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Floor Debate  
May 02, 2017

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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the seventy-fourth day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Pastor Matt Bahnfleth of the Christ the Servant Church in Norfolk, Nebraska, Speaker Scheer's district. Please rise.

PASTOR BAHNFLETH: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Bahnfleth. I call to order the seventy-fourth day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

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

CLERK: I have no corrections.

PRESIDENT FOLEY: Thank you, sir. Are there any messages, reports, or announcements?

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CLERK: Mr. President, your Committee on Enrollment and Review reports LB327 to Select File. Enrollment and Review also reports the following bills correctly engrossed: LB20, LB138, LB142, LB159, LB234, LB255, LB255A, LB315, LB430, LB455, LB558, and LB645. Mr. President, I have communications from the Governor. The first is to the Clerk. (Read re LB271, LB339, LB518, and LB518A.) Second letter to the Clerk. (Read re: LB9, LB34, LB35, LB91, LB91A, LB92, LB122, LB137, LB148, LB151, LB161, LB166, LB180, LB180A, LB182, LB207, LB210, LB217, LB222, LB225, LB225A, LB263, LB263A, LB267, LB276, LB317, LB376, LB407, LB417, LB432, LB444, LB487, LB535, LB539, LB566, LB590, LB600, LB625, LB641A and LB641.) Mr. President, a communication from the Governor to the members. (Read re LB75.) An amendment to be printed, Mr. President, to LB415 by Senator Walz. That's all that I have. (Legislative Journal pages 1269-1274.) [LB327 LB20 LB138 LB142 LB159 LB234 LB255 LB255A LB315 LB430 LB455 LB558 LB645 LB271 LB339 LB518 LB518A LB9 LB34 LB35 LB91 LB91A LB92 LB122 LB137 LB148 LB151 LB161 LB166 LB180 LB180A LB182 LB207 LB210 LB217 LB222 LB225 LB225A LB263 LB263A LB267 LB276 LB317 LB376 LB407 LB417 LB432 LB444 LB487 LB535 LB539 LB566 LB590 LB600 LB625 LB641A LB641 LB75 LB415]

PRESIDENT FOLEY: Thank you, Mr. Clerk. While is Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following three legislative resolutions: LR110, LR111, and LR112. (Doctor of the day introduced.) We'll proceed now to the first bill. General File, 2017 Speaker priority bill. Mr. Clerk. [LR110 LR111 LR112]

CLERK: Mr. President, LB98, a bill by Senator Friesen relates to revenue and taxation and extends certain levy authority for natural resources districts. Bill was introduced in early January, referred to the Revenue Committee, advanced to General File. Senator Friesen presented his bill on March 30. At that time, Senator Erdman offered an amendment to the bill, AM819. That amendment is pending, Mr. President. (Legislative Journal page 850.) [LB98]

PRESIDENT FOLEY: Thank you, Mr. Clerk. I will ask Senators Friesen and Erdman just to give us a one-minute update and then we'll proceed to the regular speaking queue. Senator Friesen. [LB98]

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SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. What LB98 is, is to move a sunset date from next year and extends it for roughly ten years. This 3-cent authority is to help in funding with a state mandated integrated management plan in those water basins that are fully or overappropriated. There's roughly seven of the ten NRDs using this, the rest of the NRDs. Of those ten, they are the only ones that can use it. No other NRD has access to this until they are deemed fully or overappropriated by the state. And so what these funds are used for is to augment river flows so that water reaches the Lincoln, Omaha well fields. And so managing the Platte Basin is critical for the state as it travels from one end of the state to the other. And so what this 3 cents does is give them the levying authority to raise money. It is restricted funds used to implement those integrated management plans that have been approved by the Department of Natural Resources. Thank you, Mr. Lieutenant Governor. [LB98]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Erdman, if you'd like just a minute to refresh us on your amendment, and then we'll move to the regular speaking queue. This is just a one-minute update. [LB98]

SENATOR ERDMAN: Yeah, thank you, Lieutenant Governor. My amendment was put in place to discontinue the 3-cent mill levy option that they have and to let it sunset. We have a sunset based in this bill in '17 and '18. Gives them another year to work on it. And so consequently what I said in my amendment is I want this to sunset as was intended instead of extending it for another ten years. And so I would encourage your vote to vote on AM819 and, consequently, that would fix our problem and we would not have an extension of property tax. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Erdman. Debate is now open on LB98 and the related amendment, AM819. Senator Groene, you're first in the queue. [LB98]

SENATOR GROENE: Thank you, Mr. President. Property taxes are the largest problem we have in this state in taxation. And to be true to myself and my constituents, I cannot support an extension of a property tax increase. My district is overappropriated and it has the 3-cent tax. I asked my district to prove to me what they used it for. They couldn't distinguish where the money went, versus just throwing it in the general fund. I understand they have offset programs, water. I understand that. I attended a TERC meeting yesterday on my ranch land. The proposal

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was...my county assessor took it up 13 percent. The proposal by the TERC Board was 41 percent. Those ranchers can't afford a 3-cent tax levy. They didn't create the problem. Three things about this bill needs to be fixed. We've offered to talk about it in the summer. They have one more year of taxation, the '17-18 year. We have a biennium year, an interim to talk about it. With term limits, this body should never extend a sunset more than four to six years so there's some institutional memory of when it happened when they talk about it again in the future. Two, when they put 3 cents on it, valuations were probably 30 percent of what they are now. They don't need 3 cents. Three, there needs to be accountability where the money was spent. There is none now. It blends into their general fund. It just dumps into it. That can all be addressed. And four, it was a concerted effort to make sure that this, when I heard it in Revenue it surprised me that this wasn't...there wasn't more people testifying, but there was a concerted effort to try to push it through like this is just a simple task of extending a sunset date. No, it isn't. The body and the people need to have justification, why it needs to be extended and what they're going to use it for. Since that time that this was created, three or four things have happened. A lawsuit was filed about property taxes by NRDs being used for a state purpose. We have to be careful and we must have account...and they won. The farmers won who said the property taxes were being used for a state purpose. We need accountability that that doesn't happen again.. There is no accountability in present law. We have an N-CORPE project out there that some of this money won't be used for it and that is a state purpose, to fill in the compact with Kansas and Colorado. Our property taxes are just plain too high, folks. They're too high. Another thing that came up since then was the valuation increase, which I mention later. They don't need 3 cents. Another thing that came up, they were allowed a \$10 occupation tax, these overappropriated and fully appropriated, where the individuals who directly profit from the use of the groundwater pay to fix their problem. Yes, this is an NRD problem. They kicked the can down the road. They knew this was coming but they continued to allow wells to be sunk and now we have a problem. We have a problem for all the farmers out there who have irrigation. This 3 cents will not fix that and is not needed. We need to send a message, as we did to schools last week on Senator Kolowski's amendment, buck it up, get more efficient, we can't give you 3 cents more. We did it with the schools. And I can't stand here and be parochial, as a rural senator, and say, oh, the schools, I can't trust them... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

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SENATOR GROENE: ...with the money but I can trust the NRD. I can't. I have received...I stood in opposition to this the first...have received not one single farmer who called me and asked me to change my mind, not one. Had a couple of employees, bureaucrats, an NRD call me; not one farmer. I have received farmers calling me, pleading about property tax. I stand with them. These NRDs can hold back, can wait, and they can become more efficient. If I seen them less down here staying in \$300 motel rooms, it would make a point to me, and eating big steak in steakhouses with my tax dollars and throwing parties and use the money back home where it's supposed to be, I might consider listening to them. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Groene. Continuing with debate, Senator Friesen. [LB98]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So I'm going to try and lay out for everyone who has any doubts yet of where we're going with this bill. Again, in the Platte River Basin, the first increment of water use has been met. There are more requirements coming. And so an NRD is going to have a choice. They will either cut the allocation to their irrigators, which then will force eventually some to dry up that land and go dryland, and they can restrict water use that way to augment flows to the river. By doing that, they hurt the tax base, because now you have a dryland tax base versus irrigated. You hurt the businesses that sell the fertilizer and those products. You hurt the revenue from the corn being sold. You hurt the revenue of the farmer. So those are the choices. You can either restrict use of the water and dump it back into the river without using it or you can come up with augmentation plans like the NRDs have done. They have been very creative. The different NRDs have done different things. Some of them I don't agree with, but they have accomplished their goals. And in order to meet the flows of the river, you are going to need to put more water back in the river. It's how you go about doing it. And using these 3 cents as leverage and leveraging it with the Water Sustainability Fund, they can fund projects where they can put water back into the river. They've used some creative methods to do that with and, therefore, they assure a water supply to Lincoln and Omaha's well fields. And when we hit this next drought, you'll all know that that's going to be a debate. I do have a list of each of the NRDs and how they have used the levy. The Central Platte Natural Resources District, they have purchased surface water rights. Currently they're using 50 percent of their 3-cent levy, so they're using 1.5 cents. In the Central Platte, they have purchased three

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conservation easements to return a total of 157.6 acre-feet of water back to the Platte. They've spent like \$1.2 million on water rights. The Dawson County canal rehab project, that's where they're taking a canal, they've purchased it and they've taken those water rights and they use it basically for recharge. And so they can retime water flow that goes back to the Platte River. They have done a hydrogeologic study. They need to provide this data to the DNR. And so that's where, some of the projects that they've spent money on. The Tri-Basin, they've got a J2 reregulation reservoir. Basically, they're going to fill that reservoir when they have excess flows and then they'll take and retime it and release it back into the Platte River when it's needed. They've spent \$565,000 on that project. They've done a diversion of the Elwood Reservoir, E-65, and the Cottonwood. That's \$253,000 they've spent on doing that, and that's basically retiming and providing groundwater recharge. The Republican Basin, they have an augmentation well. They've helped offset flows to the Republican River. This is a project I probably wouldn't have agreed with if I could have stopped it, but it saved the state a tremendous amount of money in its settlement with Kansas. You can go on and on. I've got the data here. I've got the numbers of how the 3-cent levy has been spent. They have provided this data. They are not hiding it. It's out there and it is used in a restricted sort of way that it has to deal with the integrated management plans. [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR FRIESEN: And so when you look at how we are going to proceed forward, yes, we can take their levy authority away. It will not stop their obligation to meet the requirements of that integrated water management plan. So if they have the ability to put it under a different levy authority, they will. And if they don't have room under there, they are going to put an option tax in place and what that will do is basically raise, oh, in some basins probably 113 percent increase in the NRDs' levy on irrigated land. And so again, I would ask why should an irrigated farmer be paying to provide water for a city? I think everybody needs to be a part of that area and its integrated water management plan. Everybody has skin in the game. Thank you, Mr. Lieutenant Governor. [LB98]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Halloran. [LB98]

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SENATOR HALLORAN: Thank you, Mr. President. It's a difficult challenge for me to support increasing property taxes for anyone. This will not directly affect me, will not directly affect my Little Blue NRD. But all things being said, it's been mentioned before that oftentimes the NRDs spend money in a rather lavish way. As a new freshman senator, one of the most enjoyable--I enjoyed it very much--but one of the most enjoyable receptions that we all were invited to was the natural resources districts, the NRD. We were wined and dined. Good money was being spent on something that, frankly, just a visit in my office for five minutes would have been just fine. We were taken out to dinner after the reception, same story--spending good taxpayer money for something that I understand they need to lobby but not in that fashion. Again, I repeat myself, this would not affect me, but as a person who's an advocate for reducing property taxes, I find it difficult at this point in time to support increasing the levy for these particular NRDs. At this point, I would yield the balance of my time to Senator Groene. [LB98]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Groene, 3:30. [LB98]

SENATOR GROENE: Thank you, Senator Halloran and Mr. President. This is a tax increase. No matter how you look at it, it's a tax increase. In 1999, the first version of this was introduced in '96 at 1 cent. Now it's 3 and it's been extended three or four times, the sunset. Three districts that use the 3 cents: North Platte NRD. In 1999 they had \$1.9 billion in property valuations. They have \$5.1 billion now or three times more. They don't need 3 cents. Upper Republican, in 1999 they had \$873 million of valuation. This is also a learning experience of why property taxes in rural Nebraska are a problem. Valuations in '99 were \$873 million; they are \$3,800,000,000 now. They don't need 3 cents, a total of 3 cents. Twin Platte, my district, in 1999 they were \$2.1 billion. They're \$6.1 billion in 2016. That's more than inflation, folks. This 3-cent tax is not needed. It needs to be revisited. We need to look at the length of the extension, if any. We need to look at the valuations necessary for the tax levy. We also need to look because this is the first time I got any information at all, and I don't know if it's...how accurate it is, from Senator Friesen, what they've done. I know they've done some recharge projects. And if it's two, have anything to do with the Platte or the Republican for state compacts, this 3 cents should not be used for it because our state constitution states the state has no authority to have a property tax for a state purpose. This thing needs to be revisited. It needs to be looked at. It needs to be refined, if anything. We should never rubber-stamp a sunset, never. Our predecessors in this body

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put that sunset there for a reason. They thought it was a long enough length of time for whatever the problem was to be fixed. We need to be told, explained why, if any, it needs to be extended. We just don't rubber-stamp it. [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR GROENE: This is a rubber stamp. I want more information. I want facts. I want to find out what they've done in my district. Have they put meter...wells under meters? No. Have they allocated the amount they pump on their wells? No. Why? I want those answers, why obvious fixes have not been done. I want to know why you're pumping 150,000 acre-feet into a creek with all the science we have that that's our answer, N-CORPE process. Want to talk about Omaha and Lincoln? We've pumped enough water to supply Omaha--with fresh, the cleanest water in the world into a creek--to supply Omaha with all their water needs for three years. We need a state answer to this, not a local anymore. We need Department of Natural Resources to step in. We need a... [LB98]

PRESIDENT FOLEY: One minute. Time. Time, Senator. [LB98]

SENATOR GROENE: Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Hughes. [LB98]

SENATOR HUGHES: Thank you, Mr. President. Good morning, colleagues. I want to talk a little bit about the long term of what this 3 cents was intended to when the Legislature put it into place in 2009. And it is good that we have the debate and we talk about why it was put in place and why it needs to be extended. I've done a little research. And for my urban colleagues, we need to be clear that fully and overappropriated, the laws that we were dealing with the state at the time allowed us to overdevelop. There's no question about that. So we need to reduce our water use and this 3 cents is allowing us to do that. I have contacted the three NRDs that are in the Republican River Valley, which are my district, and the Middle Republican NRD has reduced their water use since 2009 by over 137 billion gallons. The Lower Republican has reduced their water use by over 162 billion gallons. The Upper has reduced their water use by 76 billion



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gallons. That's water that can be used for the state of Nebraska. There are targets set and there are targets that have to be met. And if we don't give our NRDs the tools to meet those targets, how are they going to do it? This does affect all citizens. This is for the benefit of all citizens within the state. If you live in town, you're using water. This is not just for irrigators. This is for every citizen in the state of Nebraska who uses water. We need to have controls on the amount of water we use, especially in short water areas. Reducing our water use is the goal. There's a difference between an occupation tax and the levy that we're talking about, the 3 cents. The occupation tax is what I pay as a farmer to pay for the augmentation projects, N-CORPE and Rock Creek. I'm glad to pay those because that allows me to keep irrigating. That's why we're pumping water out of the ground, sending it down a creek to Kansas. That's to keep billions, and I do mean billions with a B, of economic activity alive in southwest Nebraska. If we didn't have those two projects, irrigation would be severely curtailed, and think about the economic impact that would have on the state, not only to the farm economy but to the total economy of southwest Nebraska, to the economy of the largest industry in the state of Nebraska. We're making headway. The reason there was a sunset put on there was because we needed to make sure that we were headed in the right direction, and that sunset has been extended several times. We are having good debate. We're talking about it. We're seeing if that money is being used appropriately, and it is. We need to extend it a little bit longer because we have not reached our goals. No one has been pulled off of the fully or overappropriated yet. And if you're on the Platte River, this is more important, and that means Lincoln and Omaha, because you think where your well fields are at. This is important to keep water in the river. This allows... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR HUGHES: ...those of us in the west that used the laws of the state of Nebraska at the time to develop our irrigation. The state probably should have stepped in sooner, but they didn't. So we need to be able to fix this problem and we're willing to do it. We're willing to pay the bill. Just give us the tools to do it. The NRDs have done a good job. We're not rubber-stamping. We're having a very good debate on this and I think that's a great idea. We need to justify these programs. But there's an incredible opportunity we have here to make sure that we continue to reduce the water use in the state of Nebraska and extend it for as long as we have. Thank you, Mr. President. [LB98]

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PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Kolterman. [LB98]

SENATOR KOLTERMAN: Good morning, colleagues. Thank you, Mr. President. I rise in support of LB98. I would tell you that my Upper Big Blue NRD utilizes the program. They don't waste a lot of money at my NRD, contrary to what you've heard. As I visited with many of the board members of the NRD--I've been there several times--they are built primarily from agriculture. Most of the members of the board are farmers. They don't want to see their property taxes increased any more than anybody else, and yet they support this. They don't waste the money. They just need this tool. We are utilizing this money in the Upper Big Blue NRD. Senator Friesen was a member of that board for many years. He understands firsthand how it works and, obviously, Senator Friesen is supportive of this as well. So with that, I would encourage you to vote, support LB98. And give the rest of my time to Senator Hughes. [LB98]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Hughes, 4:00. [LB98]

SENATOR HUGHES: Thank you, Mr. President. Thank you, Senator Kolterman. We're getting a little confused. I think Senator Groene is getting confused. He does have a bur under his blanket about the N-CORPE project. And I would like to explain a little bit to the body how that is completely different than what we're talking about. The Republican River Compact, which was agreed to in...back in the '50s, allocated the water out of the Republican River Basin. And it allocated a majority of that water to Nebraska because that's where the majority of the water is at, but between Colorado, Kansas, and Nebraska. As I stated before when I was on the mike, and back in the '60s and '70s and '80s in southwest Nebraska and, quite frankly, throughout western Nebraska, the technology was developed to allow us to tap into the huge underground reservoir of water that we have, and we overdeveloped. We are using too much water to be sustainable. And that's why the Republican River Basin is deemed fully appropriated and the Platte, some of the Platte River Basin, and some other basins are deemed overappropriated. We've allowed too much water to be taken to sustain flows in the river. Like it or not, those were the laws we dealt with at that time. Everybody, there was nothing illegal done. Could we have done it better? Absolutely, but we need to have the tools to make it right. The N-CORPE project is a good project. Like I said, I'm happy to pay those \$10 to pay for N-CORPE to make sure that I can continue to pump irrigation on my land and it's there for my kids and grandkids. There's a huge

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amount of water available to us. And to shut down our economy in a section of the state is just not in our best interest. We need to be thinking long term. That's what the Legislature did in 2009 when they put this in place. They were thinking long term. Let's put something in place, see how it works. If it works, we extend it. If it continues to work, we extend it. That's the debate we're having now. We need to extend it to continue the work. I gave you the numbers of the billions of gallons that have been saved in my three NRDs. You know that is...those are hard numbers. Those are numbers we need to be focusing on. Those are numbers that we are saving for our kids and grandkids and making sure that there's water in the rivers to meet the obligations. And if you're in Lincoln and Omaha,... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR HUGHES: ...the well fields that you get your drinking water from are directly connected to the well fields upstream, and we've got to reduce those uses. And the fact that we have additional ability to tax is because our values have gone way up. But they're coming down, there's no question about that. I can give you sales in my neighborhood. The value is comes down. And our NRDs have done a very good job of managing that money. I think, from the reports I've seen, I can identify where those dollars are going. I am surprised Senator Groene can't. They're using those dollars for their intended purpose, to reduce our use of water. Thank you, Mr. President. Thank you, Senator Kolterman. [LB98]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Kolowski. [LB98]

SENATOR KOLOWSKI: Thank you, Mr. President. I stand in opposition to AM819, AM that's up there, and for LB98. Want to go back over some of the things that have been said here this morning that are rather disturbing to me, to say the least. Senator Groene mentioned the bill last week on my 3-cent tax for school boards that are up against their lid levy, up against the \$1.05, the 40 districts in the state that needed assistance in that, and his comment is, just buckle up, you know, tighten your belt, make it better. A lot of these school districts, like Millard with 24,000 kids, are the second or third lowest spending per student in the state of Nebraska. Show me other districts that are doing that and I'll tell you where we can go and make a difference with the results that we are seeking in education. Senator Groene may have a bur in his saddle, but I think

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it's more like the saddle is stapled to the horse. The problem is, what in the world do we want to be in control of? We were the super school board of the state last week, deciding that other districts should not have the local control decision making and we're going to do it here. Well, if we want to do the same thing for the NRD, why do we have 23 NRDs? Why are they looked at as some of the best planned work in the entire state and the entire country that other states wished they had NRDs that they could go to and have some of these same problems addressed. I worked on the Water Sustainability Committee. Eighteen months we spent on the issues that were extremely important to this state. And now we're going back and forth on the sunset date. And everything else concerned with the legalities or pumping water and meeting our obligations, that is what we have to do. Those things have been outlined and are part of the history of what we have to accomplish and complete as far as the ties with our neighboring states and serving our state as a whole with fresh water. I hope we can put our heads together and look at LB98 and know and understand how important this is for the state of Nebraska at this time to continue the work of positive water management. I yield the rest of my time to Senator Hughes. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Hughes, 2:00. [LB98]

SENATOR HUGHES: Thank you, Senator Kolowski. The continuation of the explanation for the augmentation projects, which are completely different than what we're talking about now, but there is a connection between saving water, whether it's for the state of Nebraska or for a state compact issue. They're one in the same. And Senator Groene's contention that it is unconstitutional is incorrect. That was addressed when we talked about the court ruling that there's no way to truly differentiate between the two, because if you're saving water for the state of Nebraska, you're saving money that is owed that has to flow through other state...to other states. We're somewhat fortunate in the Republican River Basin that we don't have the issues that there are in the Platte. And that's not in my district and I'm not as familiar with them, but I'm very familiar with water issues in the state of Nebraska. [LB98]

PRESIDENT FOLEY: One minute. [LB98]

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SENATOR HUGHES: But particularly in the Republican River Basin, if we didn't have the augmentation projects we would shut down irrigated acres in my district. And the financial impact to the state of Nebraska would be tremendous. We don't have the rainfall out there. Fortunately, we're blessed with a huge reservoir of underground water that allows us to drive the economy of the state of Nebraska. And that benefits all of us. This 3 cents is important to continue to allow the NRDs to make progress so at some point hopefully they will not be fully appropriated or overappropriated. That's the goal. But it takes money and it takes time. Thank you, Mr. President. [LB98]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Lowe. [LB98]

SENATOR LOWE: Thank you, Mr. President. This bill is sunseting in another year, and what happens when a bill is sunset? You lose the funding. You lose everything behind it. When you look at it and you re-up it again, it starts over. That is something new. That is a new tax. That's the way that my people are looking at it back from my district. That 3-cent levy is something new. Now if we vote not to do this, then chances are my people are going to get a 10 percent occupation tax. So either way I vote on this I'm going to be voting for a tax increase, and that's not the way I ran. It has me in a quandary of what I should be doing because I want to save our people money. I have been told by the NRD that if the people who run Lake McConaughy and the power dam out there, Central Power, if they would release the water in a timely manner throughout the year we wouldn't need this. That just seems like common sense to me. We need to run our state with common sense and we need to keep our canals full so we can have good groundwater dispersion out and into the areas of the Platte River recovery and into Kansas. I'd like to yield the rest of my time to Senator Erdman, if he would choose to take it. [LB98]

PRESIDENT FOLEY: Thank you, Senator Lowe. Senator Erdman, 3:15. [LB98]

SENATOR ERDMAN: Thank you, Lieutenant Governor. I passed out this morning a sheet with my number on it and it shows the national high school rodeo was held in Harrison, Nebraska, in 1955. And I just wanted to bring to your attention in Harrison, Nebraska, they do things something different than we do in the other parts of the state. They had graduation last Saturday and the reason they had graduation in April is because to have it later interferes with the

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brandings. So they have some common-sense approach there. They also allow the home school children to graduate with the kids from high school. Imagine that. The government didn't have to tell them to do something. They figured it out on their own. So back to LB98 and AM819, there are only 10 NRDs in the state that are eligible for the 3 cents. They are the ones that are fully or overappropriated. Senator Lowe said voting for this one way or the other could cause his taxpayers to pay more money, pay more taxes, and that very well could be true. So if you live in my district, it's overappropriated. If you live in my district and you live in town or you're on a ranch, wherever you may live, our district mill levy is 6.35, so you're paying that mill levy if you're a rancher or live in town. I understand that. But if we discontinue this 3 cents, let it sunset, they will still pay up a maximum of 5.5 mills. And in our mill levy back home, our total mill levy, that's about 3 percent of our taxes would go to the NRD. So those people who live in town, those people who live on a ranch are still going to make a contribution of around 3 percent of their taxes going to the NRD. So we are making...all those people are making a contribution to the NRD. I've said this before, let me repeat it. There was a gentleman who lived in Oklahoma once. His name was Will Rogers and he said this:... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR ERDMAN: ...Whiskey is for drinking and water is for fighting over. And that's what we do here. But letting this sunset gives the NRDs another year, another year of the 3 cents if they need it, and there's only one NRD, excuse me, there are two that exceed the 5.5 mills that they're allowed. So it's not something that they're using now. And the majority of you in the body here do not have an NRD that's fully or overappropriated. This means nothing to your NRD. Until they get fully or overappropriated, it will mean nothing to them. So I ask you to vote for AM819 so this can sunset as was intended eight, nine years ago. If you are for property tax relief, if you are for property tax relief then you need to vote to let this sunset. If you're not for property tax relief then vote against this amendment and let your constituents know back home that you raised property tax. [LB98]

PRESIDENT FOLEY: Time, Senator. [LB98]

SENATOR ERDMAN: That's the long and short of it. [LB98]

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PRESIDENT FOLEY: Time. [LB98]

SENATOR ERDMAN: Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Kuehn. [LB98]

SENATOR KUEHN: Thank you, Mr. President, and thank you, colleagues. I want to again reassert and restate my opposition to LB98 and the extension of the sunset of this 3-cent levying authority. And there's a lot of issues that have been brought up. There's been a lot of healthy discussion about NRDs and the value and the tug of war between state interests and local interests. I think that that is all valuable. It's a little bit difficult to get into all of those details specifically in this particular piece of legislation, because what we're ultimately looking at here is the extension of a levying authority. So we have a 3-cent supplemental levying authority which would go away in 2017-2018. And Senator Friesen and supporters of LB98 want to reinstate or extend, depending on how euphemistically you want to looking at, that 3-cent levy authority. I want to refresh the body with regard to exactly what funding options the NRDs have, because it's frequently being portrayed here by people from behind the glass, as they're visiting with some senators, as well as here on the floor, that this 3-cent levy authority is required to conduct the various conservation activities and resource protection activities that are being taken place by the NRDs, and that simply isn't the case. All NRDs have a 4.5-cent base levy. They also have an additional supplemental 1-cent levy for groundwater management activities, giving then all NRDs a total of a 5.5-cent levy authority. The 3-cent supplemental, which was put into place originally in 2004 in LB962, was essentially a stopgap measure for those fully or overappropriated basins to engage in groundwater management activities subsequent to their integrated management plans. It was extended and has been extended a few times, but it was a stopgap measure until other solutions and other options for funding these important sustainability projects could take place. And since this 3-cent supplemental levy was put in place, we've had a number of really important and very valuable tools that have been provided to the natural resources districts for the purpose of meeting those groundwater management activities and water sustainability. Those include the Water Sustainability Fund of the tune of \$10 million a year. That includes additional dollars put into the Water Resources Cash Fund almost immediately after this particular levy authority was put in place, as well as bonding authority and

