS: See, there you go, drawing conclusions. He does...thank you, Senator Erdman. He doesn't know that to be a fact. He presumes and there are other

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people who would say, and he's correct. But you don't know. Look, if I let go of this pencil, it falls. People say gravity pulls it down. Gravity, according to my understanding, is a mutual attraction between objects. But the object which has the greater mass will draw the smaller thing to it. So the Earth has greater mass than the pencil, so it appears that it always falls down. But if somehow, even though it's small, it's mass could be magnified to an extent greater than that of the Earth, then if I hold this pencil, I couldn't hold it because the Earth would be coming up to meet the pencil. Here's the point that I'm trying to get to, brothers and sisters. We have a lot of situations that develop which, intuitively looking at them... [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR CHAMBERS: ...would cause us to think a certain solution is acceptable. Nobody thought too much of the ten-cent levy, but people are crying out about the corn checkoff, because some of those paying it have nothing to do with irrigating. Well, some of the people under the ten-cent levy don't have anything whatsoever to do with farming, so the principle would apply in both cases. Don't let anybody pay the checkoff who's not involved in irrigating, and don't let the ten-cent levy be on anybody not connected with farming and irrigating. But you're not going to do it. Thank you, Mr. President, and because of the way Senator Erdman dismissed me, you won't get any more rain. (Laughter) Thank you. [LB701]

SENATOR FRIEND: Thank you, Senator Chambers. Senator Louden, you are next. You are recognized. [LB701]

SENATOR LOUDEN: Thank you, Mr. President and members of the body. I think the discussion over the corn checkoff is probably an exercise in--I wouldn't say futility--but it's an exercise in something that isn't going to happen for quite awhile. First of all, it doesn't start till 2013, and the next thing, the corn checkoff was part of the Governor's package, and this is what he brought forwards. I don't have any problem with some type of a checkoff as it was brought forwards in that package, because this is far enough out in the future that I think there will probably be other ways of funding be brought forwards for water funding in the future. At the present time, that was the one that was funding the ethanol, and the reason it was on the ethanol was because corn...or ethanol was made out of corn, and the idea was that if it raised...ethanol raised the price of corn, then everybody that raised corn would probably benefit. So it was altogether different thinking on what the corn checkoff was. If somebody would have come up with a good idea at the time when we came forwards with the Governor's bill, I'm sure it would have worked out well, too. The checkoff was in there to fund the Water Resources Cash Fund. That's what the checkoff was all about to begin with. It was all in LB33, I think, and it came from the Appropriations Committee. We've got sidetracked now about what we're going to do about the checkoff. Some of them have a considerable amount of heartburn over the checkoff. I don't see whether it's neither here nor there, because it's

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far enough out in the future that I'm sure by five or six years from now, there will be other ways of funding water, funding ground water. We just are now beginning to set up some kind of a system that addresses these problems. We have LB962 for the NRDs to get to work, and give them an outline on what needed to be done. I think, as this bill is brought forwards, this is another plan on how some of that stuff can be implemented in some of our overappropriated and fully appropriated basins. Whether it has anything to do with the Platte River Valley, that's farther into the future. I'm sure there's going to be problems there, because we have more people and we have a bigger usage for water, and I think there will be times when we probably will find other funding to take care of our water problems that arise in the future. Right now I think the discussion over the corn checkoff is probably a moot point. It's something that isn't going to happen for awhile. Right now the most of the money or all of the money is used for ethanol, and there's probably be a question of, why aren't other ways used to fund the ethanol? But that seemed to be the one that worked out the best at the time. I think the discussion was on LB775. That money, what's been used for...to fund that problem, has all come out of...usually the General Fund is the one that suffered on that. So I think in the future we'll...the bill we have before us, the amendment we have before us, is the right thing to do. I think at the present time it doesn't matter whether you have the corn checkoff at what price you set. I think we can go forwards with this thing and get the second division taken care of. Thank you, Mr. President. [LB701]

SENATOR FRIEND: Thank you, Senator Louden. Senator Burling, you're next, and you're recognized. [LB701]

SENATOR BURLING: Question. [LB701]

SENATOR FRIEND: Members, the question has been called. Do I see five hands? I see five hands. The question is, shall the question be called? All those in favor please vote aye; all those opposed vote nay. Senator Flood, for what purpose do you rise? [LB701]

SPEAKER FLOOD: A call of the house. A call of the house, Mr. President. [LB701]

SENATOR FRIEND: There has been a request for a call of the house. Members, all those in favor please vote aye; all those opposed vote nay. Record please, Mr. Clerk. [LB701]

ASSISTANT CLERK: 37 ayes, 0 nays, to go under call, Mr. President. [LB701]

SENATOR FRIEND: The house is under call. Members, please report to the Chamber. Senators, please record your presence. Those senators outside the Chamber, please report to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Wallman, thank you. Senator White, could you check in, please? Senator Johnson, Senator Raikes. Senator Flood, for what

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purpose do you rise? [LB701]