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occupation tax authority, all which was put in place in the intervening dozen years since this supplemental levy was put in place with the knowledge that it would sunset in 2017-2018. So here we are. The stopgap measure has been demonstrated that the state stood forward, took its responsibility, and created other opportunities and funding streams for appropriate integrated management activities. The question becomes, what purpose now does this 3-cent supplemental levy authority serve? And I want to be clear, if the 3-cent supplemental authority is allowed to expire, as was intended, no NRD will lose its ability to levy property tax dollars to fund its activities. Most of the NRDs are not anywhere close to their 4.5-cent levy limit. A number of them actually have full levy authority within the supplemental 1 cent. Only 4 NRDs of the 23 have reached their 1-cent levy limit; only 1 has reached its 4.5-cent levy limit; and only 2 of a total of 7 NRDs are actually using this 3-cent levy authority. So it begs the question, why all the fuss over an unused levy authority, especially given that my colleagues from...and the senator from Venango... [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR KUEHN: ...and the senator from Henderson I'm sure will both agree that in the 10-year intervening period the property tax valuation base has more than doubled. We have seen valuation in the property tax base since the supplemental authority was put in place increase dramatically, and along with it has gone spending. So the idea this 3-cent levy authority being allowed to sunset as intended will somehow impair or impede water management in the state is simply smoke and mirrors. It's a justification for allowing an unused levy authority so that local districts can continue to exercise it and use it as they wish, not necessarily for the projects in which they are intended. It's very difficult to identify because these funds commingle and are statutorily being allowed to use for general management. They're not even by statute required to be used in these specific activities. They have the authority and the ability to use and are used for general management of the individual NRDs. There's also some additional issue... [LB98]

PRESIDENT FOLEY: Time, Senator. [LB98]

SENATOR KUEHN: ...should this make it past cloture. Thank you, Mr. President. [LB98]



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PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Krist. [LB98]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. In order to make this a little bit interactive this morning, I'd like to ask Senator Williams if he would indulge me on a conversation on the mike. [LB98]

PRESIDENT FOLEY: Senator Williams, would you yield, please? [LB98]

SENATOR WILLIAMS: Yes, I would. [LB98]

SENATOR KRIST: Senator Williams, I, like you, see value in LB98 and I'm still trying to get my arms around AM819. Those are my words, not yours. But I don't think that the body in general understands what a sunset is or how it is used. So could you tell me your understanding of what a sunset actually is? [LB98]

SENATOR WILLIAMS: Yes. My understanding is that at the end of a period of time set legislatively, the sunset would happen, and that would be the end of the legislation. And at that point it would take further action of the Legislature to reinstate a time period, start the clock running again. [LB98]

SENATOR KRIST: So why in the world would I want to introduce, pass, and have the Governor sign a quality piece of legislation and then put a sunset on it for it to go away? [LB98]

SENATOR WILLIAMS: I think there are times that the legislative body wants to be able to look into the future and see what is going to happen and not bind a future Legislature on certain things. So we have started using sunsets more, appropriately I believe. [LB98]

SENATOR KRIST: I think you're right on target. And I would...thank you, Senator, Williams, for your indulgence. I would say this, colleagues. I have been involved with several sunsets, both putting them on and in terminating a sunset. Senator Williams actually articulated very well what a sunset can be used for tactically and strategically. Now the fallacy here is that the sunset was put in place so that it would go away, okay, and it's been said several times on the mike this

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morning and in other discussions. That's not the case. You put a sunset on something so that you're able to evaluate what that original piece of legislation did and, as Senator Kuehn pointed out, what the alternatives are and how those alternatives have been developed. So this is where I came to my decision. I fought very hard on LB98 the last time I was on the mike because I had a problem with the macro level of the management structure for the NRDs in general. That was just put into place and it really has not had time to gel, if you will. They're doing an adequate job. I would fault them for not spending money appropriately, particularly when it comes to drinking water, but you're going to have to indulge me a little bit. Senator Groene said, you know, Omaha, Lincoln, the Platte. Well, I would venture to guess, and I don't want to quote it on the mike, but a large percentage of water that we use in the metropolitan area doesn't even come from the Platte. If you know your geography, the Missouri River runs down and is the border of the eastern side of the state and has a confluence with the Platte River just southeast of Offutt Air Force Base. Most of the water that comes into the MUD system is taken and filtered and provided, some of it, I won't say most, I'll say a good percentage of it comes from the Missouri River. I know there are wells that are recharged by the Platte River and the Platte has a play in the water that we are using. However, I would say that on the advice of my NRD--which, by the way, does not participate or would not participate and has not participated in this 3 cents--they think it is good for us to leave in place. Now the question becomes, is it worth a 10-year extension? The question becomes, do we have to deal with it this year or do we look at it as a benchmark and deal with it definitely by the end of 2018 because, indeed, that sunset goes away? [LB98]

PRESIDENT FOLEY: One minute. [LB98]

SENATOR KRIST: Forty percent of the water coming into the metropolitan area comes from the Platte, sixty percent of the water comes from the Missouri River. And that is a quote from my NRD. So I do have a vested interest in protecting my constituents with the water that is provided by the Platte and also by the Missouri River, and I will follow the guidance of my NRD. However, I would say this. Senator Lowe, if your constituents are saying that this is an increase in taxes, then they are extremely shortsighted because--and I don't want to weigh or measure your constituents--but this is already there. If you are being affected by it and you want to reduce it, you're taking the same attitude that you took towards Senator Kolowski's bill a few days ago

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and that is that we're going to tell you at the state level what's best for the local level, and there is no local authority. And I don't think that's what we want to say. Thank you, Mr. President.  
[LB98]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Erdman. [LB98]

SENATOR ERDMAN: Thank you, Lieutenant Governor. It's good to see that Senator Krist is engaged and involved, and I appreciate his astute observance of what we're doing here and trying to get his hands around it. Not everyone was listening when people were talking. I appreciate that, that he's listening. So I would like to ask Senator Kuehn a question, if I could. [LB98]

PRESIDENT FOLEY: Senator Kuehn, would you yield, please? [LB98]

SENATOR KUEHN: Yes. [LB98]

SENATOR ERDMAN: Senator Kuehn, when this 3-cent option was put in place in '09 or whatever year that was, do you have any information to show what the valuations were in some of those NRDs and what it is today? Do you know what the difference is? [LB98]

SENATOR KUEHN: I can pull that: 2005, in terms of total taxes levied, was \$43 million; compared to 2015, taxes levied was \$76.5 million. So I don't have the valuation numbers but I do have the taxes levied. [LB98]

SENATOR ERDMAN: Okay. So... [LB98]

SENATOR KUEHN: So an increase from \$43 million to \$76.5 million in that ten-year period.  
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SENATOR ERDMAN: That's nearly a 50 percent increase. [LB98]

SENATOR KUEHN: Yes. [LB98]

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SENATOR ERDMAN: And so what has happened over time is when this 3-cent first became available, they're collecting nearly 50 percent more tax dollars from the same mill levy as they were before. So if you use the 5.5-cent opportunity that they have, and you base it on the current valuation, you will find that the NRDs today can collect more tax dollars without the 3 cents than they probably could back when it went into place including the 3 cents. And so why we want this to sunset is because they have funds available to do what they need to do. And if you were listening, I thought Senator Kuehn made a very good explanation as to what will happen if we do this. And I appreciate Senator Williams and Krist explaining what a sunset is. Not having been here long, I don't know of any that sunset. Senator Krist probably does. But it doesn't appear to me that we do a lot of sunsetting around here. We do a lot of extension. And so after I've said this, I have a question for Senator Hughes, if I could ask him. [LB98]

PRESIDENT FOLEY: Senator Hughes, would you yield, please? [LB98]

SENATOR HUGHES: Of course. [LB98]

SENATOR ERDMAN: Senator Hughes, if we allow this to sunset, in those districts where they're using this will their property tax go down? [LB98]

SENATOR HUGHES: No. [LB98]

SENATOR ERDMAN: They won't? [LB98]

SENATOR HUGHES: No. [LB98]

SENATOR ERDMAN: Why do you say that? [LB98]

SENATOR HUGHES: Because the increased valuation of the real estate within those districts, they have room to go as long...until that value comes back down and they start hitting those levy limits again. And it's only been two years in the Upper Republican since we were not up against those limits. [LB98]

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SENATOR ERDMAN: So then you made my point exactly. They still have room to go in their current mill levy and they don't need this extra 3 cents. So that's... [LB98]

SENATOR HUGHES: Today, but two years from now probably not. [LB98]

SENATOR ERDMAN: ...that's my (inaudible) question. Did I miss it? Did I misunderstand? [LB98]

SENATOR HUGHES: Today they do but in two years probably not. [LB98]

SENATOR ERDMAN: All right. Thank you for your answer. I can just tell you this: It's time for this to sunset and let's move on. And we're not restricting them from doing anything that they need to do. And they still have room in their mill levy to charge more taxes, and they can do that. And I will just maybe give Senator Hughes a little heads up. Don't count on your property tax going down because a few sales were cheaper or less than they were before. Because if you actually understood how they arrive at your value for your ag land, don't count on a reduction anytime soon. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Quick. [LB98]

SENATOR QUICK: Thank you, Mr. President. I just want to talk a little bit about how this could affect the people in Central Platte NRD and in my district. And although it may not affect some of the people in the residential part, it could affect those that have irrigated ground because the Central Platte is at 1.5 cent of the 3-cent levy, and they're at 3.5 cents on the other levy. And what will happen is, and I had an individual send me what would happen on his property taxes, and if they had to do an occupation tax, which affects all those, and he has irrigated ground in that district, it would raise his property taxes by 113.78 percent, which would go up \$209.73 per year. So I believe this is going to affect a lot of the farmers in the district. And I know Senator Halloran would have people in the Central Platte NRD, as part of Hall County. And I don't know if Senator Lowe has any irrigators in the Central Platte, but it would also affect them as well. And so I just...I am opposed to AM819 and support LB98. And I would yield the rest of my time to Senator Friesen. [LB98]

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PRESIDENT FOLEY: Thank you, Senator Quick. Senator Friesen, 3:30. [LB98]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. Again, as we are approaching time here to make a decision, I will again reiterate, I am an ag producer. I own ag land. I do feel that the NRDs and management of my resources are partially my responsibility, but it also help benefits the economy of the entire region when you have irrigated agriculture. And managing that resource costs money. And this is a state mandate on NRDs, but I also feel that it's fair and equitable decision that has been reached. And we all agreed to this back in the day when LB962 was first passed and we had to follow that procedure. So thank you, Lieutenant Governor. [LB98]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Watermeier. [LB98]

SENATOR WATERMEIER: Thank you, Mr. President. Good morning, Nebraska. I've been quiet on this issue, but I've had a lot of history with water in the state of Nebraska as the past chairman of the Natural Resources Commission, 20-year member of NRDs. But keep in mind my water experience came from eastern Nebraska, where we have excess amount of water. And when I became acquainted and really came up to speed with the water issues in the Republican, it was really quite an eye-opening experience for me, and I was just really fortunate and blessed I felt at the time that I was not involved, but little did I know that really we are all involved with the water shortages. We are all involved when it comes to the water issues in the state of Nebraska. But we also have a unique situation in Nebraska with the NRDs. We're very much admired across this country about managing our water. A lot of that has to do with just the pure, simple pure luck of being in Nebraska, and underneath, the Ogallala Aquifer is benefiting us. But the other part where we're unique in the fact that the NRDs are separate from the Department of Natural Resources. When we have a situation in a specific watershed which the NRDs manage, they take care of business. And I remember going back when I was campaigning in 2012. That was one of the worst droughts that we ever had. And I think the joke at the time was Mayor Beutler was driving around the city streets in Lincoln and every other person could or couldn't be watering their yard. They were giving fines out for water. That's how critical water was just five years ago. Just five years ago the city wells in Lincoln and Omaha, they were petrified. They were running out of water, and we were wondering where is it going to come from. The water, to

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me, is probably more complicated than Medicaid. It's probably more complicated than any appropriations issues that we have. I've gotten to know some of the past attorneys to the AG's Office that deal with this, and I'm always amazed at how well Nebraska has been represented, starting back, way back with Governor Nelson and then with Johanns. We have been so well represented, and that's not by luck but it's because those people were very educated. But it was lucky the fact we had the right people there. That's a departure from this 3.5-cent argument. To me this 3.5-cent argument is something where NRDs are being proactive. If they're fully or...and/or overappropriated, they're willing to take a chance and ask for the funds and administer these projects as best as they can. It all comes down to augmentation. It's cheaper, in my opinion, to allow these projects to be taken care of at the local NRD level than it is to go on and expect the state to do it. And make no mistake about it, if we turn this over to the state it will get ugly. It will get ugly in the fact that it will cost a heck of a lot more money, there will be more individuals hurt, there will be more property taxes raised because we will lose irrigated acres, and it's going to get ugly. That's not a threat. I'm not saying that's going to happen. But we have always taken care of our issues locally. And this is so different to me than a school board, because think back to what water is all about. Water is share and share alike. There's nothing like that in the country other than in Nebraska. We administer our water so differently than anywhere else in the state. So just to let you all know, I've got a lot of experience in water. I don't have all the answers, but I have a lot of faith in the system that we've put in place. So with that, I'm going to turn the rest...yield the rest of my time to Senator Friesen, if he'd like the last couple minutes. [LB98]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Friesen, 1:15. [LB98]

SENATOR FRIESEN: Thank you, Senator Watermeier. Again, I will reiterate I guess on how this process works with the NRDs. I said at the beginning it does not relieve them of the obligation to continue their work to meet the integrated management plans' requirements which were put in place through an agreement with the Department of Natural Resources. So this is a joint project between the state and the NRD, and I do feel that, as a landowner and an irrigator, I do have a responsibility. This 3 cents would allow districts to use it as matching funds for the Water Sustainability Fund, and I think down the road that is going to be one of the big-ticket items that the Water Sustainability Fund tackles is building reservoirs or something to where we

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can retime flows to the Platte in those times of a drought. Because if everyone remembers, the last time the Platte River ran dry you knew then how much pressure the NRDs were under, how much the DNR was forced to try to take over some of those duties. And the discussion in this building was, should we take away the NRD system and should we let the Department of Natural Resources manage all of our resources? [LB98]

PRESIDENT FOLEY: Time, Senator. [LB98]

SENATOR FRIESEN: I'd prefer to keep it with local. Thank you. [LB98]

PRESIDENT FOLEY: Thank you, Senator Friesen. Mr. Clerk, do you have a motion on the desk? [LB98]

CLERK: Mr. President, Senator Friesen would move to invoke cloture, pursuant to Rule 7, Section 10. [LB98]

PRESIDENT FOLEY: It's the ruling of the Chair that there has been a full and fair debate afforded to LB98. Senator Friesen, for what purpose do you rise? [LB98]

SENATOR FRIESEN: I move to invoke cloture. Call (microphone malfunction) house. [LB98]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB98]

CLERK: 29 ayes, 0 nays, Mr. President, to place the house under call. [LB98]

PRESIDENT FOLEY: House is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Morfeld, Wayne, Chambers, and Larson, please return to the floor and check in. The house is under call. Waiting for Senator Wayne. Please check in. Senator Wayne, the house is under call. Please



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return to the Chamber. All members are now present. Members, the first vote is to invoke cloture. Senator Friesen has requested a roll call vote. Mr. Clerk. [LB98]

CLERK: (Roll call vote taken, Legislative Journal page 1275.) 31 ayes, 9 nays, Mr. President, on the motion to invoke cloture. [LB98]

PRESIDENT FOLEY: The motion to invoke cloture is not adopted. I raise the call. Pursuant to the agenda, we'll now clear the speaking queue and move on to the 10:15 item on your agenda, which is legislative confirmation reports. Mr. Clerk. [LB98]

CLERK: Mr. President, the first confirmation report is from the Business and Labor Committee. Senator Albrecht, I have the appointment of Martin Kasl to the Boiler Safety Code Advisory Board. (Legislative Journal page 1100.)

PRESIDENT FOLEY: (Visitors introduced.) Proceeding now to the confirmation report, Senator Albrecht, you're recognized. [LB98]

SENATOR ALBRECHT: Thank you, President Foley. Members, I have two confirmations this morning. I'll start with the first one. The Business and Labor Committee considered two appointments to the Boiler Safety Code Advisory Board. The board consists of seven members appointed by the Governor with approval by the Legislature. The members serve a term of four years and advise the Commissioner of Labor on rules and regulations for methods of testing equipment, construction and installation of new boilers required to be inspected by the Boiler Inspection Act. The first appointment testified in person during the hearing on April 18. The first candidate is Martin Kasl. Mr. Kasl is a mechanical engineer. He received a Bachelor's of Science in medical...or, excuse me, mechanical engineering from the University of Nebraska at Lincoln. He currently serves on the board and works in the commercial construction design industry, which includes steam and hot-water boiler system designs. Mr. Kasl has worked for five years designing high-pressure steam boilers and cogeneration plants and is a licensed professional engineer in ten states. Mr. Kasl is a reappointment as he has served on the Boiler Safety Code Advisory Board for the past 16 years--a very qualified individual. And the Business and Labor

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Committee voted unanimously to pass these folks to you for a vote, and I'd just ask for your approval on Mr. Martin Kasl. Thank you.

PRESIDENT FOLEY: Thank you, Senator Albrecht. Debate is now open on the confirmation report. Senator Krist.

SENATOR KRIST: Mr. President. And thank you, Senator Albrecht, and thank you to your committee for bringing a quality person forward, and I do support them. I will digress, though, for just a minute as long as there's enough people in the Chamber to listen to me speak. At 1:30 this afternoon we will get on to LB461. Between now and 1:30 I would challenge those who have been intricately involved with building and sustaining the support or nonsupport for LB461 to actually communicate with the people on this floor about what their amendments, proposed amendments and those that have been filed on LB461, will actually do. I would really like to understand what the game plan will be before 1:30 so we can intelligently have a conversation about what that bill actually says and purports to do, not just intends or legislative intent or the language now says that it will do. Because I am hearing from all of my constituents, from people in outstate Nebraska, from anyone who owns or invests in ag land that the most important thing that we need to do is address ag land value and property taxes in this state--property tax, property tax, property tax. If you're in real estate, Senator Walz, it used to be location, location, location. If you're a senator in the state of Nebraska, it is property tax, property tax, property tax. So my challenge before 1:30 is actually for some of us to see the plan, what does LB461 purport to do? And again thank you, Senator Albrecht, for bringing a quality person forward to us. I encourage everyone to support the confirmation from Business and Labor. [LB461]

PRESIDENT FOLEY: Thank you, Senator Krist. Seeing no other members wishing to speak, Senator Albrecht, you're recognized to close on the confirmation report. She waives closing. The question before the body is the adoption of the confirmation report of the Business and Labor Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 1275-1276.) 31 ayes, 0 nays, Mr. President, on adoption of the report.

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PRESIDENT FOLEY: The confirmation report is adopted. Mr. Clerk.

CLERK: Mr. President, a second report for an appointee to the Boiler Safety Code Advisory Board is offered by the Business and Labor Committee. (Legislative Journal page 1100.)

PRESIDENT FOLEY: Senator Albrecht, you're recognized to open on the report.

SENATOR ALBRECHT: Thank you, President Foley. Our second candidate is Aaron Jazyuka. Mr. Jazyuka is a native Nebraskan and a project manager at Master Mechanical Service where he has worked for the past six years. Mr. Jazyuka became a licensed steamfitter following his time with the steamfitters during the five-year apprenticeship. Mr. Jazyuka showed sincere enthusiasm for serving on this board and serving the people of Nebraska. Again, both of these appointees were very qualified, in the opinion of the Business and Labor Committee, and we just ask for your approval of these appointments. Thank you.

PRESIDENT FOLEY: Thank you, Senator Albrecht. Debate is now open on the confirmation report. Seeing no members wishing to speak, Senator Albrecht, you're recognized to close. She waives closing. The question before the body is the adoption of the confirmation report of the Business and Labor Committee. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk.

CLERK: (Record vote, Legislative Journal page 1276.) 36 ayes, 0 nays on adoption of the report, Mr. President.

PRESIDENT FOLEY: The confirmation report is adopted. Moving on, on the agenda, General File appropriations bills. Mr. Clerk.

CLERK: Mr. President, LB259A is a bill by Senator Hansen. (Read title.) [LB259A]

PRESIDENT FOLEY: Senator Hansen, you're recognized to open on your bill. [LB259A]

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SENATOR HANSEN: Thank you, Mr. President. LB259A is the trailing A bill for my priority bill, LB259. It does two one-one appropriations from two different cash funds, the Supreme Court Education Fund and the Supreme Court Automation Cash Fund, in order to implement the provisions of my bill, most notably to update the JUSTICE system, which is the Supreme Court's computer programming system. With that, I'd ask the body to advance LB259A. Thank you, Mr. President. [LB259A LB259]

PRESIDENT FOLEY: Thank you, Senator Hansen. Debate is now open on LB259A. Senator Erdman. [LB259A]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Senator Hansen, would you answer a couple questions for me? [LB259A]

PRESIDENT FOLEY: Senator Hansen, would you yield, please? [LB259A]

SENATOR HANSEN: Yes. [LB259A]

SENATOR ERDMAN: I see on the fiscal note that, what, Douglas County says it's going to cost \$460,000. Is that fiscal note correct? [LB259A]

SENATOR HANSEN: You'll see the Fiscal Office noted that Douglas County's estimation was high, especially in contrast to Lancaster County's estimation. So I would disagree, personally, with Douglas County's estimation. [LB259A]

SENATOR ERDMAN: Okay. So what do you think the real number is? [LB259A]

SENATOR HANSEN: That's hard for me to determine. I do know that the point of this bill has been to...one of the points of this bill has been able to reduce the cost to the county. Lancaster County, for example, is estimating on a prior fiscal note that this bill will save them \$3 (million) to \$4 million, and I do have the support of NACO and Lancaster County in this bill, in part for those cost savings. [LB259A]

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SENATOR ERDMAN: Okay. So NACO is in support? [LB259A]

SENATOR HANSEN: Yes. [LB259A]

SENATOR ERDMAN: Okay. All right. Thank you. [LB259A]

SENATOR HANSEN: Thank you. [LB259A]

SENATOR ERDMAN: Thank you, Mr. President. [LB259A]

PRESIDENT FOLEY: Thank you, Senators Erdman and Hansen. Seeing no other members in the queue, Senator Hansen, you're recognized to close. He waives closing. The question before the body is the advance of LB259A to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB259A]

CLERK: 31 ayes, 0 nays on the advancement of LB259A. [LB259A]

PRESIDENT FOLEY: LB259A advances. Items for the record, Mr. Clerk? [LB259A]

CLERK: Thank you, Mr. President. New resolutions: LR120 by Senator Scheer and LR121 by Senator Scheer, both will be laid over; Senator McCollister offers LR122 calling for an interim study. That will be referred to the Executive Board. That's all that I have, Mr. President. (Legislative Journal pages 1277-1279.) [LR120 LR121 LR122]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Proceeding on the agenda, General File budget bills. Mr. Clerk.

CLERK: Mr. President, LB331, a bill introduced by the Speaker, at the request of the Governor. (Read title.) Introduced on January 12, referred to the Appropriations Committee, the bill was advanced to General File. There are committee amendments, Mr. President. (AM594, Legislative Journal page 1122.) [LB331]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Stinner, you're recognized to open on LB331. [LB331]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, LB331, introduced by the Speaker at the request of the Governor, is part of the Governor's biennial budget recommendation. The bill provides for fund transfers, the creation of funds, and changes provisions governing the administration and use of funds. I would request that I move to the amendment, Mr. President. [LB331]

PRESIDENT FOLEY: Yes, Senator Stinner, please proceed with the committee amendment. [LB331]

SENATOR STINNER: Thank you, Mr. President. The committee amendment, AM594, becomes the bill. The amendment contains the Appropriations Committee's recommendation as to fund transfers, creation of funds, and changes governing the administration and use of funds in those instances where statutory changes are necessary or described. Refer to the committee's budget book, page 25, for a complete list of transfers into the General Fund, including those transfers requiring statutory authorization in this bill. LB331, as amended by AM594, contains the emergency clause is operative on July 1. And I should note that transfers are normal and necessary parts of the budget process. Normal transfers, such as Security Act Cash Fund, Tobacco Products Administration Cash Fund, Department of Insurance cash fund, are robust funds that provide normal and continuing flows, transfers to the budget. So every biennium budget, these three sources provide approximately \$100 million of support to balance the budget. Now, I did pass out on Exhibit 1, knowing that these aren't normal times, we've had to actually look at other sources that we could go to, to provide budget support. And if you go to LB22 budget deficit bill, reappropriations, with \$72 million, now what's reappropriations? That's the savings accounts that were accumulated by different agencies. It is the unencumbered portion of it. So we got encumbered, where it's allowed to go with the agency. Unencumbered, 76 cents on the dollar, which added up to \$72 million. Also at that time in the Governor's request was about \$21 million of extra transfers. Those extra transfers, the committee decided to move those to the biennium because it's better served that way. So when we did the biennium budget, \$127 million ended up in transfers: the \$100 million that we normally transfer, plus the \$21 (million), plus

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there was a small addition. As we worked through the third step of the Forecasting Board, during the hearing process we heard that we had a shortfall, during the hearing process, we had a shortfall of \$153 million. So during that process, we heard what the agencies' comments were relative to our recommendations. We met then after that. We had about a five-, six-day period of time to meet and actually sit down with the Fiscal Analyst and try and figure out what the cuts could be, could be made at that particular point in time. We made cuts of \$65 million additionally to try to hit that mark of a balanced budget. Balanced budget, remember, has a 3 percent minimum Cash Reserve. So then we had to look at other sources. Those other sources were sources that are listed on page 25 and you can pick those out. They add up to \$88 million of additional transfers. And that's how. That is embedded in this bill and I would ask you to look at that, research it. Believe me that this was an unusual situation, used to get to the 3 percent limit and certainly to balance the budget and add fiscal integrity as we look forward in the structural part of the budget. And I would request that you vote green on LB331 and AM594. Thank you. [LB331 LB22]

PRESIDENT FOLEY: Thank you, Senator Stinner. Mr. Clerk? [LB331]

CLERK: Mr. President, Senator Friesen would move to amend the committee amendments, AM1156. (Legislative Journal page 1196.) [LB331]

PRESIDENT FOLEY: Senator Friesen, you're recognized to open on AM1156. [LB331]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So as everyone recalls, when we were talking about transfers and our budget, just to kind of refresh your memory, we were talking about a transfer out of Roads fund and it was a \$30 million transfer. And so that's what this does, is it would bring that number back to the \$15 million that we had agreed to earlier. And so going back to how we have developed the budget, and the cash funds that have been swept, and when you start looking through all of the different funds, we're going to take \$30 million from Roads. We're going to take millions of dollars from the Universal Service Fund which takes broadband out to rural areas. We are sweeping the Brand Committee's funds. Let's just put everything on the table. Let's go after corn checkoff. Let's go after the soybeans and the dry beans. And let's sweep the cupboard bare trying to fix our budget problem. This again is a

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one-time fix. We cannot continue to do this. We have to somehow bring back some common-sense approach to how we are going to spend money in this state and what is our priorities. And when I look at the last two years that I've been here, we focused on roads. We had two very big bills that focused on improving our infrastructure, and now we're going to start taking money from that fund again and we're going to transfer money out to cover up a shortfall. And as long as our ag economy is in a slump, I don't expect our revenue to jump. And no one can predict that we're going to have a 5 percent growth, not with any reality. We don't know what that's going to be. It's totally dependent on Mother Nature in some other country or here. We could have good times again in agriculture, but there's nothing that when I look in my crystal ball that says that we're going to. We have the ability to produce more than we consume and, therefore, we're going to have low commodity prices in the near future unless somebody meets a disaster somewhere, and I don't wish a disaster on anyone. We will do what we continue to do and that is raise our crops, like we always do. Whether we're losing money or making money, we'll continue forward. But in the end, if agriculture doesn't have a recovery in the next two years, I don't see how we can see that there's going to be a 5-some percent growth in our revenue. And as we continue to use cash funds to swept into these fixes, we are going to be digging ourself a deeper hole and more cuts coming, and they're going to be the tough cuts. To me, there are still places we can go. To me, if you look at any operation, you can take a small cut, you can work your way through it; come again to the next year, you can handle a little bit. But when you get cut a lot in one year, it hurts programs harder than it does if you're just nibbling at the edges. And what we've done so far is not, we've not even nibbled at the edges. We still have extra funding that has gone on. There's still a lot of money that has been put out there. And I still think we need to look very seriously at how we are going to balance this budget. So when we continue to look at the transfers and the next \$55 million that we have to find revenue for, we're going to be looking deeper and we are going to be looking at more transfers from different areas, whether it's the Health Care Cash Fund or some others. But you know, when I look into the future and two years from now, are we going to sweep \$100 million out of roads, are we going to sweep more out of the Health Care Cash Fund, which permanently damages our ability to do things? So with that, I encourage some discussion on where we're going. I think there's...this is, to me, is the way the budget should be developed is through discussion. And whether or not we can reach an agreement on how we're going about it, that's the importance of what we're doing here today.



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And I'm not criticizing the Appropriations Committee. I think this is just a healthy way that we determine what our priorities are in this state. Thank you, Mr. Lieutenant Governor. [LB331]

PRESIDENT FOLEY: Thank you, Senator Friesen. Debate is now open on LB331 and the related amendments. Senator Erdman. [LB331]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. Good morning, Nebraskans. I rise in support of Senator Friesen's amendment to put the money back that we have taken there. We need to build some roads. It's important that we build roads and we have infrastructure that works. This is very important. This total bill package bothers me some, well, not some, a lot. As I looked back at the history, and Senator Chambers will understand what I'm talking about, in '01-'02 we had similar problems, in '08-and '09 we had a similar problems. We had a shortfall. And one of the reasons I believe that we review and understand history is so we don't repeat it. I contend today if this body was made up of people who served in the early 2000s, this budget would look totally different than it does today. That group of senators that was here, and Senator Chambers was one of those, they balanced their budget structurally, based on a guess, is what we're doing now. And consequently, the revenues continue to slump. In October the senators got a call or a notice, and it said: Please return to Lincoln; Houston, we have a problem. So they returned to Lincoln. And what they did is they made a 10 percent cut straight across the board in all agencies, because the revenue dropped off. And it wasn't any big surprise to some people that it wasn't going to work, and that's exactly what we're setting ourselves up for here again. Unless we make some serious cuts in what we're doing, and we make that decision before we leave here, we will be back and we will have one option, and that's to make cuts. We are projecting, or the revenue people are projecting, that we're going to have \$4,515 million worth of revenue next year, and the following year \$4,735 million. And if you do the quick math on that, that's about \$420 million more revenue than we have today. So if you have an annual budget of \$4.3 billion, I'm not a statistician like Senator Clements but I can figure out that that's about 10 percent. So what will happen if we continue to go forward with the proposed budget is we will be forced at some point in time to make another 10 percent cut. I don't know about you, but I'm not interested in doing that. So it's time for us to make a decision on how we're going to go forward so we don't have to do more severe cuts later. I will make this suggestion. I suggest that we adopt last year's budget, as amended, and we take from the rainy day fund, the Cash Reserve Fund, the amount

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needed to pay for those raises negotiated by the unions and to pay for the increase in healthcare, and we move forward. I contend our next year's revenue will be very similar to what we've got this last year. If, in fact, that is the case, that's a common-sense approach that I think makes sense. So before you throw the baby out with the bathwater, give it some consideration. Last year's budget, as amended, taking from the rainy day fund, or Cash Reserve, enough to make up for the increases in salary and the increase in health costs. That is my suggestion. Whether it falls on deaf ears or not, we will find out. It seemed like there are some people listening. But I am for restoring that \$15 million to the Road Department so they can build roads in outstate Nebraska. Thank you. [LB331]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Stinner. [LB331]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, I thought we fought this battle a while back, right before the \$55 million downturn that we have to now meet, Appropriations, at 12:30 today to try to solve that as well. So you're going to take \$15 (million) out of Roads because you don't think it should be there, and you'll take it out of the rainy day fund. How about the \$55 million? Now what's the solution there? This Forecasting, oh, we're in a check of a downturn. Look at your forecasting book and see what the trends are. Also, we have yet to talk about anything from the revenue side. So if we do end up coming back for a special session or to come back next year or whatever, maybe that might be on the table, plus, you'll have a rainy day fund north of \$300 million. You will have \$100 million of normal transfers that aren't shown in your book. You will be able to deal with a \$500 (million) to \$600 (million), \$700 million downturn. That's a hedge, folks, even now with the downturn of \$55 million. To exempt Roads at this particular point in time, when they're taking down sales tax, a quarter-cent sales tax, which is about \$50 million, and another \$7.5 million a year, about \$60 million they're taking down in funds that could be in the General Funds. That makes them a participant. The fact of the matter is they're the fourth largest agency that we have, a \$1.7 billion dollar budget, and you're asking to take \$30 million dollars, 1.75 of a percent. What are we asking the other agencies to take? Three percent? Providers, 3 percent down? You're asking them to take a big hit. You're asking other agencies to come up with 8 percent in modifications in some places we took that, and sometimes we took more and sometimes we took less. It was line by line, thoughtful approach. If you don't think this committee went through a thoughtful approach, did their

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appropriate amount of due diligence, you know, shame on you. We met probably...we went through this process twice. We did two budgets, so we had the opportunity to go through it twice. And we got to a point where the Appropriations Committee said enough cuts, enough cuts. Now we build the 3 percent reserve. Now we try to preserve a cash fund that will give us a future. I don't have a crystal ball, but I do have a master's degree in economics. And I can tell you, through a business career of 40 years, I can't predict the future, but I sure can figure out how to hedge against it, and I believe we're building a hedge. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Stinner. Senator Krist. [LB331]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Senator Erdman very actively described the fact that with every group of legislators you will end up with a different product. In 2001-02 time frame, that Legislature took the approach that across-the-board cuts were acceptable. In 2009, we worked at a program project with Governor Heineman and then Senator Heidemann, who we had all agreed that taking the same cut across the board was unacceptable. But we did attack in the same way the cash funds and the unexpended funds that resolved or resided in different agencies as money that was not actually appropriated. I wonder, is Senator Stinner still in the...I would like to answer him...ask him a couple of questions if I could, please. [LB331]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB331]

SENATOR STINNER: Yes, I will. [LB331]

SENATOR KRIST: Senator Stinner, within the appropriations process, LB22, as it was submitted, is one attempt to balance the budget early on, and it was by itself a separate budget action. Is that not complete? Is that correct? [LB331 LB22]

SENATOR STINNER: We went through an abbreviated budget process that included similarities to the lengthy process that we went through. We met with the Fiscal Analyst on each agency that was affected. We had hearings on each agency or opportunities to have hearings on each agency. And then we again met with fiscal agent to turn out an end result of LB22, yes. [LB331 LB22]

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SENATOR KRIST: Okay. And LB22 was the product of...if you could assign a proportion, and you are a master's degree in economics, what portion of that LB22 resembled the budget that the Governor gave you or suggestions that he gave you? [LB331 LB22]

SENATOR STINNER: We were, I think it was, 93 or 94 percent of the Governor's budget. [LB331]

SENATOR KRIST: Okay. Colleagues, mark this point, because I want to make this point now. LB22 was better than 95 percent what the Governor of the state of Nebraska wanted to do in a separate budget proposal, which is unorthodox and probably the first time in history that this state has ever done that. Senator Stinner, also, in terms of the process that you've gone through now, in what manner or deviation, Senator Stinner, in what deviation with our current budget structure came from the Governor's proposed budget on this budget round? [LB331 LB22]

SENATOR STINNER: Actually, we've cut about \$6 million more, if you reconcile it all out, than the Governor's proposed budget. [LB331]

SENATOR KRIST: And what is coming in terms of suggestions from the Governor? What is coming based upon the last \$50 million or \$55 million shortage? [LB331]

SENATOR STINNER: Well, that...there was a list or proposed list of opportunities to cut additional agencies and additional expenditures. [LB331]

SENATOR KRIST: And you're still talking about those so I'm not going to ask you to tell me where we stand now as an Appropriations Committee. But those, as I understand, included additional cuts to the University of Nebraska, which Senator Kuehn is carrying water for. They included additional cuts with the Water Sustainability Act. And there are several others in there that are cuts that the Governor has proposed. Is that correct? [LB331]

SENATOR STINNER: Yes, it is. [LB331]

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SENATOR KRIST: Okay. So here's the difference between 2001, 2009, and today: It's today. It is today. And it is our responsibility to make sure that this budget, as it exists, is the best product that we can turn out. Now, I have a lot of faith in Appropriations, but that comes from a few years of actually watching the appropriations process. [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR KRIST: And I still have a lot of faith in the appropriations process, despite the unorthodox portion of LB22 at the beginning of the year. We can have discussions about taking \$15 million from here and \$30 million from here, but the discussion about restoring roads money, for me, is a dead end. They have to pay, in some way. They have to participate in the pain. I'm the last person that wants to drive 4.5 miles out of my way to get my grain truck to where it needs to go because the bridge is out, but we've inherited that problem through 10 or 15 years of lack of investment. Just like the Governor will stand up today and say, Corrections, we inherited this problem; it took 10 years to get here; it's going to take us a few years to get back. It's going to take a few years to restore the sustainability of the infrastructure in this state. But we've got a different problem: We don't have the money so that everybody gets their way. So we need to start compromising and look at those things that need to be done,... [LB331 LB22]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR KRIST: ...and restoring \$15 million is not one of them. [LB331]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Friesen. Senator Friesen, you're recognized to speak or close on your amendment. Senator Friesen, you're recognized to speak or close on your amendment. [LB331]

SENATOR FRIESEN: Mr. Lieutenant Governor, I'd ask that we withdraw the amendment, AM1156. [LB331]

PRESIDENT FOLEY: Without objection, AM1156 is withdrawn. Mr. Clerk. [LB331]

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CLERK: Mr. President, Senator Kuehn would move to amend with AM1205. (Legislative Journal page 1221.) [LB331]

PRESIDENT FOLEY: Senator Kuehn, you're recognized to open on your amendment. [LB331]

SENATOR KUEHN: Thank you, Mr. President. And thank you, colleagues. I bring AM1205 today to discuss a couple of issues regarding the cash transfers bills in LB331. I am a member of the Appropriations Committee, and I want to clarify a couple of issues as far as how things developed and with regard to the cash transfers. Specifically, I'm going to start by talking about AM1205, and then I want to put it into perspective with a few other issues that I think the body needs to deliberate and discuss before advancing forward with LB331. AM1205 strikes language in LB331 that would transfer \$100,000 from the cash fund for the Brand Committee into the General Fund. Originally, the committee adopted a \$500,000 sweep of those dollars from the cash fund of the Brand Committee and transfer to the General Fund. Under discussion and reconsideration, they reduced that amount from \$500,000 to \$100,000. Now, ultimately, in the grand scheme of the billions of dollars that we're talking about, \$100,000 is not a huge issue, and I recognize that. But I do want to bring up and educate the body and put on the record a couple of things with regard to why this is important for the Brand Commission (sic--Committee), a little bit of history regarding the Brand Committee and their fees, and also bring up an issue that I think is very important with regard to how some of these cash funds were tapped and accessed, and the opportunity for public input. The public hearing for the Brand Committee was held on February 23, and Bill Bunce, the director of the Brand Committee, who's new to that role, spoke and answered questions to the committee itself. This is an opportunity for him to provide expertise and insight on the use of the cash funds for the Brand Committee, and I think it's important that everyone recognize how the Brand Committee is ultimately funded and how their authority is used. So the Brand Committee charges a fee per head for an inspection fee anytime there is a sale or transaction of an animal within the brand inspection area. And this is further complicated by the fact that not all of Nebraska is within the brand inspection area. So depending upon which part of the state you live in, you may or may not be subject as a cattle producer to the assessment of this fee. These fees, paid on a per-head basis for the inspection of the brand, which serves essentially as a legal title for these animals, goes then to funding the agency. So the agency itself is self-funded by these very specific inspection fees. It's important to

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realize that their income is seasonal in nature and it's highly dependent upon the movement of cattle. So there's periods of time in the summer months where cattle aren't moving in the part of the state with regard to the brand inspection area, so they don't have a lot of revenue coming in. And there's other periods, the fall and the spring, where sales are larger and they have greater amounts of income coming in. So their relative amount of dollars waxes and wanes with the cyclical nature of the cattle industry. This is an important function in determining ownership as well as determining a law enforcement responsibility with regard to the title and ownership of cattle. In 2015, this body, via LB85, authorized the Brands Committee to have an increase in their fees. At that point in time two years ago, the Brand Committee was not able to generate enough revenue under its current fee structure to maintain its operations and maintain its statutory responsibilities. So we agreed and authorized them the authority to increase their fees, which they did. It's also important to recognize that last summer, many of us were well-aware of an audit by the Auditor of Public Accountants which demonstrated some significant issues associated with the Brand Committee, issues with members of that committee and the new executive director have taken great steps to move forward and address, including automation of their system, increasing and improving some internal protocols, and others. So we have an agency that was financially stressed, it's a small agency that underwent a very difficult and challenging audit and is trying to get its feet back on the ground and meet its obligations. These fees are fees paid for a very specific reason, that is the change of ownership of cattle, and then were moved and used for the General Fund. My concern here is that this is a, one, a very dangerous precedent in terms of the utilization of these highly specific fees. We looked at a similar cash fund associated with the courts where attorneys pay a fee for the enforcement of issues in the legal profession, which the court said they would take to the mat and legally challenge, if necessary. So we backed off. Now we are setting a precedent of taking \$100,000 of cash funds out of a highly specific, very small agency associated with fees, and contributing it to the General Fund. Even more problematic for me is the manner in which these fees were swept. As I stated when we started, at the time of the public hearing on February 23, when we had the director in front of us, this was not a question that was brought to him. I specifically asked him things like, will you lower the fees if you are able to get the automation projects and others done, and he said yes. He did not, in a public hearing, and the stakeholders associated, have the opportunity to discuss the implications of this cash transfer on the operation of the Brand Committee. And while I fully recognize that we're moving a lot out of a wide variety of cash

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funds, there were a number of these sweeps which were proposed by the Chairman of the committee after public hearings and didn't require and allow the agencies or even the committees of purview to weigh in on these very important policy issues. So while \$100,000 in the Brand Committee may not be that big of an overall issue, I do think that the issue associated, as we've been talking about, with roads was one that the Roads Department didn't have an opportunity to comment on during the public hearing. DED didn't have an opportunity to comment on cash fund transfers during their public hearing. Department of Labor didn't have an opportunity to comment in a public hearing and stakeholders before we swept cash funds from theirs, and the same with another fund, the Health Care Cash Fund, which has a lot of constituencies, which we had an interim study that showed that we are oversubscribed in the fund. We're spending \$60 million out and to make it sustainable we should be spending about \$53 million. And these were issues which were not put before the agencies of purview at the time. They were issues that were brought up after the public hearing process, and there wasn't an adequate opportunity for the stakeholders to engage in the public process. If you've received some e-mails from members of the Brand Committee and cattle owners, you understand just how important these funds are, both in principle and in dollars, to that agency and to the transfer of ownership of cattle in the state of Nebraska. To that end, I ask that you adopt AM1205. I know the Brand Committee is not an issue that is high on the priority list of a lot of the members of this body, but I do think in terms of the principle and the precedent that it sets, as well as the ability to make sure this agency continues its progress and movement forward and modernization, that we ensure that they have access to the fees that were paid by cattle owners for the specific purpose of ensuring the law enforcement and title-change responsibilities of the Brand Committee. So I encourage a green vote on AM1205, and we can continue to discuss AM594 to LB331. Thank you, Mr. President. [LB331]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Thank you, Senator Kuehn. Senator Hughes, you're recognized. [LB331]

SENATOR HUGHES: Thank you, Mr. President. Good morning again, colleagues. I am rising in support of AM1205. Thank you, Senator Kuehn, for bringing this. As he stated, the Brand Committee is not something that many of you know too much about. I do know the chairman of



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the Brand Committee is a good friend of mine. He's a gentleman that I've fed cattle with and, you know, we've grown up next to each other for all of our lives. But as a member of the Brand Committee, he is dedicated to making sure that that committee does its job. He's like a lot of other volunteers, if you will, for a lot of different appointments by the Governor from around the state, and we need to make sure that they have the funds to do their job. And it's one thing to have a structure in place that allows them to collect fees from their industry to do their job, and they know what their budget is. The Brand Committee has had some challenges this last year. There were some personnel issues that, as a former member of the Ethanol Board and the Wheat Board, you don't want to see anybody go through because you're not getting paid near enough to put up with that. But yet, we have a tremendous amount of volunteers who are willing to give their time to make sure that our state functions. And to come in and sweep a healthy percentage of their budget away from them, that is collected from cattle producers for a specific purpose, is absolutely not right. It's not a lot of money in our budget, but it's a massive amount of money in their budget. And I have heard from numerous cattlemen who are not happy about this. That money was select...collected for a specific purpose, and for the state to come in and sweep that, then nothing is sacred, you know? And I understand the pressure that Senator Stinner and the Appropriations Committee are under, but there has got to be a better way to do it. And as a percentage of this small committee, you know, the money that they need to operate on, you know, they have employees just like everybody else does and it costs more money to retain employees to do those jobs. And they need the technology to make them...their jobs easier. They need computer upgrades. When I talked to my friend the chairman, that's what some of this money was for. They needed technology upgrades. I've got a bill that's on consent that allows them to have teleconferencing ability. You know, that is just a common sense. As Senator Erdman said the other day, common sense is a flower that doesn't grow in everybody's garden. Why in the world they wouldn't have that, who knows, an oversight by some previous Legislature, but that is a money-saving step that they can take. But we do not need to be taking this money from the Brand Committee. With that I would yield the balance of my time to Senator Kuehn, if he would like. [LB331]

SPEAKER SCHEER: Senator Kuehn, 1:40. [LB331]

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SENATOR KUEHN: Thank you, Mr. President. And thank you, Senator Hughes. Again, this is one of those issues where there is both a principle at stake as well as very real consequences for a committee. I do want to reinforce again, one of my challenges here is when the committee was deliberating this there were questions posed of me as to, well, what would they do with this, what will they do with that, and ultimately I cannot speak for the director or for the members of the Brands Committee. There was a point in time and an opportunity for them to provide that input to the committee, and that is what our public hearing process is for. [LB331]

SPEAKER SCHEER: One minute. [LB331]

SENATOR KUEHN: And I...thank you, Mr. President. And I again want to reinforce the idea that when we make these types of transfers after the public hearing, when it's something that wasn't brought up for public comment, it's really hard for the stakeholders and those affected by these particular decisions to have an opportunity and a voice to weigh in. So again, I encourage you to hold the Brand Committee intact, allow them to continue to move forward with their automation and their improvements, recognizing that these are specific fees paid by a very specific subset of individuals, cattle owners, for the very specific purpose of ensuring the seamless transfer of title and law enforcement for animals that are inappropriately and illegally obtained. Thank you, Mr. President. [LB331]

SPEAKER SCHEER: Thank you, Senator Hughes and Senator Kuehn. Waiting in the queue: Senator Briese, Erdman, Stinner, and others. Senator Briese, you're recognized. [LB331]

SENATOR BRIESE: Thank you, Mr. President. And good morning, colleagues. I rise today in support of AM1205. I guess I'm new to the process here and I'm still shaking my head how some of the things are done. One in particular is this sweeping of cash funds and, in particular, the cash funds of an organization funded entirely by producer fees. I don't have any cattle. I'm a corn and soybean guy myself. But if I was a cattle person and fell subject to the brand laws, I would pay fees required by the Brand Inspection Act. And I'd pay those with the understanding that they go towards supporting the administration and enforcement of the act. Why would I believe that? Because when I paid those fees, Nebraska Revised Statute Section 54-197 provided that fees and money collected pursuant to the Livestock Brand Act are credited to a fund that, "shall

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be used by the Nebraska Brand Committee in the administration and enforcement of the act." And now, by sweeping these funds, we're trying to violate that understanding, and that's just not right. And in addition to that, we should recognize that those fees paid by these producers are intended to benefit these producers by funding the implementation Brand Act. Provisions of the Brand Act serve the producers that pay the fees by protecting their livestock from loss or theft. They're not intended or suitable for helping to bail out the state's General Fund. I urge your support of AM1205. And with that, I would yield the balance of my time to Senator Kuehn if he would like it. Thank you, Mr. President. [LB331]

SPEAKER SCHEER: Senator Kuehn, 3:20. I do not see Senator Kuehn. Thank you, Senator Briese. Senator Erdman, you're recognized. [LB331]

SENATOR ERDMAN: Thank you, Mr. Speaker. Good morning again. I rise in support of AM1205. I thought Senator Kuehn did a very excellent job explaining what that fund does and why it's in place. In western Nebraska we are subject to the brand laws and, as Senator Kuehn said, in the summertime there's quite a few cattle that move. And over time sometimes my neighbor's cattle got mixed with mine. And when they got mixed up, it was the way we separated. And sometimes they got to the sale barn and they discovered that my neighbor had one of my cattle or my neighbor's cattle, and it was appropriately...the funds were sent appropriately to the person who owned them. So brands are very important. As we move through this process of talking about taking this money, the Brand Committee has several obligations that they must meet. They have employees that have retirement obligations, and they have vacation pay and sick leave they have to pay. They're short a few hands right now and they need to hire those as well. And so taking this money from a group of people who put it in place doesn't make sense to me, and I think that we need to...I know we need to restore this. And I support AM1205. When this first came about, and I get a lot of e-mails and a lot of calls, but I got more calls when the Appropriations Committee first took the \$500,000. I got more calls in the next two days, and e-mails, on this issue as any issue I've ever had anybody respond to me about. The people in western Nebraska are very concerned about this. They very much appreciate brand inspections to determine ownership, and they very much need these funds to be put back so they can meet their obligations as we go forward. So I would encourage you to vote for AM1205. And most of the people in the body it does not affect their districts, but please help us in western Nebraska restore

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what they put in place to do certain things with and not sweep that \$100,000 out of their account. And if I would...I would ask Senator Kuehn, if he would like the rest of my time he can have it. Thank you. [LB331]

SPEAKER SCHEER: Senator Kuehn, 2:50. [LB331]

SENATOR KUEHN: Thank you, Mr. President. Thank you, Senator Erdman. Again, I don't have anything new to add. I guess we've kind of tilled this ground. And I appreciate the support and information provided and contributed by members of the body who understand how this process works. And again, I want to reinforce that this is a unique circumstance and that this is a committee with a new director that is really working hard to address issues that were brought before it. And there was a hearing during the interim before the Ag Committee which addressed some of these policy concerns and policy issues, and I don't think we're doing this particular agency any help or any assistance in addressing very real issues that were brought forward if we continue to sweep funds. And again, I want to remind you in 2015 this body authorized an increase in those fees for the purposes of ensuring that this agency could continue forward with its mission. So it seems a little counterintuitive that we would increase the fees in 2015 and then, as we accumulate dollars so they can do an automation project and meet their mission, that we then sweep those fees away. So with that, I would like to continue to thank members of the body for their deliberate consideration of this issue and I encourage your green vote on AM1205. [LB331]

SPEAKER SCHEER: Thank you, Senator Kuehn and Senator Erdman. Senator Stinner, you're recognized. [LB331]

SENATOR STINNER: Thank you, Mr. President. Members of the Legislature, this \$100,000 doesn't make or break me so I'm not going to vote on it, period. I understand the calls. I've got the calls. I understand history and all the rest of that. But \$100,000 I'm not going to quibble over. But I do want to read you what a cash fund is. A cash fund is used to account for revenues and expenditures that are directly related to specific activities with sources outside of state government. So it could be branding fees. It could be pop fees. It could be any kind of fees that is designated for that fund to manage. Okay? I mean we can do this the hard way or the easy

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way. And obviously, the contention that we should have brought it up in the hearing, if you look at the dates it was February 23 when the Brand Commission (sic--Committee) came to our...and it is a cash-funded agency so we did talk about cash funds. We talked about appropriations. We gave them extra money, \$210,000, in order to do their data processing. We turned them down for 12 employees. I talked to Chairman Brasch of the Agriculture Committee about that. We conferred a little bit about that. We agreed with the Governor and we passed on that increase as well. But let's look at the timetable, okay? They came to us the 23; 27 is when we found out we were \$153 million down. By the time we concluded hearings, it was on the fifty-seventh day. On the sixty-fourth day is when we had to go to press with the budget. So we had seven days. When were you going to schedule a hearing, and a hearing on everything? Has this ever been done before? Of course its been done before, because conditions change, conditions change dramatically: \$153 million down. We met, we talked, we cut \$60 million out. We couldn't go any further. The committee said, that's done. So we started to conduct our search. But let's go through and let's just talk about the Brand Commission (sic). And like I said, the Brand Commission (sic) was to increase their primary fees per head inspection from 75 cents to \$1 in February 2016. Other brand fees had been increased January 2016. Let's look at the minimum balance from 2012 on through 2017. Their lowest balance, \$680,000, 2012-2013; 2016 it was up to \$894,000. We granted them increases of \$210,000. We did not decrease their appropriations, but it is estimated based on that. We pulled it forward: \$1.4 million is what their balance are going to be with the appropriations we gave them. Revenue in the current fiscal year exceeds spending authority by \$500,000. How do you think we got to \$500,000 in the first place? First of all, you've got a stable fund. You got a source of revenue. You've got expenditures going out that is governed by appropriation. You got an increasing balance. You've got sustainability. And the idea that we're somehow violating the constitution, violating some statute, violating some legislative procedure, are you kidding me? They've done this in the past two years that I've been on. We've lapsed things. And, oh, by the way, on the big stuff that we went, I went to every one of them. I had the Fiscal Analyst talk to everybody. They got a heads-up. And when I went to Roads, they said no. So here we are. I happen to think they ought to participate the \$30 million and I put a cash flow together showing you that they will increase cash even though we're taking \$30 million out; that no contractor will be turned away because we've lowered appropriations. And, oh, by the way, that appropriations level does not, does not mean that we're going to have a gas tax increase.