SPEAKER FLOOD: Let's go ahead and proceed, and I'd ask for a roll call vote in regular order, or actually, call-in votes. I would like to see the board again...yes, call-in votes, please. [LB701]

SENATOR FRIEND: Thank you, Senator Flood. [LB701]

ASSISTANT CLERK: Senator Rogert voting yes. Senator Engel voting yes. Senator Karpisek voting yes. [LB701]

SENATOR FRIEND: Record please, Mr. Clerk. [LB701]

ASSISTANT CLERK: 26 ayes, 7 nays, to cease debate, Mr. President. [LB701]

SENATOR FRIEND: Debate does cease. Senator Chambers, you are recognized to close on FA65. [LB701]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, there was no need to call the question on my amendment. I'm going to offer a very similar one tomorrow. Some of us were working on reaching an accord. I don't know with whom Senator Burling is working, but if this is the way the work is done, all bets are off, as far as I'm concerned. He can call the question, and he's going to have the opportunity to call the question a lot of times tomorrow, because now I'm in a different mood from the one I was in earlier. I offered an amendment which for me was in good faith. I had offered to cut the amount of the increase and the checkoff substantially. I was working with Senator Langemeier, Senator Flood, others who may have had an interest. Senator Burling woke up and looked at the clock and said, my, we got to get out of here. I want to...I don't even know what he said. I said, what did he say? Somebody said he must have called the question. Well, like I say, designate him the question caller tomorrow, unless some people between now and then can explain to me what is doing on. I'm not going to have the ground cut from under me. This bill for...it doesn't mean anything to me. You all are the ones who want it, so you are going to create a problem for your bill, with Senator Burling trying to teach me a lesson? Did somebody tell him to do this and teach me a lesson? If they did, then Pinocchio ought to run the Legislature, because it's a puppet legislature. I don't know how late we're going to go tonight. Who said we're leaving at five o'clock or somewhere thereabouts? Maybe we'll be here until eight o'clock. Maybe the Speaker will decide to teach me a lesson by making me stay here, to see how much time I can speak on this bill. It is a fertile field for substantive amendments, but I had said, if we reach an accord on this checkoff, I will talk about the bill, but I don't have any amendments. That has changed. You're going to slap me and I'm supposed...I'm not Martin Luther King, by the way. I don't believe unmerited suffering is redemptive. I don't believe in turning the other cheek, unless you hit me so

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hard that my whole head revolves and spins around and the other cheek is now available for you to slap. But when my head stops spinning, whoever did that, you'd best not be there, if I'm still standing. So some of you all don't think that I can find issues in this amendment to talk about at length. Well, I can, and you all can go to your offices tomorrow and just stay down there, and just let me offer my amendment, open, speak twice, and then close. How long can I do that in a day? If nobody would help me, if nobody would speak except me, that's when you can put me to the test, to see if on my own I can last as long as I've said I can. And I'm up to the challenge, I believe. But the fact that I believe it doesn't make it so. Why am I not commenting on my amendment? Because it's not going to be adopted. And you think that is in any way going to deter me? Not in the least. If Senator Stuthman votes against my amendment, am I surprised? No. He said he's against the checkoff. [LB701]

SENATOR FRIEND: One minute. [LB701]

SENATOR CHAMBERS: There are other senators who don't like the checkoff, period. But we were not discussing the checkoff in a vacuum. We were not discussing a cent and a half. We were discussing what amounts to a weighing. I asked, is the bill worth a penny? And some said no. Well, apparently it's not worth two-tenths of a penny. But I'm going to see how long you all want to go before you come to your senses. I've lost mine now. You're dealing with a man totally devoid of rationality. So you can't talk to me; you're going to have to show me something that I can understand. Thank you, Mr. President, and I will accept a roll call vote, since we're under call and everybody should be here. Thank you. [LB701]

SENATOR FRIEND: Thank you, Senator Chambers. Members of the Legislature, you've heard the closing on FA65 to this division of the committee amendments. Mr. Clerk, there has been a request for a roll call vote in regular order, I believe. [LB701]

ASSISTANT CLERK: (Roll call vote taken, Legislative Journal page 1136.) Vote is 0 ayes, 30 nays on the adoption of the amendment to the amendment, Mr. President. [LB701]

SENATOR FRIEND: The amendment is not successful, and I do raise the call. Mr. Clerk, do you have items for the record? [LB701]

CLERK: I do, Mr. President. I have amendments to be printed: Senator Raikes, an amendment to LB603; Senator Preister to LB701; Senator Dubas, LB701. (Legislative Journal pages 1137-1143.) [LB603 LB701]

And Mr. President, I have a priority motion. Senator Flood would move to adjourn until Wednesday morning, April 11, at 9:00 a.m. [LB701]

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SENATOR FRIEND: Members, you have heard the motion. The motion is, shall the Legislature adjourn until Wednesday, April 11, 2007, at 9:00 a.m. All those in favor please say aye. All those opposed say nay. The ayes have it. We are adjourned.  
[LB701]