[LB331]

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SPEAKER SCHEER: One minute. [LB331]

SENATOR STINNER: So this notion that the committee violated some kind of standard, should have had another hearing, should have had people in is...we can't work that way. We couldn't turn out a budget in that time. It's impossible. We do this on a constant basis, have done it on a constant basis. We did talk to them, probably didn't talk to the Brand Committee, and that's my fault and mea culpa on that. Do you think Mike Calvert in the Fiscal Office would allow us to violate some kind of constitutional law, statute, any kind of procedure that we were supposed to go through? This is really just trying to discredit something that I thought we went through two budgets, credible process, and I'll stick behind it. As far as the amendment is concerned, have your way with it. It's absolutely immaterial to the entire budget process. Thank you. [LB331]

SPEAKER SCHEER: Time, Senator. Thank you, Senator Stinner. Waiting in the queue: Senator Krist, Morfeld, Chambers, and Larson. Senator Krist, you're recognized. [LB331]

SENATOR KRIST: Thank you, Mr. President. And again, good morning, colleagues, and good morning, Nebraska. This may surprise you, but I'm going to support AM1205 because \$100,000 back into a smaller budget means a lot to those folks. And I'm going to tell you right now, if you don't think I understand what branding does in this state, this city boy understands it, and I'm supporting it. I'm supporting it. Just because you're from the city and you don't have any cattle doesn't mean that you understand that the iron is hot and that at some point we're going to have to keep these funds where they need to be. I would like to remind this body, let's go back to week, I don't know, seven or eight when I stood on this floor and defended our potato farmers from losing one dime of the money that they paid in from their funds into a cash fund. I've stood on this floor for years and talked about the checkoff and a balance between any checkoff, and making sure that if we do have to take those funds that that's well-coordinated with those people who have paid in. It's their money, so I'm going to support AM1205. But my caveat here is what's good for the goose is good for the gander. So when we look at what happens to the Medicaid funds, to funds that are taking dollars away in General Funds for services across the state, that is a mistake that we made in 2009, and I will be loud and clear trying to avoid that mistake again. Leave this \$100,000 there, but look at the money that you're cutting in the services across, because you sometimes will not be able to catch up. What we did in '09 took us

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almost four years to catch up with. I would invite you to support AM1205 because it's a good thing for our cattle industry and the \$100,000 that is there means more in proportion than it could ever mean in terms to offset a budget shortfall of \$1 billion, billion-plus. Thank you, Mr. President. [LB331]

SPEAKER SCHEER: Thank you, Senator Krist. Senator Morfeld, you're recognized. [LB331]

SENATOR MORFELD: Thank you, Mr. Speaker. I'll rise in support of Senator Kuehn's amendment. I did want to respond to the need for public hearing and also support Senator Stinner's statements on that. If we're going to have a public hearing, particularly for this small of an amount of money, I can't wait to have the public hearings on the university budget because of the adjustments that some people are talking about in here, along with the Governor, to the university budget, given the current fiscal numbers that have come out within the last week. And so I don't understand how the need for this amendment can be premised on having public hearings for institutions, and particularly for this small amount of funding, in order to move this appropriations process forward. So if that's the precedent we're going to set, then we should just hit the reset dial and have public hearings for all the different state agencies and institutions before we pass the next budget, based on the new fiscal numbers. So I just think that that's an absurd argument, but I'll will support Senator Kuehn's amendment. I do think it's an important industry. But I hope that all of my colleagues will note that there's also other important industries and institutions in this state. I'm hearing a lot from students that are concerned about double-digit tax increases of their own in the form of tuition based on some of the things that this Legislature and this body and some members in particular are talking about doing. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Chambers. [LB331]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, we're here. There is a rural-urban split in this Legislature. The "rurals" are against anything generally that will help people. I talk about my three Ls--the least, the last, and the lost. Mine deals with

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people; you all deal with industries, money, things, objects. I deal with the people for whom those things, objects, and the money are supposed to exist. I'm going to start taking time on these budget bills to talk about the things that mean something to me because you all are talking about "nothings." I made that plural. You repeat, you repeat. You re-chew the same cud. You ought to have seven stomachs so that you can swallow it, then cough it up and chew it some more, let it get good and slippery, slimy and nasty, swallow it again, bring it up, chew it again and again and again and again and again. I'm going to support this that's being asked for. I've said repeatedly that I'm elected from a district but the title that I carry is State Senator. Therefore, the state is my bailiwick, the people in this state are my constituents. I don't care whether they're white, black, Native American, Latino, Jewish, immigrants, or those people who are degradingly "nounized" illegals. These are people, first and foremost. You all talk about the constitution. Distinctions are made in the constitution between citizens and noncitizens. When it's talking about citizens it says so. When it's talking about people it says person, no person shall be deprived of life, liberty and other things without due process of law. So you could be in this country illegally. You are a person. You have rights under the constitution. So when these idiotic racists say, well, you're not a citizen, the constitution doesn't apply to you, they're ignoramuses. As a black man around white people all my life, I have to try to make white people understand through the use of metaphor, analogy, simile, because you'll never experience what I experienced and you couldn't stand it, you couldn't survive if you did, because without going through those things I listen to you whine. I watch you grovel. These people who can be called rural people in the Legislature are like the 17-year locust. They wake up when there's something they want and they chirp and they make a lot of noise, then they go back to sleep for 17 years until something affects them again. Then here they come, and they want everybody to pay attention. There is a discrete community of persons that I have great concern about and have for years--the LGBTQ community. I look at the Brand Committee people. Why do you want special consideration? Why do you want special deals? You'd get up and say, we're not asking for anything special, we're asking only for what we're entitled to. But then when we come to human beings who are deprived not only of protection under the law,... [LB331]

PRESIDENT FOLEY: One minute. [LB331]



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SENATOR CHAMBERS: ...but their human dignity and self-respect, the first thing I hear these people on this floor say, why do you want special consideration? Why do you want special rights? And they say, all we want is that which any human being, any American is entitled to. And when they ask for it, suddenly they're asking for something special. When the Brand Committee, when the potato farmers say, we put the money into this, it's our money, we only want what's ours, why do we...that's a "we" that includes everybody, whether you're included or not by your actions. Why do we say that about the LGBTQ community when they are degraded, they are demeaned, they are deprived of their rights, their dignity, and not even granted the protection when it comes to having a job? [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR CHAMBERS: I've got more to say. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Larson. [LB331]

SENATOR LARSON: Question. [LB331]

PRESIDENT FOLEY: Question has been called. Do I see five hands? I do. The question is, shall debate cease? Those in favor of ceasing debate vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB331]

CLERK: 28 ayes, 3 nays to cease debate. [LB331]

PRESIDENT FOLEY: Debate does cease. Senator Kuehn, you're recognized to close on AM1205. [LB331]

SENATOR KUEHN: Thank you, Mr. President. Thank you, colleagues. I think we've had some information about the process here as well as the implications. I appreciate the comments of all of my colleagues with regard to this particular issue. I'm always entertained when Senator Chambers makes a chewing of the cud in a ruminant physiology reference during a Brand

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Committee debate. I think that's...that is highly apropos in terms of those kinds of parallels. So with that, I encourage your green vote on AM1205. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Members, you heard the debate on AM1205. The question before the body is the adoption of the amendment. Those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB331]

CLERK: 26 ayes, 2 nays, Mr. President, to adopt the amendment. [LB331]

PRESIDENT FOLEY: AM1205 is adopted. Mr. Clerk. [LB331]

CLERK: Mr. President, Senator Chambers would move to reconsider that vote. [LB331]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your reconsideration motion. [LB331]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Larson is rarely here. I don't know if he's the one who called the question but it sounded like him. He thinks he can shut me up. This motion is in honor of our usually absent but today present Senator Larson. I am not going to let this issue go. What I intended to do was speak, then when the time ran out then I would wait until some other opportunity. But since Senator Larson decided to shut me up, I decided to show him he cannot do it. So I'm going to take my ten minutes to open, I'm going to speak twice, then I'm going to close. And you all can thank Senator Larson for this. I have been away from the floor while you all talked about budget issues, but I've been listening. I've been watching. And Senator Friesen has been raising more Cain here today than any other individual senator. He has had several proposals that he offered, more probably than he has the whole season. That's to let you know I've been watching, Senator Friesen. I pay attention to you. I pay attention to others. And Senator Larson, if he was here more often, he'd pay attention to how things go. So now I'm going to go ahead and as Alexander Pope wrote in his play, in his poem, "Essay on Man," "Expatriate free o'er all this scene of man; / A mighty maze! but not without a plan." Tell me why giant oaks are made taller and stronger than the weeds they shade. He goes on like that. Almost every two lines comprise an aphorism.

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He was a man who wrote poems, long epics, using polished, highly polished couplets. Each line had 10 syllables, each one. "Awake, my St. John! leave all meaner things / To low ambition, and the pride of kings." Let us while life can little more supply / Than just to look about us and to die. That takes some doing. Words have power. Manipulating words takes skill. The ability to manipulate words and utilize their power takes wisdom. Sometimes people ought to just hold their peace and let the Lord fight their battles. I was saying as a black man I used metaphors, analogies, and similes. I was comparing the plight of my LGBTQ brothers and sisters to the relatively minor irritants faced by some of our rural colleagues and brothers and sisters. How loud a yowl is raised on behalf of those in the rural area while there's virtual silence when we're talking about the LGBTQ community. I'm not going to be silent, and I'll pick the times when I'm going to speak, and I will speak. I cannot determine whether I will be heard. I cannot control whether you listen and pay attention, but I will say what I say. I will say it for the record, and I'll say it during those times when there's hostility, opposition, and animosity toward me for speaking. I am teaching you all by my example what freedom of speech means, the value of it, and the time that it ought to be indulged. The time for a right to be vindicated is when it is most under attack, and that often happens on this floor when a person such as myself will raise issues that others wish would be left alone. Senator Larson could have just stayed wherever he was before he came here tromping and splashing the water and disturbing what was otherwise a peaceful community. I've got a word or two for Senator Stinner. He has been referred to as a linebacker. If you look at him, broad shoulders, thick neck, look like a rock if he wanted to be a rock, but he chose to be a banker. Well, I need a metaphor. I need an analogy. Senator Stinner is inflicting a different kind of pain from that which he inflicted as a linebacker. He is a dentist and Senator Stinner the dentist should understand that he occupies the role of a dentist who must perform the ministrations of a dentist without sufficient Novocain to dull the pain. If a dentist puts enough Novocain in your jaw you could be sitting up there, your jaw dead, your gum dead, your lip hanging, blood streaming down your jaw, and you don't even notice it because you don't feel anything. Senator Stinner on the other hand is the dentist who even when he turns on the drill people flinch and when it barely touches they jump. But sometimes what you're experiencing is the heat generated by the drill, and that accentuates the negative. Now, if you want to accent the positive you have to use Novocain. So I noticed this morning that the usually taciturn, self-possessed dentist without Novocain raised his voice, raised it, at least he raised the volume. I didn't notice whether he raised it in terms of the octaves, but the volume was increased.

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And I can understand when you have to deal with large agencies. You have to deal with small insignificant cash funds. You have to deal with a Governor who's a spoiled brat and owns people on the floor of the Legislature and sends them to do his dirty work and they do it. And he sees all this, but he's not free as I am to speak or expatiate free over all these things because he has to deal with all of these entities, none of whom will have anything in common with any other except they are all experiencing pain. How outraged would they be if our dentist without Novocain simply told them as a former president did, I feel your pain? They'd say, you don't feel our pain, you are inflicting our pain, but he is not inflicting the pain. He decided to put himself in a position as chairperson of a committee which does wield a lot of power, but it can also generate a lot of heartache and pain for whoever happens to be chairing that committee. Senator Stinner is somebody for whom you need not feel any sympathy, any sorrow. He's not a weepy, teary, whining, crying kind of individual. If you come at him, you'll get some pushback, but he'll do it gently. His theme song could be that which was sung so well by Roberta Flack, "Killing me softly with his song, killing me softly with his song, telling my whole life with his words, killing me softly." That's what he's doing when he has to decide... [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR CHAMBERS: ...who's going to be cut and who is not. But we, as a body, are not helpless. If we don't like what the Appropriations Committee did, we have enough votes to alter anything that they have done. So why point the finger at them? Because that's easier than trying to round up the votes necessary to change what they've done. It's easier to make that committee the pinata. Instead of a vote, you use a stick to strike the pinata to get even, but you waste your energy because your work does not produce a positive result. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Chambers. Mr. Clerk for an announcement. [LB331]

CLERK: Mr. President, the Transportation Committee is meeting now in Room 2022. Thank you. [LB331]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing discussion, Senator Larson. [LB331]

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SENATOR LARSON: Thank you, Mr. President. I'd urge all my colleagues to support motion 114, Senator Chambers' motion. And I am opposed to Senator Kuehn's AM1205. Simply put, the Brand Committee has had a long history of mismanagement and improperly using funds. It's as simple as that. And I've stood up on this floor for multiple years discussing that mismanagement of funds, whether it was when I was on Appropriations Committee and they asked for \$50 or \$100,000 for bullet-proof jackets for their brand inspectors. (Laugh) And I look at their budget and their estimated year-end balance, this year it's \$1.6 million; next year, \$1....almost \$1.9 (million) with the \$100,000 transferred out; and the year after, \$2.1 (million). Colleagues, first of all, the money is there. Second of all, not only have they had a strong mismanagement of funds, I think it might have been my first year in the Legislature we increased that brand fee up to 75 cents on individuals, but we did not change the law for registered feedlots. We left it at 65. Yet the Brand Committee took it amongst themselves to still charge the registered feedlots 75 cents. And when that was discovered they just said, whoops, that was our mistake. But they overcharged those registered feedlots to the tune, at least when we tried to change it or at least claw that money back and give it back to the producers, it was \$200,000 because that was just what the statute of limitations allowed. But I think the law was in place for three or four years, so it was probably closer to a half a million dollars overcharged, and knowingly so, by the executive director of the Brand Committee. And then they go in, as I said, and ask for things like bullet-proof vests for their brand inspectors. I can assure you that very few of these brand inspectors need bullet-proof vests. Now, I understand the arguments that Senator Briese and Senator Erdman and a number of other of my rural colleagues have made that this money has been paid into my agricultural producers, and I don't disagree with that. And I understand that the Brand Committee does have value at certain turns. But to be honest, this committee has mismanaged their money to an extreme level. I'm pretty sure their former executive director is still on the payroll, after he got fired, to a tune...I don't know what their former executive director is getting paid at this point. But he is still on the payroll. So I'd actually urge all of you to support motion 114 if Senator Chambers decides to leave it up there because, as I said, this is the essence of mismanagement in state government. It is the Brand Committee, and they have displayed that year after year after year after year. And when the Legislature has tried to reel them in, they have continued to ignore us. And as I said, we're looking at, even with the \$100,000 transferred out, them having an estimated year-end balance of \$1.8 million in '17-'18 and \$2.1 million in...or '17-18 and \$2.1 (million) in '18-19. Colleagues, that means... [LB331]

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PRESIDENT FOLEY: One minute. [LB331]

SENATOR LARSON: ...their overall balance is growing every year, which means, even with this \$100,000 taken out, which means they're overcharging our producers right now. They have the authority to go to 75 cents per head but it can be lower. They don't have to charge 75 cents. That's just the authority in which we give them. They are charging that max authority on our cow-calf operations and building it. Really what they should be doing is lowering how much they're charging per head so they're not building that much of a cash balance. As I said, the Brand Committee is the essence of mismanagement in state government. I would urge you to vote to reconsider, Senator Chambers' motion 114. Thank you. [LB331]

PRESIDENT FOLEY: Thank you, Senator Larson. Senator Chambers. [LB331]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Larson. And you ought to thank me. I don't know if you were on the Ag Committee when we were discussing some of the inappropriate conduct of their former leader and some of the activities of that commission, but people wondered why I, who live in the city, had so much to say about that. Because I read the Auditor's report, I read the articles, and I became aware of what was actually being done and I felt it was my duty, even though I'm from the city, to address those matters that did not directly affect anybody in the city. But had I not offered this motion, Senator Larson would not have uttered a word on the subject. You could see that there was a fire in his belly. But rather than speak, he came and called the question, because it was more important for him to show that he could shut me down than it was for him to speak from what I consider in this instance, if no other, a principled, valid position. Somebody might ask why, after my criticisms of Senator Larson, would I give credit to him for what he said. Well, even the devil speaks truth on occasion, more eloquently than Senator Larson. See, the devil is a heck of a cat, and I've had some dealings, I would say, with the devil to a greater extent than the rest of you have. That's why I don't see the devil as pure evil. I see the devil as somebody who does and has done what not one person...I don't care how many prayers you all answer, you ask, you pray, you never get an answer. Did something you never will do. The devil sat down and had a conversation with God. He and God talked, talked. They made wagers. They toyed with people. The most famous victim was a fellow named Job. And I won't tell the yarn, but it's in the "Bible." I am versatile. I

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believe in diversity. Mine runs from A to Z, the apex to the zenith. And I can give credit where credit is due, because it doesn't diminish me to give credit to somebody who, although provoked, will speak the truth without varnish. And sometimes when people take out after the Chairperson of the Appropriations Committee or the members of the committee, they are our colleagues. They just happen to be on a particular committee. You ought to keep in mind that they are being asked to do what we are not asked to do. They actually have to review, study, analyze, evaluate, and form judgments about the subject matter of their committee. That doesn't happen on other committees. I've been on committees and I've watched and listened and I've seen the work that comes from other committees, and it doesn't happen on those committees of which I'm not a member but whose members I have a chance to listen to and observe on the floor when they are discussing matters that went before their committee. So from time to time I have to take the privilege that I have as a member of the Legislature to use this bully pulpit and say some things that need to be said. [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR CHAMBERS: The issue of whether or not our LGBTQ brothers and sisters will be shielded when it comes to having employment, which people take for granted in this country, that issue won't come before us again this session because the bill will not come before us. But that doesn't mean the matter cannot be discussed. We should all the time be interested in and concerned about human rights, the way the least among us is mistreated. And when you have a group such as the LGBTQ community who cannot even get their issues discussed on this floor in a decent, respectful manner, then somebody has to stand up and say, that is not going to be the case with me. I don't need anybody's friendship here. I didn't come down here to be friend with anybody. [LB331]

PRESIDENT FOLEY: Time, Senator. [LB331]

SENATOR CHAMBERS: The only one...thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Blood, you're recognized.  
[LB331]

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SENATOR BLOOD: Thank you, Mr. President. Fellow Senators, friends all, I stand in support of Senator Chambers' reconsideration and Senator Kuehn's amendment. I am a little puzzled by what I just heard from Senator Larson when I saw him giggling in reference to why the people who enforce the branding in Nebraska would need bullet-proof vests. I look at somebody like Senator Albrecht and anybody else that have to do with cattle and branding, and they know the dangers that are involved. And I think that that belittled the fact that these people that do the enforcement, they are often risking their lives. And I don't think it's correct to belittle them on the mike. I think we have to remember, as Senator Kuehn has brought forward, why this is important. You're looking at an economic impact of \$12.1 billion to Nebraska's economy. And perhaps they have mismanaged in the past, but much like the Tourism Department, I think things have been put into place that have going to prevent this from happening in the future. And there comes a time when we have to not micromanage but have faith that the amendments and the changes that are moving forward are going to be positive. But you know that ag is Nebraska's number one industry, and cattle is the single largest part of that industry, I believe, if I remember correctly from our Ag Committee meeting. You can't compare this drop in the bucket to that \$12.1 billion that it contributes to our economic community here in Nebraska. This is a positive thing. I think Senator Kuehn is on the right path. I think we have to be very, very careful, Senator Larson, when we belittle the dangers that are involved with branding. Again, I stand in support of the reconsideration and Senator Kuehn's amendment. [LB331]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Chambers, you're recognized. This is your third opportunity. [LB331]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, to make one thing crystal-clear, Senator Larson will not get to ride my wagon to a vote. If he wanted to get a vote, a reconsideration, he could have done what I'm doing. So I'm going to speak my piece, pull that amendment. And if I stand on the floor and speak about something other than what the rest of you are interested in, then shut me up at that moment. But remember, I will get my time and ultimately I'll get more time than I intended to take because you turn it into a different issue. When I decide there's something I'm going to say, I will say it and that's it. But when you decide to challenge me, then you lifted it out of the realm of what I wanted to say initially, and you're showing me that you think you can make me behave in the way you want me to behave,



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although, keep this in mind. I was not up here during the morning talking, and yet you all talked and talked and talked and talked, because that's all that the Legislature deals with other than when we're voting is talk, talk. The problem is that many times it is not thoughtful talk. I'm going to continue doing everything I can every time I see what appears to be an opportunity from my perspective to raise the issue of how some human beings are treated like less than human by what we do on the floor of this Legislature. Suppose the Brand Committee went out of existence. Suppose there were no brands. Why, then people would steal cattle. Well, no, they wouldn't because cattle live in the rural areas. Rural people don't steal. They have family values. Of course, they're afraid of their shadow because all of them want to carry guns too, afraid of each other. I don't know why that is. Now, I live in a community where they say there is more shooting than anywhere else. I couldn't even conceal a gun and I don't carry a gun and I'm not afraid to walk in the streets--not in the thoroughfare that's called the street--walk the streets, drive my car, go out late at night, early in the morning. And I don't have a gun. I don't have a gun in my car, and I'm not afraid. So how can that be? I wouldn't want to live in a rural community and come away as frightened of everything as you all are, as whiny, as complaining, as unsympathetic, unfeeling, lacking in compassion for everybody else. Then you want everybody to jump up and come to your aid when you have to pay a little bit more on your property. At least you've got property to pay taxes on, don't you? You don't have to live under an overpass. You know what I saw on television that I thought was an irony? A very vicious antigay letter appeared at Creighton. I think it was on one of the houses where students live. The first comment was, kill yourself. Then there was a word blotted out, and it might have been the f-word that they used for gay people that ends with a g. Said, you're not wanted here, you're not wanted in this state. And I thought that was kind of ironic because that's what the Legislature has said by its conduct. It's what the Catholic Church has said by sending its Catholic Conference here to lobby against LGBTQ people being treated like human beings in the workplace. [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR CHAMBERS: So a Catholic university had a note put on one of the places where the students live which expresses the attitude of the Catholic Conference and of the Nebraska Legislature. So why did the president of Creighton University see the need to offer some kind of written countermeasure to that? I will wait until I'm recognized to close, Mr. President. [LB331]

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PRESIDENT FOLEY: Senator Chambers, you're recognized to close. [LB331]

SENATOR CHAMBERS: Thank you, Mr. President. Do you see how I and the Chair cooperate when we decide we're going to do that? Members of the Legislature, I wouldn't have come up here and joined this conversation if we hadn't been dealing with an issue that affects the rural community and their interests. Somebody mentioned how much money may be involved in the industry that is affected by this, and I the other day heard Senator Morfeld mention in a different context the amount of money involved in the activities of the university. Yet, I'd venture to say if something is made in the way of a move to further harm the university there won't be people springing to the aid of the university as there were people springing to the aid of this Brand Committee because they don't care. But I care. And when that issue comes before us I will have something to say. I observe the need for better education by listening to my colleagues on this floor. By listening to my colleagues on this floor, and especially my rural colleagues because they could use some ed-o-cation (phonetically), education, edge-a-ma-cation (phonetically)," however it's pronounced or mispronounced. And if they have that education then it ought to be manifested in terms of what they say and the issues they deem to be important. But they're very narrow in their scope, very selfish and self-centered. Then when they get theirs, they have no further interest unless they can take a position that's harmful to others. These children in the rural areas don't belong as property to the people who live in those rural areas. Those children are entitled to rights like children everywhere. That means when a child falls in the clutches of the court those children ought to have legal representation, and I'm not going to listen quietly while some of these hard-hearted, narrow-minded, rural people say, we take care of our own. Then I listen to what it is they try to take care of, not the children, certainly not. Put yourself in the position of a child, in a hostile environment, strange, hostile people, authority figures all who can take you out of your home, who can lock you up, and you have two parents scared to death who are trying to get along with these people who waived your right as a human being. A child is a human being. A child is a person. And my Catholic colleagues and those who may not be Catholic but have the same attitude think that a fertilized egg is a human being, and they want changes in the law to protect that egg, but they don't want to put a law in place to protect the child that everybody agrees is a full-fledged human being. Give to the human being child, the person in esse, in being, the consideration and protection you want to give to a fertilized egg. My respect doesn't mean anything to you, but you'd have it whether you wanted it or not if you

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would extend to these children what you'd want for yourself, for what you'd want for your own child if you had a child or your grandchild. But, no,... [LB331]

PRESIDENT FOLEY: One minute. [LB331]

SENATOR CHAMBERS: ...the prosecutors tell us they take good care of these kids, the judges. The prosecutor is going to take care of the welfare of these children when if the prosecutor is worth his or her salt the prosecutor would say, this child should not even be in the judicial system. These issues should not be a matter for the criminal justice system. These are children activities. These are childhood misbehaviors. They will not be processed in my courtroom. But that's not what they say. Oh, they take care of those children all right, and they're going to produce some angry, young men, angry young women, and some addicted young people, and you all bear the blame for it to a great extent. Mr. President, I withdraw that motion. [LB331]

PRESIDENT FOLEY: Without objection, the motion is withdrawn. Mr. Clerk. [LB331]

CLERK: Mr. President, some items. An amendment to be printed to LB415. Senator Wayne is moving that LB75 become law notwithstanding the objections of the Governor. That will be laid over at this time. And a meeting announcement: The Special Committee for Qualifications Challenge will meet in Room 2102 at noon; Special Committee on Qualifications at noon. That's all that I have, Mr. President. (Legislative Journal pages 1280-1282.) [LB415 LB75]

Senator McCollister would move to recess the body until 1:30 p.m.

PRESIDENT FOLEY: Members, you heard the motion to recess. Those in favor say aye. Those opposed say nay. We are in recess.

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PRESIDENT FOLEY PRESIDING

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

CLERK I have a quorum present, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Any items for the record?

CLERK: Just one, Mr. President the Enrollment and Review reports LB259A to Select File. (Legislative Journal page 1282.) That is all that I have. [LB259A]

PRESIDENT FOLEY: Thank you, sir. (Visitors introduced.) Proceeding now to the 1:30 item on the agenda, General File, 2017 committee priority bill. Mr. Clerk

CLERK: Mr. President, LB461, a bill by Senator Smith, relates to revenue and taxation. Senator Smith presented his bill to the body on April 21. He presented this bill, he presented the Revenue Committee amendments. There was an amendment offered to those committee amendments. Senator Smith asked unanimous consent to withdraw AM965 and offer as a substitute, AM1129. There was an objection to that. Senator Smith then moved to substitute before the body made decisions on that issue. Senator Krist had moved to recommit the bill to committee, that motion failed. Senator Burke Harr then moved to reconsider that motion. Senator Harr's motion to reconsider is the pending matter. [LB461]

PRESIDENT FOLEY: Members, we'll have many Senators wanting to speak on the bill. I think we'll start with Senators Smith and Harr for maybe a minute each or so and then we'll proceed to the regular speaking queue. Senator Smith, you are recognized. [LB461]

SENATOR SMITH: Thank you, Mr. President. You said one minute? [LB461]

PRESIDENT FOLEY: Give or take, yes. [LB461]

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SENATOR SMITH: All right, give or take. All right. Well, LB461 and AM954, as you know, is a comprehensive income reform and relief tax bill targeting middle-income families and small business through gradual, prudent reduction of individual income tax brackets that begin at just \$28,000 per year for single filers and \$58,000 a year for married, filing jointly. The bill also provides relief for lower-income tax brackets by increasing Nebraska's earned income tax credit to 12 percent of federal credit by 2020, creating a nonrefundable credit for married, filing jointly returns with \$28,000 of FAGI or less. And for other returns with \$14,000 a year FAGI. And increasing personal exemptions for all filers, except for those in the higher income levels for which the personal exemptions will be phased out. We will be passing out a decile report here shortly that will show you what that means to each income level. The cost triggers impacting filers about \$28,000 per year take effect when 3.5 percent forecast growth of General Fund is met, leaving nearly \$175 million for government growth in initial year. More than enough to replenish the reserves and to cover necessary increases in the state expenditures. It should also be noted that the changes will result in simplification of the personal income tax laws by reducing the number of brackets from four to three. The bill and amendment also simplifies the corporate income tax over time, moving from two brackets to one, using triggers set at a higher threshold of 4 percent growth. And finally, the bill and amendment changes the way ag and horticultural land is valued from the current market-based approach to a new income-producing approach. There will also be restrictions on allowable increase in value year to year. AM965, once substituted with AM1129, makes two necessary improvements to what I described in LB461 and AM954 regarding ag land valuation methodology. There are some change there which we can go into further detail. They were brought to us by Senator Erdman and it provides yet another set of triggers that will be used to fund property tax relief. \$20 million per year will be transferred to property tax credit cash fund when forecasted rate of growth exceeds 4.5 percent. [LB461]

PRESIDENT FOLEY: Thank you, Senator Smith. [LB461]

SENATOR SMITH: Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Harr. [LB461]

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SENATOR HARR: Thank you, Mr. President. So I filed a motion to recommit for the reason that this bill isn't ready for prime time. You will see there are a bunch of amendments on this bill, including the methodology. We don't know when the forecasting board meets. Is it their meeting that they had last week, is it their meeting they have in October, is it the meeting they have in January? I don't know. If you know, it's not in the bill as drafted. It also...all of a sudden we dropped \$20 million a year additional money. That's a lot of money. We last week we found out we were going to have to find an additional \$50 million, and what I have heard from members of Appropriations is the tap is dry. There is no more water. So how are we all of a sudden going to throw \$20 million? Imagine if we had to do it this year, because guess what, folks? The prediction for this year was we were going to grow more than 3.5 percent we would have had a cut in income tax, could have possibly had a situation with this \$20 million. So I don't think we should doing tax policy on the fly. And finally, and I will talk about it a little bit more later, is the reason we need to recommit this is because our president is trying to "Make America Great Again", and part of making America great again is reforming the tax policy and our tax code. And when we're doing our own tax changes, what we're going to find is we're going to pass ours, we're going to have some new rules and regs, a lot of time spent on that, and then we're going to have a new bill passed. And then on the federal level and it's going to have a trickle-down effect on the state. We'll probably have to make more changes or different changes, maybe for the better, maybe for the worse, we don't know. We don't know what's in that from the President. So I think it's time that maybe we hit the pause button, pump the brakes a little, and wait to see what the feds do first. Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Harr. I am reminded that Senator Krist also has a motion on the board. Senator Krist, if you would like to take a couple of minutes, you are welcome to it. [LB461]

SENATOR KRIST: Thank you, Mr. President. Very, very quickly. The reason that I wanted to interfere with substituting an alternate amendment is that this is a complex, complicated bill. And understanding what it says now and understanding where we would go to and how it would be amended I thought was critical to the discussion. But I would remind the body that my objection has been and still will be that this bill, in its essence, focuses more on income tax relief. And what I'm hearing and what I'm hearing that you're hearing is that the importance is in

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property tax relief. And in this particular case, I talked extensively about Senator Erdman's tax reform, not relief, but reform, to try to get us to a point where we start talking about how we're taxing our ag communities and maybe eventually get back to a level playing field in terms of tax assessment across the board for all property in the state of Nebraska. Which again, is what I hear most from my constituents, whether they are rural, whether they are urban. And I remind the body I have several very profitable working farms in my district that I deal with as well. So I want to remind the body of those few comments and I appreciate the courtesy, Mr. President, for allowing me to add two cents with it. Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Krist. Now we will move to the regular speaking queue, Senator Crawford. [LB461]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. And good afternoon, colleagues. I rise in opposition to LB461, I rise in support of the motion to recommit it to committee. I do think there are valuable pieces and parts in this conversation in terms of how to rethink and reform our taxes. However, I concur with Senator Harr that now when we are in the midst of seeing efforts at our federal government level to reform income tax, we don't know yet what those are going to look like and how those may play out in our income tax efforts. And so I think there is a reason to give some consideration to see what's happening there first. More importantly, I think, on the income tax side, I am very concerned about triggers that are based on projections. Again, we were expecting about a 3.5 percent revenue growth in our budgeting and it did not come to pass. And that is why we have had a budget shortfall to fill. And colleagues, if we had an income tax cut on top of our existing shortfall, we would have an even more difficult time of meeting that requirement. And I hear in my emails and calls and people who see me, they are very concerned that we would be passing a policy now to cut taxes at the same year that we are facing these tough cuts to our programs that serve our families and concerns about the impacts of those cuts on education, tuition costs, health care costs, day-care costs for those families. And I am very concerned about that. Colleagues, again, these triggers are based on projections. And we have seen in one of our neighboring states of Oklahoma that they are currently facing a budget shortfall and fiscal crisis based on the triggers that have gone into effect there, and working to vote to stop that trigger. Because there is no mechanism in this policy to stop a trigger if the revenues don't meet that projection. Also in our budget briefing, we

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heard from the Fiscal Office that the error margin, margin of error, for our revenue projections are over 3 percent. And so it's the case that already we know that we have an error margin of over 3 percent on our revenue projections. And it's very important to realize that's the case. In six out of the last 14 years, we have overestimated revenues. So to kick in an income tax cut on revenue projections I think is very dangerous, not only in large part because we may not meet those projections, but also, as Senator Bolz noted eloquently when we had this debate the other day, there are sometimes issues that arise in our state that we need to address as well. I am all for thinking about how to reform our income and property taxes, and I appreciate also the effort in thinking about the incomes that our ag land produces and how to be more attentive to that as we think about property taxes. But I just have real concerns about the triggers and real concerns about the valuation caps and the 65 percent cap in the bill as it currently is. And so I would urge us to recommit the bill and continue to work on these ideas. And again thank Senator Smith and Senator Erdman and Senator Brasch for their efforts to work on these key, important issues that are important revenue issues for us to consider. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR CRAWFORD: Thank you, Mr. President. [LB461]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Hansen. [LB461]

SENATOR HANSEN: Thank you, Mr. President. And good afternoon, colleagues. I rise today...first, I wanted to thank the many constituents who have contacted me on LB461. I think for all intents and purposes, the break between the first time we debated LB461 and now has given a lot of opportunity for our constituents to reach out and contact us on this bill. And I have to say, as written, this bill, a lot of my constituents are skeptical of this bill and whether or not it's going impact the state helpfully, whether or not it's going to help them, whether or not it's going to help the district. So with that, that is the lens in which I am continuing to look at LB461. And with that, since we are on Senator Harr's motion, I would yield the rest of my time to him. [LB461]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Harr, four minutes. [LB461]



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SENATOR HARR: Thank you. So folks, we are dealing with a possible federal tax change. And the good news is we have been told what this new tax policy is in something greater than 40 characters. So it is not a twitter or a tweet, but it is only 200 words. And it's not exactly clear what it is. I don't know if that's intentional or not. But we don't know if...we know that the general concept is lower the rate, broaden the base. Overall, that is very sound tax policy. As a matter of fact, that is what LB461 started out as. But what we don't know on the federal program is, are we going to be making changes above or below the line? What that means, are we going to be making changes to deductions and eliminating deductions? In which case, people's AGI will rise. Or are we going to make changes to exceptions? Oops, I got that wrong. Exceptions are above the line, deductions are below the line. Are we going to be changing what people's AGI, adjusted gross income, because if we are doing that, neither good nor bad because we are lowering the rate, then we need to be cognitive we will have a surplus. And we probably can raise, or excuse me, lower our rates. However, if it is elimination of deductions, we could have some problems. We don't know what we don't know, but we know we don't know. LB461 started out a lot like what we're hearing from our president. It was meant to be tax reform, meaning revenue-neutral. We were going to lower the rate, broaden the base. The dirty little secret about broadening the base means elimination of exemptions. And our Governor said no. And then we were going to pay for it through it through a bill of Senator Groene's, and we decided no. So what started out as revenue-neutral, in a time when we're finding a billion dollars to cut, has now turned into a tax cut. What was originally \$450 million, we're now adding another \$20 million with the amendment. And there is an amendment out there to add another \$55 million a year. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR HARR: Thank you. Folks, I would love to live in a world where we could afford that. We were told these tax cuts would grow the economy. I haven't see seen a study, nor have I been given a study that says that. Can we afford that? We need to ask ourselves that. We are making some tough choices. We had a little bit of a hearing last week...floor debate, last week, regarding the budget. And guess what? We then found out we had to find another \$50 million. There is the amendment to add \$55 million a year away from the general funds. We are going to see how difficult that is. Now is not the time for such bill as LB461. Thank you. [LB461]

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PRESIDENT FOLEY: Thank you, Senator Harr. (Visitors introduced.) Continuing debate, Senator Morfeld. [LB461]

SENATOR MORFELD: Thank you, Mr. President. Colleagues, I rise in opposition to LB461 and the proposed amendments, and in support of the motion to reconsider for a few different reasons. We have had a lot of time to hear from constituents about LB461 and some of the proposed amendments. And it is interesting, I have not received one contact from my constituents in support of LB461. Not one. I have received a few different contacts from...outside my district, within the state, but actually it's only been two or three I think. I'm not hearing the overwhelming need for this tax reform. I am hearing support for property tax relief, but not what's included in LB461. I do hear that from some of my constituents. Not many, but some. And I am assuming that the more rural senators hear about property tax than some of the urban senators, and rightfully so. So just as a threshold matter, I cannot support LB461 because I am not hearing from any of my constituents for the need of it. And I am sure maybe one or two are watching now and they might email me right after, but they haven't been prompted and I haven't heard from them. What I am hearing from my constituents, and not just from the students, about half of my constituency is students, but the other half are just regular folks that aren't students. What I have been hearing overwhelmingly from those individuals is that we need more investment in key parts of our state in infrastructure in order to be competitive. In order to get their grandchildren to come back or in order to maybe tip the scale on whether or not a young student or young family wants to stay here and invest further in the state, rather than leave for a job out of state that might pay just a little bit more, but maybe is offset by the cost of living. But that is what we have to offer here in Nebraska. We have to offer a lot in Nebraska, but one of the things that we have to offer is quality of life. Having good infrastructure, resources, having a low cost of living. And in my three years in the Legislature...I guess, two and a half, third session, I have not heard the need for income tax reductions. Not only have I not heard it from my constituents, I have also not heard it from the businesses in my district, some of the largest employers in the state. I represent part of the downtown area, and I have several large employers, and I have asked them, what's the number one thing that you would do if you were in my position and you had 25 votes and the Governor's signature? Not one of them told me tax reform. That was really telling to me, because based on all the rhetoric that I hear from some of my colleagues here and outside the Chamber, you would think that it would be the end of the world.

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As if jobs would just go fleeing the state if we didn't pass this type of tax reform. It hasn't happened yet, and in fact the opposite is true. Colleagues, I understand there is a lot of outside forces that want to make sure that we look good on the charts, but I'll tell you right now, when you look at the charts, when you look at the facts and the figures in terms of growth, in terms of quality of life, in terms of people wanting to live in Nebraska, we rank pretty high. And I think the last time I was on the floor I talked about my grandfather. And Senator Erdman joked around a little bit about my comparison between my grandparents. And I have one grandfather who is very liberal and one that's very conservative. And even my very conservative grandfather, who often complained about property taxes in Nebraska for many years, he lived here and raised his children here for many years and then had a business opportunity in La Crosse, Wisconsin, went up there for many years. And despite complaining about those things, and some of the taxes, he came back. He came back a little over a year ago and bought a house here. And it wasn't because of property tax that he came back. It wasn't that we lowered it much, in fact, I think most of us would argue that property taxes have only gone up. And rightfully so. But he came back because of the quality of life, because of the family, because of the other intangible assets that exist in Nebraska. But also some of the tangible assets that we have invested in as a state in terms of infrastructure and quality of life. And particularly in a time of a budget downturn, this is irresponsible policy, and that's why I cannot support it. Thank you, Mr. President. [LB461]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Harr. [LB461]

SENATOR HARR: Thank you, Mr. President. I'm going to follow up on what Senator Morfeld talk about, cost of living comparisons. You know, I keep hearing people leave Nebraska and because of our high taxes. I have yet to meet one of these people. I heard it's hard to recruit someone from Nebraska, because of our high taxes. As a matter of fact, I heard one of my fellow senators talk about trying to recruit an attorney from Denver and couldn't do it, was having trouble doing it. Well, let me help that senator out a little bit. Because here is what I have found: cost of living comparisons between Lincoln and Denver. If you make \$111,000 in Lincoln, which probably is a decent salary for an associate in a law firm, you would have to make \$153,332 in Denver. In addition, in Denver, Colorado, the tax rate is 4.63, period. Based on your federal AGI. No deductions, and it's on your first dollar. Here in Nebraska, we have a top rate of 6.84, but for someone in that tax bracket...now the most recent material I was able to find was in

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2012, which I want to thank the tax modernization because I found in it that report, the effective rate for that percentile, 3.16. Come to Nebraska, "The Good Life." I hear we're a high-tax state. Are my taxes too high? I would like to pay less. But when you look at the overall tax burden, there is this group called the Tax Foundation, they have us ranked 19th. Not great, but not terrible. When you look at what we need to do to grow this state, what we need are more high-skill, high-demand and therefore, high-wage jobs. That's where we need to be focus focused. When you look at the cost of living and where the greatest increases have come over the last 30 years, it's not growth in government. Nope. Number one, healthcare. Where is healthcare regulated? Right now, it's on the state level. Who is the largest healthcare provider in the state of Nebraska? Well, the state of Nebraska. You think maybe we should be working, looking at ways that we can become more competitive and better at providing health insurance? That would be a good start. That would slow down our growth. Two, housing. There are jobs available in Columbus, there are jobs available in Gering, in Lexington, across this state, Norfolk. You know what's stopping that growth? Affordable housing. It costs more to build per square foot once you get outside DSL, Douglas, Sarpy, and Lancaster County. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR HARR: What are we doing for that and what are we doing to make sure we have affordable housing in Douglas, Sarpy, and Lincoln? And the third, education. Folks, we cut our budget, the cost of public education is only going to rise for our universities, for our state colleges. And if we push down TEEOSA aid because we have less money, that means more property tax dollars to pay for our K-12 education. I have an alternative view. I have a way of growing our state. I think it's a better way, I think it's a way we can grow and bring people here. And I'll talk more about that job creation index that Gallup says we need to focus on. Thank you, Mr. President. [LB461]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Smith. [LB461]

SENATOR SMITH: Thank you, again. Colleagues, there are so many things that I want to respond to here. You know, Senator Harr talks about high-skill, high-income, and those are the type of jobs we need, absolutely. But we also need to take care of what we have in Nebraska.

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The Pew Institute defines middle class as 67 percent to 200 percent of median income. Our small businesses need help in this state. We have skilled labor in the state that we want to provide good jobs for. And we cannot rely on only the high-income jobs to be attracted through incentives. We need to make certain we have a fair tax policy in this state that helps all families in Nebraska, all individuals in Nebraska, that helps our small businesses continue to employ--90 percent of our businesses in this state are small businesses. So we need to do more and not just focus on attracting the large employers. Colleagues, in my introduction to my recap, I talked about the mechanics of the bill. Its intention, however, is to provide broad reform and relief with pay-fors that do not compete with the currently delicate budget. I have heard some comments about that we can't do this along with the budget woes that we are facing. Friends and colleagues, if we don't do something, we're going to be facing this same situation year after year after year. Our path forward is to grow our state's economy. Our path forward is to diversify our employment base. To grow businesses inside of our state, yes, and attract businesses from outside of our state, But keep our people here. If we don't do this, we're going to continue to face these budget woes. This tax bill as amended will position our state for growth and will provide tax relief that our families and businesses deserve. We heard a little bit about triggers and that they're reckless or dangerous or something to that effect. Triggers, the way we are approaching this, is the most cautious way to provide tax relief long-term for our state. Our triggers kick in at 3.5 percent, leaving somewhere in the neighborhood about there are \$175 million of new income to our state each year. New income--\$175 million. That is enough to take care of the increases and necessary expenditures in our state. The projections are based on actuals, so we look back at the actuals and we project out, it syncs up with the way we do our budgets in this state. They're not reckless. They're thoughtful and calculated. We're not the first to go down this path of using triggers. You think of the District of Columbia, Massachusetts, you don't think of those as particularly strongly conservative states. Those are states that have implemented triggers and have done so effectively and successfully. North Carolina. so triggers are nothing new. And we pay for it as we go. If we don't hit our trigger mark, we don't bring the tax rates down. We have heard about replenishment of reserves. There is enough money on the table to replenish reserves. I want to share with you this is from the Journal Star. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

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SENATOR SMITH: Thank you. Let's see. This was Journal Star by Alex Greer and it was one day ago. And it's about the cities in our neighboring states and their job growth. And it picks out the cities, one state from each state, that has the highest job growth. Ankeny, Iowa; 5.1 percent. Broomfield, Colorado; 5.7 percent. Wentzville, Missouri; 3.4 percent. South Dakota, Rapid City; 3.4 percent. Cheyenne, Wyoming; 4 percent growth. Bellevue, Nebraska was our fastest-growing city in terms of employment--0.9 percent. It's near the top...if you look at the bottom five, it's at the bottom of the bottom five cities. And that is in the region. We have got to compete. We can do better, we can grow our state. We can move forward and we can do it cautiously and prudently. And this is a comprehensive bill. [LB461]

PRESIDENT FOLEY: Time, Senator. [LB461]

SENATOR SMITH: Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Kolowski. [LB461]

SENATOR KOLOWSKI: Thank you, Mr. Chairman. I would yield my time, if I could, please, to Senator Schumacher, please. Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Kolowski. Senator Schumacher, five minutes. [LB461]

SENATOR SCHUMACHER: Thank you, Mr. President. And thank you, Senator Kolowski, members of the body. I hope during the course of this debate to share with you something that will be of little use to me in 76 days, and that's the last six years on the revenue committee. I rise in opposition to LB461 because I believe in you. I believe in our sophomore class and I even believe more in our freshmen class. We can analyze this bill as an income tax proposition and a property tax proposition. I understand there's amendments floating around out there. I can't address what I haven't seen, but I can address what I know. What is a trigger? It is something that this Legislature in its wisdom, or lack of, says is going to happen in your term, when you are the senior class. And when there are people who following you who are coming from an environment that is reflective of the times 5 and 10 years from now, not reflective of today. A

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trigger tries to impose our will upon you by saying this is what will happen when this trigger triggers. Even if it isn't the right thing to do in your best judgment. Because to undo that trigger takes 33 votes and we all know how hard that is to get. And yet, we also know that you're going to be faced with all kinds of problems. We can guess what some of them might be: penitentiary, retirement, baby boomers, mental health, and who knows what else, maybe a good old fashioned drought thrown in the middle of all that. Those trigger triggers based on the prior year, so even if that was way low, it will trigger on the bounce back up. It's like flying an airplane in a fog with only one instrument, the compass. Kind of crude instrument. You say, well, as long as it says north and we want to go north, we'll follow it. Nobody would get on that airplane and you shouldn't either. If you're going to program an airplane to fly on instruments, you better have a whole lot more of input than one criteria, one simple instrument, revenue growth. You had better be looking at anticipated expenses, actual expenses, the strength of your rainy day fund, all those kinds of things. But you know what I wouldn't get on? I wouldn't get on that airplane just yet either. I trust your judgment that if there is excess money and you deemed that our needs are properly met for you to be able to make the decision of now is a good time to cut taxes or to make an adjustment in rates or to give more to a property tax credit fund. I am not smart enough to tell you what to do six years from now. And I don't think anybody in the senior class or this building, for that matter, is smart enough to do that. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR SCHUMACHER: They are dumb things. They are restrictions on your power and your authority, and designed to frustrate you to our greater honor and glory. If I get a chance to be back on the mike again, we will talk a little bit about the illusory provisions of the property tax part of this proposal and why the ag community, as it is written now, is not getting anything meaningful in this bill. Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Lindstrom. I [LB461]

SENATOR LINDSTROM: Thank you, Mr. President. I wanted to speak to why income tax reform is critical and effective of revenue growth and economic development in our state. Remember, colleagues, we are not just talking about giving tax rate reductions to individuals.

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This is Subchapter S corporations, partnerships, sole proprietors, and LLCs have to file their taxes through the individual income tax mechanism and are commonly referred to as pass-through entities. A majority of the private sector work force is employed by pass-through companies. According to the Nebraska Department of Revenue statistics of 2015, there were individual income tax returns filed by 40,660 farm sole proprietors and 117,300 returns filed by non-farm sole proprietors. As of 2012, Nebraska has was home to 20,000 C corporations and 12,000-plus S corporations. High-income tax rates affect businesses in other ways as well. Graduated rate income tax systems like Nebraska's actually increase the cost of labor when they are higher rates at higher levels of income. It can reduce employee incentives to work additional hours or make employees reconsider working toward a higher-paying promotion. When businesses are looking to relocate, the amount of income taxes the company and employees have to pay is a strong consideration. In a recent article from the Tax Policy Center, State Tax Commission singled out high taxes as an impediment to economic development. Two-thirds of the State Commission in their report recommended reducing or working to eliminate to the corporate tax and a majority also recommended reducing the individual income tax rates to spur economic growth. We have been very prudent by implementing tax triggers to make sure that we don't end up in a position like Kansas. We will not implement these tax cuts until there is sufficient revenue growth. Across the country, tax triggers have been utilized in different ways. In West Virginia, their corporate income tax rate reductions have been made contingent upon the health of the state's rainy day fund. Massachusetts is phasing...excuse me, phasing-in tax rate reductions when the revenue growth is sufficient. Washington, D.C. has linked the tax reform to be able...cushion in their revenue. The list goes on and on. Critics will is say that LB461 as amended with AM954 passes...or would go down the path much like Kansas. This is false and a scare tactic. Kansas reduced their rates too much all at once. Our tax triggers have been deemed to be the most cautious triggers yet adopted by any state by the Tax Foundation. We are slowly reducing tax rates by 0.1 and 0.2 percent until we hit our tax rates. The triggers are not activate until a high level of growth. On the individual side is 3.5 percent, on the corporate side it's 4 percent. We are not implementing reductions all at once. Rather, we are giving a good amount of time before the reductions are fully carried out. And I would ask my colleagues to support AM954 and LB461 so that we can get Nebraska moving forward. Thank you, Mr. President.

[LB461]



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PRESIDENT FOLEY: Thank you, Senator Lindstrom. Senator Krist. [LB461]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues. Good afternoon, Nebraska. I...initially during this discussion had questions with triggers. And I know that Senator Lindstrom and Senator Smith have both alluded to the right and wrongs, the praises and criticisms of triggers. But I would like to read you something from Michael Mazerov and Marlana Wallace consisting of phasing in state tax reports. And their quote is: phasing in tax cuts doesn't make them more fiscally responsible. And I quote: Ten states, including the District of Columbia, have enacted laws in recent years that cut personal and corporate income tax at a future date, contingent on state revenues first reaching a certain level of the growth rate. Though these "triggered," and that's in quotes again, "triggered" tax cuts--like other tax cuts enacted with a significantly delayed effective date--are sometimes portrayed as fiscally responsible, they are nothing of the sort. Again, quoting: lawmakers enacting them typically have no idea if they will be affordable or desirable when they take effect, and they can cause deep and lasting damage to the state's ability to re-invest or invest in its people and its communities. Triggered tax cut can cause serious financial problems in some states that have adopted them, see the appendix. And I intend to send you this full report, it is 21 pages, so that you can take a look at it after I get off the mike. Lawmakers approve them and often lack up-to-date, multi-year forecasts of what the tax cuts will cost when they take effect, and they almost never know what state services will likely cost at the time. And I think that is a foot-stomper for me, because if the triggered cuts automatically put money and systems and policies into place, at what point in space or history will you be when these triggered cuts or triggered mechanisms come into play? And will you be doing these in, these are my words, will you be doing this at the risk of those other programs? I quote again, both kinds of forecasts could be done in most cases, but multi-year estimates of revenue losses are exceptional...the exceptions rather than the rule, and long-term estimates of cost of providing (sic--providing) current services, taking into account inflation, population growth, and caseload growth, are almost often done. And it footnotes that as number three. When you get the report, you can again refer to the report and to their findings. I find that when we talk about things that are quoted scientifically or they are quoted as measurable or the metrics are there and we are making decisions based upon long-term forecasts, which we deal in every day, and particularly at budget time, forecasts, not reality, but forecasts. I have had the opportunity of listening to Senator Schumacher for the past few year and he makes more and more sense every

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year I listen to him in terms of relying on those forecasts and the numbers. Relying on the fact that we bank on the fact that our whole financial future will get better every year at a certain percentage. And we know in the last few years that has not been the case. And we know that commodity prices are hurting our ag industry and yada, yada, yada. Carry it far forward. I still go back to one thing, and before I send this to you, I will finish off my own comments. I still go back to one thing. My constituents and the people who have been conversing and talking, and in some cases lecturing me, talk about the disconnect between what we believe here in this Chamber to be a tax problem and look at an assessment problem and a spending problem. And the reality of the situation is every time a farm sells down the road from you for \$10,000 or \$15,000 an acre and you are only being assessed at \$3,000 to \$5,000 to \$7,000 and your property then is reevaluated to go up, whether it's Ted Turner buying the property or another farmer knowing that God isn't going to make anymore dirt, that is the assessment process that we are working with right now with no adjustment for what the commodities are doing to the taxpayers in the state. Once again, property tax, property tax, property tax. I really would like to pay less income tax, I would like to pay less property tax. But given the combination of the two, I personally in this case don't matter. I am listening to my constituents and they are talking about property taxes. I understand that Senator Watermeier has a bill that's also based upon triggers. My concern is still there on the triggers, no matter... [LB461]

PRESIDENT FOLEY: It's time, Senator. [LB461]

SENATOR KRIST: Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Hughes. [LB461]

SENATOR HUGHES: Thank you, Mr. President. Good afternoon, colleagues. LB461, Senator Smith has spent a lot of time on that. The Revenue Committee has spent a lot of time on that and I am appreciative to those individuals who have done so much work on that. I think it's important that we remember that this is comprehensive tax policy change. Senator Smith has made that clear from day one from last year when we were yelling at each other on the mike, when we were talking about giving an extra \$20 million to the property tax relief fund. At that point I made the commitment that I would work with him. And although this is pretty much his brain

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child, but a lot of what we talked about has come to pass here. And I think there is an opportunity that we can provide relief to all Nebraskans. I think there is a chance that we can make sure that property tax is in the lead role in whatever LB461 comes out at the end of this sausage-making process. There is a lot of people working behind the scenes trying to come up with the right blend that none of us are happy with, but none of us hate. You know, that is probably good legislation. But there is a dire need for property tax relief, especially in the ag community, and you have heard me go down that field and I won't plow that field again for you. But several of the senators here on the floor, I talked to Senator Harr and he told me how much valuation on his house went up. This year's property tax is going to follow closely behind. Senator Pansing Brooks told me how much the value of her house, what percentage it went up. You know, her taxes are going to go up commensurately. That is what we're hearing from all over the state. We've got to have property tax relief and I think there is a way to do that, and Senator Smith has, in my private conversations with him, has indicated that he's willing to look at that. And I do appreciate that about him. I trust his word. I think when he gives it, you can take that to the bank. But he also wants income tax relief for small business in the state of Nebraska. And I am a small business, I've got several small businesses. Most farmers are small businessmen. Some of us pay corporate tax, some at the individual level, but that is the decision that we make. And we need to put the tools in place to grow the state's economy. And quite frankly, keeping that money in the hands of the individual, I think, gives us a bigger bang for the buck than giving it to us to spend. There are things that government needs to do, there's no question about that. And the first 3.5 percent growth funds the government quite a little bit. If we get our economy back growing again. And it will turn around, ag will turn around. Urban is going gangbusters now, ag is not. Hopefully we can get them both on the growth path very soon. But we need to keep focused on long-term what's best for the state. And trying to tie the hands of future legislators, that's kind of a hollow argument in my book. You know, we can change any law we want, we've changed laws. We voted one down this morning. So there are things...don't underestimate what we can do and certainly don't underestimate what future Legislatures can and will do to adjust to the times that they have to deal with. But I think if we can get property tax to the forefront of something that would carry LB461 as a bill, I think it would be a good move for all of Nebraskans. Thank you, Mr. President. [LB461]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Howard. [LB461]

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SENATOR HOWARD: Thank you, Mr. President. I rise in opposition to LB461 and would yield the balance of my time to Schumacher. [LB461]

PRESIDENT FOLEY: Senator Schumacher, 4:50. [LB461]

SENATOR SCHUMACHER: Thank you, Senator Howard. And thank you, Mr. President. Let's talk a little bit about property tax basics and why for years the Revenue Committee rejected a focus on valuation gimmicks and how our property tax system works. It is a simple idea. You take a piece of real estate and you value it and then, knowing that value, you look at the expenses of government and the county board puts it all together and says, okay, in order to pay the expenses of local government, as requested by the budgets that they submit to the county board, based on this value we need to set a tax rate. In simple forms that is what it is and that rate is called a levy. You multiply the levy times the valuation and you get the money equal to what the local governments say they need after having their budget hearings. Not a hard concept. A focus on valuation does you very little good, with the exception of the TEEOSA anomaly that occurs, because if you still need that amount of money and you lower the value, you got to increase the levy at the county board level in order to make it come out so that the local governments don't bounce checks. It's simple. You don't pay your property taxes in valuations, you pay them in dollars. And if that property tax bill, the number of dollars you have got to write a check for remains roughly the same, you haven't established much. In counties that don't have much for rural or for urban valuation, a small town, maybe a county seat, not much valuation, and a whole lot of very expensive ag land, you aren't going to change it much at all because you can't squeeze that much extra money out of that little town and the brother-in-law who lives in town and runs the grocery store. So it's elusory. And that's the case in 60-some counties. It's a little bit different where you have a large town and some surrounding ag land. You will see an impact lowering that very valuable ag land's taxes, but in those towns you will see a tax increase for the bulk of the urban population of the bigger town of 10,000, 20,000, etcetera. So it is a tax increase we are talking about there for a good number of people. The idea that we're going to value something using income rather than market approach. I practice a little law, run a little estate stuff and you have valuations you have to do for federal tax purposes. And those numbers, if they are done honestly and squarely, between the three different ways of valuing property--cost, income, and sales--are very, very close. I happen to bring four of them today, they were from the last estate

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that I did. The cost approach on this one piece of property came up at \$1,330,000, the income \$1,368,050, the sales comparison market auction value \$1,326,000. That was the lower end, that is what the appraiser called that. Not the income approach, the sales approach. Another piece of property, this particular piece of property, cost approach was \$1,553,000, income \$1,618,000, sales comparison \$1,544,000. Again, the market sales approach was the cheapest. That's what the appraiser called it. And another one, and I am running out of time here, but the pattern is simple and similar in all three cases. There is no magic in how you value it. In the end, that value has got to be multiplied by a levy rate to get the money you need to run the government and keep the maintainers running and all the other things that are done. The system set in place here...because we just had such a surge of ag prices and they're levelling off... [LB461]

PRESIDENT FOLEY: Time, Senator. [LB461]

SENATOR SCHUMACHER: ...will have no effect in the near future. Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Kolterman. [LB461]

SENATOR KOLTERMAN: Thank you, Mr. President. Colleagues, I rise in support of LB461, and I have been that way ever since it came out of committee. We live in a high-tax state, whether it's income tax or property tax, it's all too high. I would like to applaud the Revenue Committee for bringing out a bill, several bills, that have had meaningful tax reform this year. And is it easy? No, it's not easy. In fact, if you were to talk to my constituents, I have got constituents all over the board on this issue. Some are 100 percent behind it, some of them just say oppose it in any fashion. But there is some good aspects of the bill, there is some good aspects of LB640, which was also out of Revenue. If we eliminate LB461, where do we go from here? What's next? Do we end up with anything? I think not. You know, we have got a lot of supporters that still think that this is the way to go, and I happen to believe with a couple of amendments that have yet to be seen, it can really become a good bill. And so I would encourage you to continue to listen, support LB461, listen to the amendments that are coming. And with that, I would yield the rest of my time to Senator Smith. [LB461 LB640]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Smith, 3:30 minutes. [LB461]

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SENATOR SMITH: Thank you, Senator Kolterman, for yielding me time. I wanted to follow up on some remarks made on the floor just a few spots ago. And I do appreciate his words. And just to get some of the folks up to speed with what he was referring to last year, last year, \$204 million was placed into the property tax credit cash fund. And again, that is \$204 million that came from income taxes and sales taxes in our state, General Fund dollars. In 2016, that \$204 million was distributed as follows: 45.7 percent went to ag and horticultural land, 37.2 percent went to residential, and 15.2 percent went to a combined commercial-industrial, non-ag property taxpayers. In 2016, we passed LB958, which instead of allocating the property tax credit dollars based on 100 percent of the taxable value of real property would and did, it changed the allocation such that ag and horticultural land received 120 percent of taxable value. So it was distributed to ag land based on 120 percent of taxable value, whereas residential and commercial non-ag received 100 percent taxable value. And we put \$20 million additional into the property tax credit relief fund, bringing it up to \$224 million a year. By changing the allocation methodology, ag now receives 58.1 percent of the property tax credit fund distribution, up from 45.7. Residential and commercial dropped to 33.5 and 13.0 percent respectively. My point in saying...bringing this up and explaining this is to demonstrate to you that we have made gains. We didn't get into this mess overnight, we're not going to get out of this mess overnight with ag land property tax issues. We're trying, we're moving that direction. We did that last year with LB958. Could it have been everything that everyone wanted? Yes, it could have been more. However, we need to drive our state forward, we need to grow our state. The best path forward for real relief on tax burdens in our state is to grow our economy and we're going to do that through tax policy. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR SMITH: What Senator Hughes said, I acknowledge. I have been working on this for the better part of a year. I think we started last summer meeting in some smaller groups trying to find common ground and a path forward. Whenever I stood before you and I asked for your vote to be Revenue Chair, I said I would support comprehensive tax relief. I never said it was going to be easy and I have laid out a path. It's what's before us. There is no other options out there today. I will continue to work and to listen and to try to find more that I can do to where we can find a comprehensive package that gets everyone on board. But this is what we have before us today.

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And to vote no on this and to vote no on cloture shuts down this conversation for this year.

[LB461]

PRESIDENT FOLEY: Time, Senator. [LB461]

SENATOR SMITH: Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Brasch. [LB461]

SENATOR BRASCH: Thank you, Mr. President. And good afternoon, colleagues. I stand in support of LB461 and AM954 and AM965. I am not supporting the motion to recommit or to reconsider. I have visited with many of you off the floor just this afternoon. And I want to thank my colleagues who stood up in a very kind way saying thanks, but no thanks. This is the seventh year, I have been on the Revenue Committee almost as long as Senator Schumacher. I was bumped off a year by then Senator Jansen because of the seniority system we once had in place, and I'm back. It is real interesting as I spoke with Senator Hansen earlier and I see Senator Morfeld is talking to Patrick because I'm from northeast Nebraska. I'm a farmer. That's blue jean country. But originally I was from Lincoln, Nebraska, northeast Lincoln. From northeast Lincoln to northeast Nebraska, and that's blue collar country. What...where they represent. And so I still have a lot of ties and connections there. I know people paying off student loans. I have asked them what about an income tax cut? Yes, they would love an income tax cut. That would be great. Well, this is not an immediate cut, but it's on the way when the economy improves. It's thoughtful, it's planned out. And if we can get this through our Legislature, it would be a good thing for blue jean country and blue collar country. I believe that as we bring this together, it will help all of Nebraskans. And when I spoke to Senator Hansen earlier, I told him I was going to get on mike, and just my questions were, you know, does he have a farm background? He does not. Not everyone does, but we all eat and enjoy food, fuel, and fiber. That is a good thing. Is there a lot of farm land that your constituents are concerned about? He could not say. He did not think so. So I did pull up the legislative maps and just take a look at the two Senators who are not supportive at this point. I also visited with Senator Crawford just off the mike very briefly explaining to her--she has mentioned Oklahoma on a couple of occasions, and there is a letter that we...all the Senators received from the tax foundation that said this is not like Oklahoma's

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triggers. It is different, it is designed in a better way. So I hope that resolves some of the concerns she had. The concern we should have is it has been seven years and we have had a Tax Modernization Committee. We have spent an interim, a joint committee with Education and Revenue. We were hoping with two...all 49 individuals we could find a place to come together and decide in Nebraska that we're not going to just sit and wait for another body to come in with term limits to start all over, another group of senators to challenge the other, but to take a look at how we can...basically for ag land value is change how we value that. Looking at income tax, we could also improve our taxation system. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR BRASCH: I'm not aware of any of the other conversations. There are multiple ones going on, multiple amendments. But I would say to my good colleagues that you have another opportunity, another session, another year to make better what you found, what we have here today. I have waited seven years. There have been Senators who have waited longer. I would encourage you to support LB461. I did pass out a letter for everyone's review for support by 40 ag producers. Thank you, Mr. President, and thank you, colleagues. [LB461]

PRESIDENT FOLEY: Thank you, Senator Brasch. (Visitors introduced.) Continuing debate, Senator Linehan. [LB461]

SENATOR LINEHAN: Thank you, Mr. President. I am supportive of LB461, AM954, and AM965. I appreciate very much Senator Smith's work on trying to find a way to get us to income tax relief. I also appreciate that we have a property tax problem in the state. I understand that. But we have done something, not enough, on property taxes, but we have not addressed our income taxes, which are too high, especially too high for small business owners, married couples both earning an income. And it's startling really, to...I am afraid too much of this conversation is about which tax we cut. I mean, and then we talk about triggers and how we can't use triggers. Our whole, if I understand it right, our whole system of our budgeting is based on triggers. The reason we're in so much trouble this year and we're having to cut is because last year, when they put together this year's budget here in the Legislature, that put it together under the assumption that we were going to have 5 percent growth. Well, we didn't have 5 percent growth, we had 1.3



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percent growth, so and now we have the cut because we didn't have the growth we thought. So if we're not...I don't know how we ever get taxes in the line to do anything about taxes if we don't base it on what our projections are. We can't base all our spending on projections and then just say, well, maybe some day, if we ever have any money left, we might get to income tax cuts. I don't see that happening. We have got to get ourselves...I think Senator Smith and the Revenue Committee bill is very responsible, very reasonable. They worked very hard on it. We don't get to any tax cuts until we know that we're at least projected to have the revenue to pay for them. And we can't, as far as tying our hands for any future efforts, I am hoping that this is just the beginning. Not like...this is not, at least maybe I don't understand. Would Senator Smith yield to a question? [LB461]

PRESIDENT FOLEY: Senator Smith, will you yield, please? [LB461]

SENATOR SMITH: Yes. [LB461]

SENATOR LINEHAN: Thank you, Senator Smith. I understand that this income tax cut happens over a number of years, right? [LB461]

SENATOR SMITH: That is correct. [LB461]

SENATOR LINEHAN: So if we hit 3.5 percent trigger, what happens to my income tax rate the first year? [LB461]

SENATOR SMITH: The top bracket, that begins at \$28,000 or \$58,000, whether you are single or married filing jointly, goes down roughly a tenth of a percent. [LB461]

SENATOR LINEHAN: So one tenth of one percent? [LB461]

SENATOR SMITH: That's right. And it takes roughly 9 to 10 of those reductions to get us below the 6 percent to make us competitive are our neighboring states. [LB461]

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SENATOR LINEHAN: So this...okay. So even if we get this passed, it will be 10 years before we get a full 1 percent reduction in taxes. [LB461]

SENATOR SMITH: That is the best scenario. [LB461]

SENATOR LINEHAN: That seems like not enough to me. So I know that we have a funding problem and we're having to look at cuts, but again, the reason we have a problem is because it was based last year...they based all their spending on a 5 percent increase. We didn't get that increase, so now we're having to crawl back. So I don't know if we're basing all our spending on projections, how would we ever get to tax cuts if we don't do the same with tax cuts? [LB461]

SENATOR SMITH: That is correct. And this is the path forward in order to be able to achieve those types of tax relief objectives. This is only path forward. But it leaves enough money on the table for the necessary increases in expenditures for our state. [LB461]

SENATOR LINEHAN: Thank you, Senator Smith. When I campaigned this last year, I heard about property taxes every door. Property taxes in western Douglas County are high. And there are homeowners and there are retired people who are having to move because they can't pay their property taxes. But I heard just as much from retired people, whether they retired from business or they sold their business and retired or whether they were retired military about... [LB461]

PRESIDENT FOLEY: Time, Senator. [LB461]

SENATOR LINEHAN: ...our income taxes. Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Albrecht. [LB461]

SENATOR ALBRECHT: Thank you, President Foley. I rise in support of LB461. I really want to thank Senator Smith, Brasch, Lindstrom, and Erdman for their work on this issue. I know it's been a long process, I appreciate the fact that we have been able to engage in civil debate today. But I'm the ag producer. My district is split between ag and urban population centers. I have heard from my district on this issue, and again, both sides of the argument have been

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represented. I agree with the sentiment of some that the relief doesn't go far enough for ag producers. God knows I would like to see a whole bunch more for the ag producers, but something is better than nothing. If we don't take action on this issue, we're going to be right back where we began. And it's very evident to me that the Revenue Committee had several people come before them testifying, and I believe they did do the best they could to put a package together, a starting package. And I want to see us build on that. Again, let's just remember that it has been several years since a comprehensive tax reform bill has even made it out of the Revenue Committee. Again, if we don't act now, we won't have any tax relief in any form this year and we will be right back at it again next year. So again, you know, I just rise in support of LB461 because I believe that this is something that, you know, we have all these amendments that are on this bill, obviously to stop it or to keep it from going forward or whatever. But if you vote on cloture today, you give this an opportunity to go forward. If Senator Smith wants to sit down with any of the 18 to 30 different amendments that are out there and it becomes a better bill, it's better for the whole state of Nebraska. But I guess the way I see it is 50 years ago, Nebraska was one of the last states to implement a state income tax. Today, Nebraska imposes one of the highest income tax rates in the region. South Dakota, which borders a small part of my district, levies no income tax. We are not competitive with our neighbors. I see it all the time. We have to do something. This might not be perfect, but it is a step in the right direction. LB461 provides a responsible, conditional, and step-wise approach to provide tax relief for workers, small businesses, retirees, and yes, ag producers. It's time that we allow hardworking Nebraskans to take home more of their hard-earned money and spend it as they choose. They know what's best for their needs, not the government. Again, I live in northeast Nebraska, where our particular tax has gone up 235 percent in the last 10 years. And I can assure you that in that last 10-year period, even a 3.5 percent annual cap isn't enough. But it is, and I recognize that it's a step in the right direction. Every single year we need to be working on this formula so that it makes the best use of our tax dollars, that we are able to provide for all of the services that we need. I appreciate the fact that it will protect K-12 education by investing more than \$30 million into the state aid formula, adding equalization to about 40 additional school districts. Again, we have so many things to work on here. I just would implore you to just consider what we're doing here and the steps that we're taking. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

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SENATOR ALBRECHT: It's not 100 percent for everyone, but I believe that it is something that we can stand proud to know that we are listening to the people in the districts, we are doing what they have said. Sitting as a Board of Equalization chair in Sarpy County, I can tell you that the residential people back even 10 years ago were just as frustrated as they are today. So something is broke in our system and I am talking from homeowners to commercial to ag. We have got to come together to work on this property tax issue, probably stronger than anything else. But the income only allows our state to become more competitive, it allows the retirees to consider to stay here, it allows our children to want to come back home and go to work here. So I just implore you to consider LB461, AM954, and AM965. Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Senator Schumacher. [LB461]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. It was a bill that I introduced that led to the Tax Modernization Committee, and I was at all those hearings and lots and lots of hearings over the years in which we had experts of all kinds come in. And I challenge anybody to go back and look at any of those transcripts where a person of...who studies this is stuff nationally and does comparisons, says Nebraska is the high-tax state. Didn't hear that. There might have been somebody out there, but I don't remember it. I know I heard a lot more, you are about normal. You may be a little high here, or a little low here, but you are about normal. And I know there's no free lunch. If you are going to lower one tax, you got to lower...or you got to increase one or the other two or both of the other two. We hear from Senator Stinner that there is no way we can cut anymore. And God forbid we have a federal judge order us to build a \$300 million prison or we have a drought. But at any rate, it's easy to say things when you are running for office and trying to get votes by playing on that old violin of taxes. You know, you all were handed a piece of paper that say: Trump (tax) plan means more cash for state coffers. Where do you suppose that cash is going to come from? Taxpayers. That headline could also read, Trump plan means higher taxes for local government. But here is how it supposedly happens. Because, here is again what the thing says: since most states conform to the federal tax code in some way, an elimination or scaling back of major tax deductions and credits...will expand the base for many state governments and thereby lead to an increase in state collections absent any action by lawmakers. Thereby, will lead to a tax increase is another way of saying that. I looked at our major deductions, you can do it, too. Pull out and pull up the IRS form for

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itemized deductions, 1040A, and there are three big ones. And the little piece by the president says that he's not going to mess by home ownership, that's mortgage deductions, and charitable gifts deductions. That leaves one big one and that is the deduction for state and local taxes. But guess what? Look at your Nebraska form, and your Nebraska form in line 7 adds that back in already. So we have already cancelled out or...the effect of that part of the Trump plan. Net result? This whole article has nothing to do with Nebraska's current taxes. Whoever wrote it, whoever passed it out, didn't understand how the system works. We don't allow that deduction when we compute our state taxes anyway. The fact of the matter is, in a five-year window, maybe as far as a 10-year window, the percentage gimmickry with the income tax valuation system with the 65 limit percent, 55 limit percent, 3.5 growth limit, all those in an environment where ag probably is coming off of a peak a little bit, is no help at all for the ag sector. And on the income tax things, let's assume it was completely implemented 10 years out, here is how it breaks down, folks. You have an AGI, and these are real people from real tax returns... [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR SCHUMACHER: ...and AGI of \$1.4 million, you will save \$3,700 under the plan. An AGI Of \$164,000, you will save \$448. And for everybody in the range from \$83,000 on down, you get peanuts. On average, about \$60 a person a year or a sack of peanuts a week. There is no magic bullet. There is no way that we're going to roll back taxes in the face of increased expenses. That is a problem you are going to have to solve, with or without this tax measure. Because you're going to face those expenses. And corporate taxes, a 2 percent tax decrease in the face of a 20 percent tax decrease from the federal government, that 18 percent, you would have to...for the federal government to drown out the state, you would have to send them a yellow postcard to remind them that they got that. [LB461]

PRESIDENT FOLEY: Time, Senator. [LB461]

SENATOR SCHUMACHER: Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Walz. [LB461]

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SENATOR WALZ: Thank you, Mr. President. I rise in opposition to LB461 and I am not a fiscal analyst by any means, but I did do some research on this bill. And I talked with a lot of my constituents over the weekend. I talked with families, I talked with some farmers, and I talked with some business owners. And they have all agreed that this bill just does not make sense. I had one of...a very successful business owner who said, you cannot be a billion dollars in the hole and think it's a good idea to reduce your revenue stream. In addition, it just does not...they don't see where it's going to provide the tax relief that Nebraskans are looking for. The list of opponents is long and surprising, especially when looking at their track record of supporting tax cuts. Agricultural groups, like the Nebraska Farm Bureau, Independent Cattlemen of Nebraska, Nebraska Farmers Union, and many, many more have stood up in opposition to this with educational groups, such as Greater Nebraska Schools Association, Nebraska Schools Association, and Nebraska State Education Association. So why would all of these groups be opposed to this plan if the plan actually gave the tax relief the proponents say the bill does. Nebraska ranks 49th in state education, second to last. I don't want to be second to last in anything. I feel Nebraskans deserve more. And now, with more than \$1 billion shortfall, we are looking at cutting income taxes. After cutting services, vital services, that are so important to people, including DHHS, K-12 education, the University of Nebraska, and many, many more. The one thing I do agree with in this bill, and I can hear it in our rural senators' voices when they talk about the need for property tax relief is the income-based valuation idea. There are good parts to the amendment because of the way it changes the way land is evaluated, but there are a few concerns I have with it. Especially the combination of these two plans together. It just does not make sense. On one hand, you're providing little tax relief for farmers, and on the other hand, you will be asking for them to pay for it down the road when the state can't pay for education because of lack of revenue. I met with another constituent over the weekend that owns a pretty large ag business and he talks to farmers every day. His point I felt was spot on. He said we need new revenue earmarked for education period. The state must increase state aid to our school districts and lessen the need for local schools' reliance on property taxes period. I agree that this is the only way to provide farmers true property tax relief. Last, I want to talk a little bit about the growing of our economy. And I had a really great conversation with Senator Smith and Senator Lindstrom last week about how this tax plan would eventually grow our economy. We talked about three different categories of people who would benefit: individual, small businesses, and new business. And I thought a lot about our conversation on my way home and I thought a

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lot about our conversation over the weekend. I thought about that low- to middle-income wage earner. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR WALZ: And how it is not really going to make that big of an impact on them. But cutting the vital services that they need will make a huge impact. I thought about the small business owner and I really thought about my brother who, right out of high school, went to work for a small electrical company. And in his 20s, he was able to purchase that company. He bought that company with the goal of growing his business and through a lot of hard work, a lot of really good business decisions, a lot of determination, he grew the business into a very, very successful business today. I don't think that my brother would have thought, because I'm not getting this tax cut, I'm going to stop growing my business. Me as a realtor, I'm not going to say, I'm going to sell five less houses. [LB461]

PRESIDENT FOLEY: Time, Senator. That's time. [LB461]

SENATOR WALZ: Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Walz. Senator Briese. [LB461]

SENATOR BRIESE: Thank you, Mr. President, and good afternoon, colleagues. I appreciate the work and dedication of everyone in their efforts at tax reform, but in its present form I cannot support LB461. Nebraskans are demanding that we focus on property tax relief, but yet LB461 focuses on income taxes. Nebraskans are demanding fairness and balance in their tax structure, but instead LB461 will add to the imbalance in our tax structure. Polls in my district show that Nebraskans want us to prioritize property tax relief and polls in your districts will show the same thing. In fact, data I've seen indicates that Nebraskans by a three to one margin favor property tax relief over income tax relief, and yet we have a proposal here weighted towards income tax cuts. And it's easy to understand why Nebraskans continue to demand that we deliver property tax relief when we collect over \$1 billion more in property taxes in Nebraska than income taxes, when we have the fifth highest overall property taxes in the country, when burdensome

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residential property taxes are forcing many young couples out of the housing market, when escalating residential property taxes drive up rental costs for our families, and when ag property taxes are adding to the red ink in the agricultural sector and jeopardize the economic viability of many of our farms and ranch operations, it's clear that all Nebraskans need property tax relief and we're either committed to making it the priority or we're not. We're either going to stand up for property tax relief or we're going to work around the edges. And I believe that LB461 is simply another proposal that will work around the edges on property tax relief. Any changes found in LB461 do virtually nothing to reduce our overall reliance on property taxes. We have to show Nebraskans we're serious about property tax relief. And what does it mean to be serious about it? For me, it means opposing LB461. Let's be clear. If it wasn't for the dire need for property tax relief, I would support income tax reform. But as I mentioned earlier, we already collect a billion dollars more in property taxes than income taxes, and as written LB461 would add to this unbalance and unfairness in our tax structure. And we also have to ask ourselves, what do income tax cuts do for our ability to fund the property tax relief? Income tax cuts, unless coupled with substantial property tax relief, will limit our ability to fund property tax relief. So if you're serious about property tax relief you have to ask yourself how you're going to get there. And folks, I submit to you that LB461 is not the way to get there. LB461 will eventually increase our reliance on property taxes in this state. But time and again I hear the argument, well, we need income tax relief to grow our state. And, yes, our goal here in Lincoln must always be to do what we can to grow our state, grow the economy, create opportunity for our young folks to live and work and raise their families in Nebraska. But folks, tax relief is tax relief and income tax relief is not the Holy Grail of tax relief. Dollars back in the hands of our property taxpayers can grow the economy also. How so, you might ask. As Senator Harr referred earlier, a key factor for many young people in deciding where to locate are housing costs. But, as I mentioned last week, we have the seventh highest residential property taxes in the country. And what does that mean in Nebraska? It means that 30 percent to 40 percent of a young couple's house payment can go towards property taxes. It means that the average Nebraska homeowner pays 1.65 percent of their home value in property taxes while the average of neighboring states is only 1 percent. This means that the owner of a \$200,000 home in Nebraska pays over \$100 more per month in property taxes than the owner of the same priced house in our neighboring states. [LB461]

PRESIDENT FOLEY: One minute. [LB461]



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SENATOR BRIESE: Colleagues, this is not...thank you, Mr. President. Colleagues, this is not conducive to growing our state. And what about agriculture, the industry that's responsible for 25 percent of state employment and GDP? As a percent of valuation, Nebraska ag producers pay 2.5 times more in property taxes than paid in six surrounding states. This puts our ag producers at a competitive disadvantage with those states and it adds to the red ink in agriculture, stifling the ability of agriculture to lead our state's economy. Colleagues, if we're serious about growing our state, we have to be serious about property tax relief and if we're serious about tax relief, we shouldn't be supporting LB461 as written. LB461 doesn't ensure property tax relief and, in fact, will hamper our efforts to provide property tax relief for hardworking Nebraskans. Thank you, Mr. President. [LB461]

PRESIDENT FOLEY: Thank you Senator Briese. Senator Quick. [LB461]

SENATOR QUICK: Thank you, Mr. President. You know, I appreciate all the work that Senator Smith and the Revenue Committee did on this, but I can't support LB461 as written either. People in my district actually talk to me about property tax relief. There was never any mention about income tax relief and actually it concerns me a little bit. If there is some property tax of some sort for the rural farmers in Hall County, actually maybe in some form we could actually have our property taxes raised in our urban district, so that's a concern for me as well. And so with that, I would yield the rest of my time to Senator Harr. [LB461]

PRESIDENT FOLEY: Thank you Senator Quick. Senator Harr, 4:15. [LB461]

SENATOR HARR: Thank you, Mr. President, and thank you, Senator Quick, fellow Nebraskans. Here we are, four hours into debate. And I'm not sure, what is the purpose of LB461? Is it a tax cut? I've heard that. Is it tax reform? It doesn't really reform our taxes because we don't modernize, we don't broaden the base, we just lower the rate, so it's a tax cut. Is it to address an income tax problem? Senator Linehan said, too little too late. And you can't plan against it, folks, because we don't know when the increases or, excuse me, the decreases are going to occur. So a business can't create a business model around the tax cut, so I'm not sure they stimulate the growth in the way we want to. Is this a property tax relief bill? Well, we have AM965, which provides an additional \$20 million to the Property Tax Relief Fund if we actually hit 4.5 percent

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growth. But that...you think about it, the majority of that money is going to go to the urban area because when we change the Property Tax Relief Fund or excuse me, when we change the property tax valuation from 75 to 55, the Property Tax Relief Fund credit is based on valuation, so there is going to be a large shift of that money to commercial and residential. How much? If ag is currently about half the fund, \$110 million, and you go from 75 to 55, probably about \$40 million property tax will leave our rural friends and come to the urban areas. Did we intend that? Did we talk about it? This is the first...someone just brought it up to me and it was the first I'd ever thought about that. That's a concern. We're making property tax decisions, according to our Governor the largest in 30 years, on the fly. They're right now out in the lobby, four Senators, talking to Senator...sorry, not Senator, Mrs. Kintner, trying to come up with a compromise. This is not the way to make tax policy, on the fly in the lobby. It needs to be reasoned. It needs to be thought out. One has to be able to run the numbers. I asked for... [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR HARR: ...a decile evaluation over a month ago. Senator Smith said he was going to pass it out today. I have so much paper work on my desk, I'm not sure if he did. I'll take him at his word that he did. A month. We don't have access to our own Congressional Budget Office that can run the numbers, we have to trust the Revenue Department. And when we talk to the Revenue Department...let me tell you what they told me. You don't count. The only person that counts is the chair of that committee and if the chair of the committee says we can run those numbers, we can run the numbers. If the chair says, no, well, introduce a bill next year. That's not how you make tax policy. We need to sit down and have reasoned, logical debate and conversation. We started this last summer. I will concede that. [LB461]

PRESIDENT FOLEY: Time, Senator. [LB461]

SENATOR HARR: Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Harr. Items for the record. Mr. Clerk. [LB461]

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CLERK: Thank you, Mr. President. Enrollment and Review reports LB63, LB154, LB176, LB231, LB239, LB241, LB264, LB306, LB383, LB409, LB464, LB519 as correctly engrossed. (Legislative Journal page 1283.) [LB63 LB154 LB176 LB231 LB239 LB241 LB264 LB306 LB383 LB409 LB464 LB519]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Continuing debate. Senator Hilgers. [LB461]

SENATOR HILGERS: Thank you, Mr. President. Good afternoon, colleagues. I rise in support of LB461 and I appreciate the quality work that Senator Smith and the Revenue Committee have done on this bill, as well as the quality of debate this afternoon. And given the size of the queue and the number of people who are speaking and the amount of time we have for debate, it seems like we or I will spend most of my time at a high level, at a big picture, and themes, as much as I would like to engage with Senator Schumacher on some of the intricacies and some of the technical issues with this bill. And here is my thought process. The first point, point one--I think it's fundamental is--is it a good thing to give our citizens their money back? Is it a good thing to allow them to keep more of their money? And I think, unequivocally, it is. Now, we're not talking about just the wealthiest of Nebraskans. Our top rate, 6.84 percent, hits at a very low level, \$29,000 or thereabouts for a single individual and about \$50,000 for a married couple. That's a large percentage of Nebraskans. And I don't care if it's \$1 or if it's \$100 or if it's \$200. If you don't think that makes a difference in the lives of our neighbors I think you're wrong, it does. And those individuals have been like the old adage of the frog boiling in water. And the frog boils in the water because the temperature is slowly ratcheted up. Well, we need to ratchet that temperature down a little bit. We need to give families some relief. It does that. That's number one. Number two, will it make it easier to recruit Nebraskans and allow Nebraskans to stay here in Nebraska? I think, unequivocally, it will. Now, will it...Senator Harr and I had a discussion on this point, will it be the one thing in every case that sways someone to move from Denver to Nebraska? No, I don't think so and I wouldn't make that case, but it matters, it makes a difference. And on the margin, it makes a difference and when you add that up over thousands and thousands of individuals making their own individual decisions over the course of many years, that's how you grow a state. Will it help create businesses here in Nebraska? I think, unequivocally, it will. Business formation--and I know because I have built a business of my own--it matters how much capital you have, how much dollars you have, what's your level of

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risk, how much money do you have for the slow months? How much money do you have to get the company started? Will it in and of itself help create thousands and thousands of businesses? No, I don't think that's the case being made. Will it help? Yes, absolutely. Now, I've heard a number of criticisms and I'll just take a few one by one. The first is that this will devastate our budget. And I just have not heard the laid out case for why that will be. We're not sitting here today, if LB461 passes, cutting our tax revenues starting in this year. So with this budget deficit that we have now, I do not think it will impact this year. But even going forward, we are talking at most less than a percentage point in decreased revenue, assuming there's no economic growth to offset that. We're talking about less than a percentage point. So it's hard for me to see a case that this will devastate our social services, devastate our educational system when we're talking about less than only .9 of a percent at it's peak, after all the triggers have hit if they ever do hit. So I don't...I have not heard the case...I've heard a lot of nightmare scenarios, certainly, and I don't think we should discount those. But at the same time, I haven't heard the case as to why this will lead to the terrible fiscal results that have been made. That's number one. Number two is-- and I take this very seriously--my friend, Senator Briese, has said it, others, this isn't property tax relief. And I...while it does have some relief on property taxes, I unequivocally agree that it does not solve our urgent property tax problem. I don't think there's any question about that. That was a problem many years in the making and in my view will take many years, hopefully not that many years, or herculean effort to undo. [LB641]

PRESIDENT FOLEY: One minute. [LB641]

SENATOR HILGERS: But I do not see LB461 as an impediment to getting that property tax relief, whether it's a mix of spending controls or additional dollars in the future into the Property Tax Credit Fund. However we decide to solve it, I have not heard the case as to why LB461 will make those efforts impossible or make them so difficult that we will lose the ability to do property tax relief in the future. It's critically important to my constituents as well as to others, but in this case I do not think making the good...the perfect is the enemy of the good and I think that's the case here. The last criticism I've heard--and do not have time go into this in detail--are some of these technical objections. I know Senator Harr has mentioned, Senator Schumacher has mentioned that we were making sausage on the floor. I don't discount those concerns, I don't reject them out of hand. Certainly, I think there's been a number of good points made. At the

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same time, I do not think that's a criticism that ought to kill this bill. We are at General File. If it passes on to Select File, we'll have the opportunity to address some of those concerns, work through those issues. I'm sure Senator Smith would be happy to look at those issues. [LB461]

PRESIDENT FOLEY: Time. Time, Senator. [LB461]

SENATOR HILGERS: Thank you, Mr. President. [LB461]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Williams? [LB461]

SENATOR WILLIAMS: Thank you, Mr. President, and good afternoon, colleagues. I really appreciate the debate we are having on this issue today because I believe that comprehensive tax reform has been something that we have all thought deeply about, whether that's the income tax side or the property tax side or a combination of the two that makes sense for our state. And I think making sense is part of what we bring to the table and our responsibility. I appreciate the work that Senator Smith and the Revenue Committee have done and I also deeply appreciate the conversation that Senator Burke Harr has had concerning this issue also. I want to talk a little bit about my legislative district and townhalls that I have held throughout last fall and then throughout this session and two more this past weekend when we talk about comprehensive tax reform. And notice I used the word "reform" rather than "relief" because in my judgment we are working on reform and many people are hearing us talk about relief, which means you're going to reduce my taxes. Well, I've asked the question at every townhall, what's important to you, my constituents? And I've asked the question about income tax relief and up until last Thursday evening in Ravenna, I had not had one person in a townhall raise their hand asking for help with their income tax. And last Thursday night, I did have one hand go up and I asked the person, now you're talking about your state income tax? And they said, no, no, no, I'm talking about my federal income tax. They were still not concerned about their state income tax. But yet if you ask the question concerning property tax, whether they're a farmer, whether they own their own home, or whether they're a commercial business owner, every hand in the room nearly goes up. I think that's something important. I also consistently get asked the question about, with this revenue shortfall that you are faced with, how are you looking at cutting taxes? But then there's the other side of the coin. There is no doubt in my mind that we need to do what is possible from

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the legislative standpoint to create the right environment for growth in our state and growth in our state is a combination of reform on the income tax side and the property tax side when we get asked that question, what can we do? Now my concern is with LB461 in its present form is it's, in my judgment, heavily weighted to the income tax side of the equation more so than the property tax side of the equation. And when my constituents tell me they're not interested in cutting their state income taxes compared to property tax, that doesn't recreate in me a large fire in the belly to fight the fight of moving this forward. Consequently, I believe where we need to go is to continue this conversation as best we can. And it is continuing and I believe it can be fruitful. I'm going to vote to advance... [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR WILLIAMS: Thank you, Mr. President. I'm going to vote to advance LB461 to the next level of debate, not because I support it in its present form, but because I believe we owe the state the opportunity to continue the discussion concerning tax reform. Now somebody is going to have to figure out how to explain that that's tax relief, because I don't see it yet. But that's where we're at. I believe we can do that. Let's keep this alive to the next end of debate. Do I have any time left, Mr. President? [LB461]

PRESIDENT FOLEY: About 15 seconds. [LB461]

SENATOR WILLIAMS: I had promised a Senator to yield them time and again it will have to be on the next one. Thank you, Mr. President. [LB461]

PRESIDENT FOLEY: Thank you, Senator Williams. Senator Hansen. [LB461]

SENATOR HANSEN: Thank you, Mr. President, and good afternoon, colleagues. I just wanted to get up quickly on the microphone. When I first spoke earlier today, I mentioned the kind of lack of support and lack of enthusiasm among my constituents and one or two people pulled me off the microphone and thought that may not be possible or it might not be representative or accurate. So I just have a couple things I wanted to read into the record. The first was a message Travis (phonetic) sent me, said, Dear Matt Hansen, I am writing you to urge you to vote against

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LB461. I don't believe these tax cuts would fairly represent our district. Sonia (phonetic) wrote me saying, I oppose LB461. The state needs the revenue to meet its funding needs. Please vote no. And Paula (phonetic) wrote me, I'm writing to encourage you to vote against LB461. I do not believe this bill supports the welfare of our state's majority of residents. Those are just a selection. Overall as of this morning, like Senator Morfeld, I do believe it was unanimous opposed to LB461, especially LB461 as written. Now, I understand the rebuttal to that and what we talk about some of that is, we are state Senators and sometimes we have to look beyond our district to the full impact a bill will have on the state. So this might not impact my district very much, it might not help, it might not hurt, it might not do anything. I worry it's going to hurt, but I have to look whole as a state. Well, time and time again, we've been told that property taxes, property taxes, property taxes are the number one tax issue, the number one issue overall. And I think this bill and I think many of our ag producers and some of our rural colleagues have already gotten up and spoken how this bill falls short in those regards. So now I'm put into a tough situation where I...does not bring many noticeable benefits to my district nor does it actually give the help to agricultural producers and farmers across the state that they need and they have been asking for. So those are some of my reservations on LB461 and I wanted to make sure that was clear on the record. And with that, Mr. President, I would yield the rest of my time to Senator Walz. [LB461]

SENATOR WALZ: Thank you, Senator Hansen. I just wanted to finish up what I was talking about. And I think I was talking about small businesses and as I was saying, as a realtor I don't think that I'm going to stop selling one more house or stop making any more money because I have income tax relief. The last thing I wanted to talk about has to do with new business and corporations coming into communities. And I have to say that I am very, very proud of my hometown of Fremont. It's not a huge community and we haven't had an overnight economic boom, but instead our community members have made very thoughtful business decisions. To bring Costco to our community it took the effort of many, many people. It took the effort of our council, our Greater Fremont Development Center (sic: Council) board, our chamber, businessmen, bankers. There were so many people that were involved in helping to bring Costco to Fremont. And what I observed was a lot of late night meetings with constituents. I observed a lot of people at the table rolling up their sleeves and just making things work, making conversations work to bring them to Fremont. I know that they did take advantage of the

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Nebraska Advantage Act funds, but again after talking with people, I'm not sure that Nebraska's income tax relief would have been the key for them coming. In fact, I don't think Nebraska income tax cuts bring our business to Nebraska. I think that hardworking Nebraskans bring business to Nebraska. Thank you. [LB461]

PRESIDENT FOLEY: Thank you Senator Wishart (sic: Senator Walz) and Senator Hansen. Senator Hilkemann. [LB461]

SENATOR HILKEMANN: Thank you, Mr. President. I rise to...I'm still undecided about LB461. I have several reservations about it. I have expressed those to Senator Smith. He's answered a lot of those questions. And with that, I'm going to yield my time to Senator Smith, if he'd like it. [LB461]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Smith, 5:0. [LB461]

SENATOR SMITH: Thank you, Mr. President. And colleagues, I just want to kind of give you a status where we are right now. We're at 3:30 and I expect we're going to go to cloture in about an hour and I wanted to just comment on a few things that have been (inaudible). Thank you, Senator Hilkemann, for yielding me time. I appreciate that. And thank you for your very thoughtful questions about LB461. You know, I've heard some comments made about not hearing the issue of property tax raised by constituents in districts. But I know that we've heard our citizens hurting because of underemployment, unemployment, we've heard that they want good jobs in our state. I know that businesses that have talked to us in our districts have said they would like to be more stable, to have more opportunities, and that's what we're talking about this bill. We do need to have growth in our state. We do need to be competitive with our neighboring states when it comes to taxes so that we can create more jobs and reduce the burden on our families and on our small businesses. So I want to go back and say, you know last year, probably into last summer, I began to meet with a number of my colleagues, including Senator Harr, and trying to find a path forward for tax relief and reform in our state. And I knew then and I know now that I just don't believe it's going to be possible without doing something in a comprehensive fashion that includes both property tax and income tax. And when it comes to income tax, we have incentives for our large businesses and our corporate rates are high, but we



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do really need to help our small businesses. They are the engine, they are the backbone of our economy in our state. But I've also been continuing to want to talk to my rural colleagues to find out what could be the path forward. And if it's not what's on the table, tell me what we need to put on the table. I've had a very open office and a very open mind to wanting to talk about what it would take to move this forward, move this conversation forward. And I know that a number of my rural colleagues have been engaged during this debate, some of them out in the lobby talking, doing some analysis. Senator Clements I know has been involved in that, I appreciate his knowledge and his help on this matter. And this is all very good. This has been a great discussion and I am hopeful that between now and cloture that we will have something more that will help my rural colleagues that do want more property tax relief, that we can have something that can move this forward to Select. We do not want this discussion to end here. To vote no on cloture now, shuts down this conversation and it says to our taxpayers in this state, says to our families and our businesses, says to property taxpayers in this state, we don't want to have any further discussion this session. We're done. And I don't want us to be done. So I am optimistic we will have something more to discuss here shortly. Hopefully, we can come to an agreement...

[LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR SMITH: ...between the rural and the urban side of this to where we can get more property tax into this equation. But I don't think we stop there, I think there are some other things that we're probably going to have to address if we can move this on to Select. We need to make certain that it's not too heavy, that the state can afford this. But if there's any way possible to move forward, the citizens of the state of Nebraska and the businesses of the state of Nebraska deserve us to give this our very best shot. And so I appreciate the conversation that we are having. I did want to say one thing, that what Senator Harr did have on his desk in terms of a decile report was a copy. The same copy was provided to him the day after the last committee meeting. I think he thought that there was an update to it and there was not, but I just wanted that to be known... [LB461]

PRESIDENT FOLEY: Time, Senator. [LB461]

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SENATOR SMITH: ...that we're not attempting to withhold information. I know this is a complicated matter. [LB461]

PRESIDENT FOLEY: Time, Senator. [LB461]

SENATOR SMITH: Thank you, Mr. President. [LB461]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Morfeld. [LB461]

SENATOR MORFELD: Thank you, Mr. President. I yield my time to Senator Harr. [LB461]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Harr, 5:00. [LB461]

SENATOR HARR: Thank you Senator Morfeld. Thank you, Mr. President. I got a little excited there. So here we are, hour five. And now, now we want to negotiate? Now we want to talk about it? You know what, when this was in committee and there were some issues with it and there were some concerns about it, you know what I was told? Senator Harr, you're not going to vote for this, we don't need to talk to you. Now, now with his back in the corner, hour five, he's saying, work with me, folks. Let's try to get something done together. Look at your gadget. Look at the amendments filed on Select. Look who filed them. You want to do something on Select because we're not going to make policy nor should we make tax policy in the next hour. That's not how you do it. You want to do something on Select, guess what, folks? Senator Chambers isn't here, but I'm going to use a quote of his. I own you. I have all the amendments. They go through me. Unless you want to vote to suspend the rules--which you can and I'll give it to you--or you want to have the Speaker make it a super priority, now you got to negotiate; finally, hour five. Maybe this is why we should have eight hours of filibuster, to break people down. We've just spent almost three hours of this on a motion to reconsider. We're not talking taxes here. The negotiation is going on out in the hallway. Go out in the hallway and look who's there, the Governor's office and three or four Senators. How much does any of this cost? We're going to do it in a fiscal manner. I don't know what that means. Do you? You know, I do have a sheet from Senator Smith. I want to thank him for the sheet. It's not AM954, but it's close. It doesn't include the earned income credits And guess what? Guess where two-thirds of this \$460 million goes?

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Top 10 percent. Well, Burke, that's a small businessman. If you're making...and the AGI...AGI, not how much you earn, but that's how much your adjusted gross income, \$268,000, \$268,000. That's a lot of money. I don't have a problem with people making that kind of money. I'd love to make that kind of money. But the question is, if we're cutting taxes--because we are not reforming taxes, folks--reform means you find a way...the Mnuchin rule, Steven Mnuchin, for every dollar you cut you find a dollar of increase. But the Governor says that's a tax increase so he won't support it. If you want real tax reform, that's what that is. This is a tax cut where two-thirds are going to the top 10 percent. Yes we give something to earned income credit and guess what that is. They break even. We increase the earned income tax credit and they break even and that's only after we accept amendments that aren't being considered right now. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR HARR: Right now, they're losers if we went to a cloture right now. This came out of committee. When a bill comes out of committee, it needs to be ready for prime time. I think you just heard this bill is not ready for prime time. We are not saying "no" to the taxpayers. We're saying "no" to a bad bill. You want to negotiate? Then negotiate, but you don't wait until literally the last hour to do it and say, hey, let's negotiate this in between. Just pass it forward. Well, what are we going to agree on? We're going to do something good. We're going to do something comprehensive. That's not an answer, folks. We're too far along and we're too sophisticated. Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Crawford? [LB461]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor, and good afternoon, colleagues. Colleagues, the state of Nebraska has an excellent business climate ranking and we are the envy of most states in our fiscal responsibility. We pay our bills, we fund our pensions, and we make responsible tax policy. And it's also the case, colleagues, that our effective upper rate is around 4 percent. So there is something that needs to be done in terms of matching what people see when they look up our tax rates with our actual tax load. There are all kinds of interesting revenue ideas that were brought to the Revenue Committee for real tax reform, as Senator Harr notes. Finding ways to pay for real changes that change the structure of our taxes so that they are more

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competitive on the face and also so that we make sure that we are pay our bills and so we make sure we are thinking critically about what we do with our tax policy that will help to reduce our property tax burden, which is where we're much more lacking in competitiveness. That's the real...what I hear when I hear people talking about moving to Nebraska, that's what is their real sticker shock is their property taxes. And we're talking here residential property taxes where they find the sticker shock as well as what we talked about already in terms of ag. So colleagues, a vote "no" or a "not voting" on cloture doesn't means this is the end of the conversation. It means that we do not want to move forward with LB461. There's more work to be done to find effective tax relief that addresses property tax as well as income and to make sure that we're paying for these changes as we go, that we're being responsible for the tax cuts that we want to make. And I yield the rest of my time to Senator Patty Pansing Brooks. [LB461]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Pansing Brooks, 3:00. [LB461]

SENATOR PANSING BROOKS: Thank you, Senator Crawford. Thank you, Mr. Lieutenant Governor. Again, I appreciate the sincerity and the genuine attempts to do something that's of value for the state. Senator Smith handed out the Nebraska tax resources graph. And as I look at the graph, to me when I first look at it, it indicates that income taxes need to rise. I'm not really sure why he handed this to us because the property taxes are at 34.54 (percent), the sales and use are at 31.39 (percent), and income is at 27.07 (percent). So, in reality, it's...the income taxes are lower there. To make the three-legged stool more even, it indicates that the income taxes need to rise, in my opinion. But anyway, again, we are looking at this idea of income tax and property tax relief--it's actually income tax relief--in a bubble. And would we all like to be able to cut? Yes, we definitely want to cut. I hear loud and clear that the property taxes are too high. I have heard from no one that we need to cut income taxes and in fact my district feels completely the opposite. Those whom I know who have some income do not have the gall to come forward and say, it's time for you to cut my income taxes. I'm make so much money that I'm paying so much tax that you need to cut my income taxes. Literally, that's what is being said. I'm making so much money, I'm such a driver to the state that you need to cut my income taxes. And by the way, don't replace that with any other revenue... [LB461]

PRESIDENT FOLEY: One minute. [LB461]

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SENATOR PANSING BROOKS: ...because we're just looking at it in a bubble. Taxes are too high, cut it. To heck with what the ramifications are. And as far as bringing in that earned income tax, it's clearly a piece of fool's gold that they're offering. We're offering a nugget of value to the wealthy and we're offering fool's gold to those of middle class and lower income. Thank you, Mr. President. [LB461]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Harr. [LB461]

SENATOR HARR: Thank you, Mr. President and members of the body. I've always been told government is not the solution, government is the problem. And yet I hear the solution is, we need to cut taxes or we need to have incentives or we need to...folks, here is the way you grow the economy, bodies, good paying jobs and bodies. Now, I will freely admit, earlier I maybe exaggerated and said I didn't know anyone who left the state because of taxes. Joe Ricketts left this state because of taxes. He moved to Wyoming, so I apologize. Now, I don't know him, but I know of him. Folks, we need to do something about taxes, but on the fly with a beg that we'll do something between General and Select, probably not the way to do it. It needs to be over the summer. It needs to be in cooperation with the Department of Revenue so we have access to data so we know what the ramifications of what we do are. I'm willing to work on this. I would hope we could maybe have a Speaker hold on this--it's on General--and spend the summer talking. I think we're all a little smarter than we were last summer. There were a number of us who got together. And there are many new members who were not elected yet who could not participate. But let's talk about what really grows this state and what has inhibited our state. Gallup tells us this state, by the way, has grown over twice the national GDP. We're doing some things right. I feel like we're bashing the state a little too much. I love this state. We don't have to make Nebraska great again, Nebraska is already great. Does that mean we can't do better? No. Mr. Kiewit always said, pleased but never satisfied. And as our economy continues to evolve, our tax system needs to evolve. Reform, I'm not sure we're there. Do we need to address some inequities in our property tax system? Yes. Are we over reliant on property taxes? Probably. Do we need to look at some of our income exemptions? Okay. What about sales tax exemptions? Senator Briesse had a bill on that. Yeah, we're going to have to make some tough choices and by lowering some, you're going to raise others. And folks, there will be winners, but there will also be losers, and that's a tough vote. What's easy? Giving away candy in a candy store. That's what we're doing

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right now. We started out with good intentions. We said let's look at our tax system and how can we make it to grow our economy while balancing the budget? That got difficult. That was hard. So we said, forget it, let's just give it away. That's not governing folks. That's easy, but that's not governing, that's not making the tough choices. We need to look at what is really affecting our growth and it goes back to healthcare, housing, education. Let's try to be the best at those. We don't have oceans, we don't have mountains,... [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR FOLEY: ...but you have that. Thank you, Mr. President. People will move to the state. You look at what state in this region, the Midwest, is doing the best. Who do you think it is? It used to be North Dakota, because they had oil and they could export their taxes. Not any more. It's Minnesota and they have the highest taxes. Now, I'm not advocating raising taxes, but what I'm saying is, folks, there isn't always a correlation. Let's try to see what we do best and then optimize that. That's what we should be doing. And I will guarantee I will work with Senator Smith and other members of the Revenue Committee and whoever else wants to come along on our magic bus and let's look at how we can make this state even greater. Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Harr. Senators Bolz? [LB461]

SENATOR BOLZ: Thank you, Mr. President. I rise under response to some comments made on the floor about the need for this legislation as it relates to economic growth. And I still have serious concerns about the impacts of triggers in this legislation and our ability to recover through the budget after an economic downturn. And I think there is a clear connection between economic growth and recovery through the state budget. And here's why. The Department of Economic Development contracted with SRI International to develop a report. And the chapter I'm specifically looking at is Nebraska's Next Economy. And in the report developed between SRI and the Department of Economic Development, they articulate the vision for the future of Nebraska that includes things such as: a skilled work force, infrastructure, high quality jobs, outdoor education and recreation; and strong K-12 education. Well, colleagues, today in our Appropriations Committee, we're reviewing a list of proposed cuts provided to us by the

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Governor that includes cuts to higher education, includes cuts to the university and state colleges, includes things that would impact infrastructure, like the Water Sustainability Fund. And so I struggle to understand how we can develop this vision for the economy in the future. A skilled work force is directly related to our ability to fund the university, community colleges, and state colleges. Outdoor recreation is directly related to Game and Parks, and I think we passed another reduction to Game and Parks earlier in committee today. A strong K-12 education system, we're significantly under our needed growth. High quality jobs, we weren't able to provide new dollars for the job training credit program this year through the Department of Economic Development. So colleagues, to say that this is needed for economic growth when the very report commissioned by our Department of Economic Development articulates specific and targeted investments that we need to make in order to grow our economy is simply counterintuitive to me. So as someone who is serving on the budget committee, I would argue that it's not in the best interests of neither our state budget nor our state's economy. And I will leave it there and yield the remainder of my time to Senator Schumacher. [LB461]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Schumacher, 2:20. [LB461]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. You know, those drives back and forth to Columbus get you thinking a little bit. And something occurred to me that we know, pretty sure at least, that a lot of our revenue shortfall this year--which is a pretty big percentage--is due to Advantage Act credits being claimed. And if that indeed is the case, then that would mean that the 70-some companies that have those credits control a good percentage of our revenue. We have no rules on them as to when they can take their credits or how many they can take or even give the forecasting board advance notice of when they're going to take them or how they're going to take them. Property taxes, income taxes, wage withholding, all those things that's in there. Now, if you realize that those, and probably a small number of those 70 some companies, can control a good percentage of our budget, what does that mean in a world of triggers? Our constitution says that the Legislature shall raise revenue. But if we couple a trigger system... [LB461]

PRESIDENT FOLEY: One minute. [LB461]

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SENATOR SCHUMACHER: ...with the power in these small...a small number of companies to control whether we hit a trigger or not hit a trigger, have we not transferred the power to raise revenue and set tax rates to private hands, and is that constitutional? That one would be fun to argue to the Supreme Court. In the closing few seconds here, I have to second what Senator Harr has been saying. Growth is not just about tax rates. In fact, it's probably very little from everything I've seen in the Revenue Committee over the years. There are many, many more factors, harder to create, harder to deal with, more challenging and creative necessity than tax rates. And those are the things that we should be focusing on if you really wanted to grow the state. Tax rates are just too quick, too dirty, and too insignificant in the context of things. These are minor dollars for most people, big dollars for your wealthy property owner and (inaudible) income getter. [LB461]

PRESIDENT FOLEY: Time, Senator. Thank you, Senator Schumacher. Senator Smith. [LB461]

SENATOR SMITH: Thank you, Mr. President. I will yield my time to Senator Hughes. [LB461]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Hughes, 5:00. [LB461]

SENATOR HUGHES: Thank you, Mr. President. Thank you, Senator Smith. I do appreciate the opportunity to talk to the body again. There is work being done to try and come up with a plan or a way forward with this bill that meets the needs that we all have. There is a significant amount of property tax relief coming I believe, as well as some income tax, once certain criteria is met for the growth of government. We're in a downturn right now, a significant downturn in agriculture. But this, too, shall pass. And once we make the turn and start back up, I think we will not have any trouble hitting 3.5 percent, 4 percent, even 4.5 percent triggers. I'm very optimistic about agriculture's future. Certainly in our operation, we're betting very heavily on that as I've brought both of my kids back or they have wanted to come back to be in agriculture. To be a young person in agriculture, I think your future is very bright. But we need to have some sort of an idea of where the state is going in the business climate and agriculture is a business. You know, I am a small businessman. But the one thing that business needs in order to be happy wherever they're at is consistency of policy. They need to understand that the rules are not going to continually change. And I think this plan that Senator Smith has brought forward is an



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opportunity to do that. We can set in motion the opportunity to bring taxes down for everybody who pays property tax, first and foremost. -We can bring...put the system in place that will bring income taxes down for the people who pay income tax. Yes, the higher income taxpayers do get a larger percentage. That's because they're paying more. You know, we've heard several times about the top 10 percent pay 75 percent of the taxes. That's true at the federal level and I'm sure it is probably true at the state level. The reason the top brackets get the biggest cut is because they're the ones that are writing the biggest check. And the property taxpayers currently are writing the biggest check of all. That's why several of us have held out hard and fast in order to make sure that property tax comes first. What we have experienced in agriculture over the last ten years, the homeowner is just beginning to experience. I talked about the valuation increases in Lincoln and Omaha and they're coming in other towns. We talked about Henderson, Nebraska, about the houses that are being built there. There is a demand for housing. There are young people moving back to our state. It is putting pressure on our property taxes. Yes, it does expand the growth, but it also expands the need for taxes and services, but we've got to be able to slice that pie up in a little different way. [LB461]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: One minute. [LB461]

SENATOR HUGHES: I would certainly encourage everyone to look very closely at this bill. If we can get to that point, if we can get the amendment that we need put in place and be able to move it forward, we can possibly work out a few more of the kinks that maybe some of you have, but there is something in this bill for everyone. It does help the low-income earners, it does help with the earned income tax credit, and it will help the property taxpayer. So this is something I think that all of us can look at and we need to be concerned about the amount of revenue that we're taking off the table, but we're also looking at the amount of revenue once we begin to grow the state again that is left for us to spend. [LB461]

SPEAKER SCHEER: Time, Senator. [LB461]

SENATOR HUGHES: Thank you, Mr. President. [LB461]

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SPEAKER SCHEER: Thank you Senator Hughes and Senator Smith. Senator Baker, you're recognized. [LB461]

SENATOR BAKER: Thank you, Mr. President. I would yield my time to Senator Schmuacher. [LB461]

SPEAKER SCHEER: Senator Schumacher, 4:50. [LB461]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. You know, our Federal Reserve System has a target rate of 2 percent inflation. Many believe that because of the way the federal government has been printing money inflation could get much, much higher. What's one of the things absent from these triggers, assuming they're constitutional? An inflation calculation. If we should happen to get 4 percent inflation since revenues highly correlate with GDP and GDP with inflation, we could be hitting triggers right and left and yet our expenses would be being inflated at the same rate of inflation. Thus, we're going backwards. Why on God's green earth wouldn't there be, if you were going to program this autopilot, wouldn't you calculate in inflation? And it looks like we're going to dip down around \$400 million in our Cash Reserve and that might take another bite in the next budget. Why wouldn't you include in the calculations the Cash Reserve? My goodness. Conceivably, if revenue took a great big dip and just bounced up whatever, 3.5 percent or whatever percent is being talked about today, you'd have a tax cut when you were facing a near zero balance in your Cash Reserve. And if we go ahead with the plan to reduce the balances from a 3 percent cushion to a lesser cushion, even a lesser cushion there. You know, you're talking about making these changes on the fly, a deal for the sake of a deal. This discussion belonged in Revenue Committee. In fact, it was a discussion that occurred in past years, very difficult discussion, but this is not the kind of thing you do on the fly. Is it wise not even to calculate in inflation and the level of a Cash Reserve? How can you cut revenue if your Cash Reserve is almost gone or if you're facing significant inflation? And then maybe have to do that...to stop that bus, have to do that in an election year and try to muster 33 votes. This is not smart government. Because it's not smart government, it should not be done. This is a cross that you, the freshman class, are going to have to bear figuring out how to juggle all those increased needs which will probably be there: retirement, baby boomers, penitentiary, mental health issues, possible drought or other calamity, all those things. You cannot face a gun

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to your head at 33 votes in election year and a mandatory tax cut. This is not smart government. You were not sent here to be robots driven by the dead hand of a senior class on the way out the door. [LB461]

SPEAKER SCHEER: One minute. [LB461]

SENATOR SCHUMACHER: You are here to think, to respond, to make those decisions as the circumstances appear to you in the time that you are here, not to cheat the system, not to cheat your constituents. These are jobs that you have. For that reason, this bill should not advance. We have time, as Senator Harr says, to relook at it to see if there's any wiggle room, keeping in mind we're a billion dollars down. How could any sane person be talking about tax cuts. Thank you. [LB461]

SPEAKER SCHEER: Thank you, Senator Baker and Senator Schmuacher. Senator Hughes, you're recognized. [LB461]

SENATOR HUGHES: Thank you, Mr. President. I yield my time to Senator Smith. [LB461]

SPEAKER SCHEER: Senator Smith, 4:50. [LB461]

SENATOR SMITH: Thank you, Mr. President. Colleagues, I do want to give you an update here and I know we're quickly running out of time. This is a very important bill for Nebraska, and I really hate to see us not be able to move this forward. I've been working very hard with Senator Watermeier and some of my other rural colleagues, and we have an amendment that will be filed here shortly and I want to give you an overview of what that amendment looks like. And contrary to what Senator Harr has suggested, compromise is not a bad thing and sometimes it does work during a period of time that we are on the floor of the Legislature discussing the bills. And it is not so far removed from what we've been discussing that I would say that it goes against or conflicts with what we've been discussing in terms of tax relief, comprehensive tax relief. The bill that will be filed here in a bit would have to be substituted to another amendment that is up next. It's questionable whether we will have time to get to that. But nonetheless, let me tell you what would be in that bill. Everything in LB461 and the current...what's on the board

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currently would stay in place. Then we would have the 3.5 percent trigger for individual rates would begin to be reduced by .083 percent not the 0.11 percent that is in the current bill, which would extended the buy down by three years in order to achieve that 5.99 top rate. So it would be a slower reduction in the top bracket for individual income tax. At 3.5 percent trigger, Property Tax Credit Fund would get an additional \$45 million more each year. Colleagues, especially my rural colleagues, I hope that you're listening to what I'm saying here in terms of describing this amendment, but 3.5 percent trigger would trigger an additional \$45 million to the Property Tax Credit Relief Fund. And then at 4.5 percent trigger, the corporate rate buy down would be by one-tenth of a percent per step over the years instead of two-tenths of a percent per year. That doubles the amount of steps that we would need to be able to get the corporate rate down to 5.99 percent. That is what is being filed. It would be an amendment cosigned by...I think it's going to be delivered by Senator Watermeier and I'm going to sign onto that amendment. If we're able to get to it and substitute that for my next amendment up, AM966, then we will be able to adopt that money into the property tax credit relief going forward with a 3.5 percent trigger. If we are not able to adopt that, the cloture motion will determine how we go forward. The cloture motion, if passed, we will be able to continue that on to Select to see if we can get that amendment adopted at that point. If cloture motion fails, so fails that amendment, so fails the attempt that we've made this year to have comprehensive tax relief. Again, the amendment that will be on your gadgets here shortly does beef up the amount of property tax relief as a part of this bill. And with that, I'm going to yield back the remaining time that I have. Thank you, Mr. President. [LB461]

SPEAKER SCHEER: Thank you, Senator Hughes and Senator Smith. (Visitors introduced.) Going back to the queue, Senator Brasch, you're recognized. [LB461]

SENATOR BRASCH: Thank you, Mr. Speaker. Question. [LB461]

SPEAKER SCHEER: Question has been called. Do I see five hands? I do. The question is, shall debate cease? All those in favor please vote aye; all those opposed vote nay. Please record. [LB461]

CLERK: 25 ayes, 8 nays to cease debate. [LB461]

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SPEAKER SCHEER: Debate does cease. Senator Harr, you're welcomed to close on MO96.  
[LB461]

SENATOR HARR: Thank you, Mr. President and members of the body. So here we are. Well-timed, right before we take a motion to reconsider that we need to reconsider what we're doing, the underlying motion to recommit. This bill is not ready for prime time, folks. We're negotiating on the fly. Now you can call that compromise. I like compromise. I also like to be a deal maker, but I also like to know what that deal is, and what are we trying to do? Now, if we recommit this to committee, nothing stops that committee, the Revenue Committee, from getting together and saying, that wasn't ready. Let's take a little breath. Let's look at what we want to do. Let's get all sides in here and let's talk about it. I was out in the lobby, I saw a lot of activity, but a couple of Senators and a couple of lobby groups. We haven't had a fair chance to talk about all aspects of what this compromise means. If you vote down the recommit, I'm next up with a bracket motion. You're never going to get to Watermeier amendment. Okay? And when it gets to Select, I have a number of motions. Nobody, and I mean nobody, has tried to negotiate with me or the people that I work with and our concerns, and that's wrong. I have made two offers out there, both have been rejected, both without a counteroffer. So, folks, you vote to take this on forward--forward on I think is the proper English--know that you will not see that amendment until Final Read, and on Final Read there'll be a motion to bring it back to Select. Maybe there are 25 votes, maybe there aren't. Maybe Senator Chambers brings a motion that would prevent it from coming back or would bring some other issue. Think about what you're doing. The better thing is to recommit this to committee and to talk about what we want to do. We have all summer long. Heck, we're on day what, 70-something? We got some more days. Committee can meet, vote out a new version. Probably the right thing to do, and we'll know what the costs are, and we'll know who's helped and who's hurt, who wins and who loses, because there will be losers. Even though this is giving away money, tax dollars that we may need, General Fund dollars to fund our universities, to fund our roads, to fund our Property Tax Relief Fund, to fund our Water Sustainability... [LB461]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: One minute. [LB461]

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SENATOR HARR: ...to fund our providers who care for the most vulnerable in our society. That's what we're looking at. We have to look at what are the consequences of this, and then to make sure that this works. Right now we have a forecasting board. We don't know when they meet. Which forecasting board analysis do we use? Do we use the one in April? February? November? Or do they have a special one? We don't know. We're taking money from the Property Tax Relief Fund that goes to rural constituencies and we're sending it to commercial and residential. Does lower it from 75 percent to 55 percent. What is the ultimate effect? I don't know. Do you? How much of a help is it? We need to vote, yes, on this motion to reconsider. Then we need to vote, yes, on the notion recommit. And then we can talk about it in committee. [LB461]

PRESIDENT FOLEY: Time, Senator. [LB461]

SENATOR HARR: Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Harr. Members, you've heard the discussion on the motion to reconsider. The question before the body is Senator Harr's motion to reconsider. Those in favor vote aye; those opposed vote nay. There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB461]

CLERK: 39 ayes, 0 nays to place the house under call. [LB461]

PRESIDENT FOLEY: The house is under call. Senators, please record your presence. Those unexcused Senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel, please leave the floor. The house is under call. Senator Lowe, if you could check in. Senator Wayne, if you could check in. Senator Linehan, check in, please. Senator Groene, check in, please. Waiting for Senator Larson. The house is under call. All members are now present. The question before the body is Senator Harr's motion to reconsider. Those in favor vote aye; those opposed vote nay. Roll call vote has been requested. Mr. Clerk. [LB461]

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CLERK: (Roll call vote taken, Legislative Journal page 1284.) 18 ayes, 29 nays on the motion to reconsider. [LB461]

PRESIDENT FOLEY: The reconsideration motion is not adopted. I raise the call. Mr. Clerk. [LB461]

CLERK: Mr. President, priority motion. Senator Harr would move to bracket the bill until June 2, 2017. [LB461]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on your bracket motion. [LB461]

SENATOR HARR: Thank you, Mr. President. I would be remiss if I did not start this by thanking Senator Chambers for teaching me a lot of what I'm doing. I got to admit this is kind of fun, but this is serious business. I enjoy a challenge. "The wisdom of man never yet contrived a system of taxation that would operate with perfect equality." Andrew Jackson said that. Folks, that was before we had income tax, before we had sales tax, really before we had use tax. All we had were tariffs and property tax. Getting a good, fair, tax system is difficult, dare I say as difficult as finding health insurance. It's hard work. Who knew it'd be so difficult? It's not something we should be doing on the fly. It's not something that should be negotiated behind the glass doors. It should be something that's talked about between members and something where we look at what are the cost and the benefits of everything we do. What are the intended consequences of what we're doing, and maybe try to think about what are the unintended consequences, because if we do this, think about what the Governor said. This is the most substantial tax change we will have done in 30 years. What's that tell you? It's going to be another 30 years before we do something again. Is this something you want to be doing on the fly? If we cut income tax first, what are we starving? Are we saying there is no money now to do property tax relief? Now, I will argue it's pretty darn difficult for us to do property tax relief because it's hard to cut a tax you don't collect. However, we do have a large affect on what the property tax is. In 2008, we faced a real estate crisis where we had a bubble in the housing and commercial sectors. It was tough times. Senator Walz is a real estate agent, she's over there shaking her head yes. At the same time we had an agricultural boom and a large increase in property values. So guess what happened. We cut state aid. At the same time we were able to

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afford that and keep a lot of those schools at the same level because of the increase, dare I say shift to rural Nebraska. Was it fair? Maybe, maybe not. Do we need to look at bringing it back where property taxes are more of...or less of a contributor to the three legs of the stool so that it is not 48 percent of the total taxes collected in the state? Maybe. I think so. Does this bill do that, does it allow it to happen? I don't know. I haven't run an economic model on it. Have you? We need to think about what we're doing. I talked about it earlier. I gave a way out and I told everyone beforehand, here is your way. If you want to do something this year, bring it back to committee. Let the committee talk about it. Let the committee come up with a solution, working together, compromising in committee, not over people but with people because that didn't occur before. I think the theory now was, let's see how far we can push this and then let's see what happens and let's see what sticks. That's not well thought out. It's not a way to make tax policy. I have a fundamental problem with triggers. Somehow, and I have yet to figure this out, this great state of ours has survived 150 years without triggers, without these gimmicks, and in those ten states including the District of Columbia where they do have triggers, they've done some good things--in about half of them. The other half of the time they haven't worked. Not my opinion, fact. And I can get that report for you. Folks, if we want to have a debate about tax policy, we've done it. Congratulations. If we want to have a tax solution, this is not the way to do it. We have pushed the ball and we've done it in a way that...without compromise, in a way that it's forced rules and it hasn't been bringing people along. And it hasn't been saying, Senator Friesen, what are your concerns in the rural areas? Senator Briese, what are your concerns? Senator Wayne, is there something we can do to get your vote on this? How can...what is your concerns with the state of Nebraska? Those who have been involved in this debate are people who have forced themselves to be involved in the debate, not because people reached out to them, not because there was consensus building. I appreciate LB461. At the time that it was voted out of committee I was very clear. This has a lot of technical aspects to it, and it does a lot of policy shifts and changes. We're going to have a debate about this, maybe a long debate, but we should do it in committee. We weren't allowed to have it in committee. A large portion of this bill was a bill brought by Senator Smith on behalf of the Governor, and we were honored to have the Governor come in front of the Revenue Committee. We didn't give him a time limit; speak as long as you want. We may have limited questions of the Governor, but we let him speak as long as he wanted. We had the head of the Department of Revenue, former Senator Fulton. And we said, Senator Fulton, no clock for you. Take as long as you want. We want to listen to what you say.



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But guess what happened when we got to the opponents of the bill. You get a half hour, you're done. Thank you, move on. That is not how you make tax policy. That is the very definition of not allowing the second house, the people, to be involved. We should have been there till midnight; done it before, LB405, LB406. Next year when we're debating taxes--and we will be next year--I'm willing to stay till midnight. That's the way you make tax policy, you talk to people, you get input. No one side has a monopoly on good ideas. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR HARR: I'm going to bracket this. I think we saw where the votes were. I don't know if this bracket motion is going to be successful, but I'm not sure LB461 is either, and I'm not sure why we're doing that. I think what we should do is hold off. We have a bill on General, and let's use that as a vehicle next year or later this year. But right now, this is not the way to make policy. And I don't want to take a vote on it today, but I will. And I don't think it's going to be for the best interest of Nebraska if we don't have compromise, and we don't. So I have a bracket motion. It just holds this in place, keeps it on General File and we can bring it up next year. Thank you. [LB461]

PRESIDENT FOLEY: Thank you, Senator Harr. Continuing debate, Senator Howard. [LB461]

SENATOR HOWARD: Thank you, Mr. President. I yield my time to Senator Schumacher for the last word. [LB461]

PRESIDENT FOLEY: Thank you, Senator Howard. Senator Schumacher, 4:55. [LB461]

SENATOR SCHUMACHER: God, that sounded ominous, the last word. Thank you, Mr. President. Thank you, Senator Howard. You know, there was so much study that had been done. There was so much collective wisdom that had been done over the terms of Senator Cornett, Senator Hadley, Senator Gloor over those enumerable hearings, testimonies, witnesses, where we tried to come together with true tax modernization and true and substantive tax adaptation to the society that we live in. I sat there through that. Senator Harr sat there through that. Senator Brasch sat there through that. And it was as though all that was for naught. All that thought,

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experience, debate within committee, gone. A narrow tunnel focus on triggers and what in the scheme of things amounts to no substantial property tax relief, what in the scheme of it amounts to tiny income tax relief, and most of those reliefs go to the wealthiest. This was not a way to make sausage. And now a fury of activity back and forth. Well, you know, when you do legislation with taxes you got to take the proposal and apply it to real people, see how it affects, who it impacts, who comes out ahead, who comes out behind. I can remember probably a half a dozen times last year where there was a plan that all of a sudden was a magic plan of the hour in committee, brought forward by someone or another and, gosh, it sounded good until all of a sudden we came back a day or two later having had the numbers on that specific plan and found out that it decimated local government or found out that it really put dollars in the hands of the wrong people or that it had a constitutional defect or that it wasn't consistent with what was going on in the national scheme. And now, today, that national scheme is even complicated by the fact that we've got a tax revision of unknown character coming down the pike. And, incidentally, I had a bill--we passed part of it--that would have said, number one, the federal taxes need to be studied if they're changed. And number two, we take a time out before they have an impact on Nebraska. Well, we chose then to advance a bill that did not have the time-out provisions in it and thus face the uncertainties that we face today. This is not a good bill. This is not comprehensive tax relief. This is not a comprehensive change in policy. So many ideas of substance, whether it was Senator Krist's bill to simply do a time-out on some things or more sweeping things of capital gains, stepped up basis, tax on interest, none of that gave substantive discussion and there were hundreds of millions of dollars of those kinds of ideas in Revenue Committee. This is a lot of hype. This needs to go back to the drawing board. [LB461]

PRESIDENT FOLEY: One minute. [LB461]

SENATOR SCHUMACHER: And still, we have to realize reality. When we're hundreds of millions, maybe as high as a billion dollars in the hole, when our economic models that say we should grow by this, that, or the other thing don't seem to be working, we cannot rationally, sanely, or prudently think that we should lock in tax cuts on an arbitrary formula that does not take into consideration certain basics as our expenses, our needs, and inflation. Bad policy, bad idea, and not good for the growth of the state. We've got a good thing going. Let's not mess it up with rash actions for simply ideological purposes. Thank you. [LB461]

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PRESIDENT FOLEY: Thank you, Senator Schumacher. Mr. Clerk, you have a motion on the desk. [LB461]

CLERK: I do, Mr. President. Senator Smith would invoke cloture pursuant to Rule 7, Section 10. [LB461]

PRESIDENT FOLEY: It's the ruling of the Chair that there has been a full and fair debate afforded to LB461. Senator Smith, for what purpose do you rise? [LB461]

SENATOR SMITH: Colleagues, thank you. I'm prepared for cloture. [LB461]

PRESIDENT FOLEY: No, this is not a debatable motion, Senator. [LB461]

SENATOR SMITH: Yes. Call of the house. I'm sorry, call of the house. [LB461]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB461]

CLERK: 34 ayes, 0 nays, Mr. President, to place the house under call. [LB461]

PRESIDENT FOLEY: The house is under call. Senators, please record your presence. Those unexcused Senators outside the Chamber, please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. All members are now present. There's been a...roll call vote in reverse order. The first vote is Senator Smith's motion to invoke cloture. Mr. Clerk. [LB461]

CLERK: (Roll call vote taken, Legislative Journal pages 1284-1285.) 27 ayes, 9 nays to invoke cloture, Mr. President. [LB461]

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PRESIDENT FOLEY: The motion is not adopted. I raise the call. Pursuant to the agenda, we're going to return back to where we left off this morning, which I believe is LB331. Mr. Clerk. [LB461 LB331]

CLERK: Yes, sir. It is LB331. Mr. President, at this time I have committee amendments pending to LB331. (AM594, Legislative Journal page 1122.) [LB331]

PRESIDENT FOLEY: Senator Stinner, why don't you help us out and just remind us where we left off with this bill in the morning discussion. [LB331]

SENATOR STINNER: Okay. Thank you, Mr. President. Members of the Legislature, LB331 introduced by the Speaker at the request of the Governor is part of the Governor's biennial budget recommendations. The bill provides for fund transfers, the creation of funds, and changes provisions governing the administration and use of funds. AM594, the committee amendment, becomes the bill. The amendment contains the Appropriations Committee recommendation as to fund transfers, creation of funds, and changes governing the administration and use of the funds in those instances where statutory changes are necessary or desirable. Refer to the committee's budget book, page 25, for the complete list of transfers into the General Fund, including those transfers requiring statutory authorization in this bill. LB331 as amended by AM594 contains the emergency clause and is operative on July 1, 2017. Thank you, Mr. President. [LB331]

PRESIDENT FOLEY: Thank you, Senator Stinner. Debate is now open on LB331 and the committee amendment. Seeing no discussion, Senator Stinner, you're recognized to close on the committee amendment. He waives close. The question before the body is the adoption of the committee amendment, AM594. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB331]

CLERK: 35 ayes, 1 nay, Mr. President on the adoption of the committee amendments. [LB331]

PRESIDENT FOLEY: Committee amendments are adopted. [LB331]

CLERK: I have nothing further on the bill, Mr. President. [LB331]

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PRESIDENT FOLEY: Seeing no one in the queue, Senator Stinner, you're recognized to close on the advance of the bill. He waives close. The question before the body is the advance of LB331 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB331]

CLERK: 37 ayes, 1 nay, Mr. President, on the advancement of LB331. [LB331]

PRESIDENT FOLEY: LB331 advances. Proceeding to the next bill, LB332. Mr. Clerk. [LB331 LB332]

CLERK: Mr. President. LB332, introduced by the Speaker at the request of the Governor. (Read title.) The bill was introduced on January 12, referred to the Appropriations Committee, advanced to General File. There are committee amendments pending. (AM595, Legislative Journal page 1122.) [LB332]

PRESIDENT FOLEY: Senator Stinner, you're recognized to open LB332. [LB332]

SENATOR STINNER: Thank you, Mr. President and members of the Legislature. LB332 was introduced by the Speaker at the request of the Governor. It is part of the Governor's biennial budget recommendation. The bill's primary purpose is to amend Nebraska Revised Statute, Section 84-612 to provide for transfers to and from the Cash Reserve Fund. With your consent, Mr. President, I would request that we move to AM595. [LB332]

PRESIDENT FOLEY: Senator Stinner, please proceed with the committee amendment. [LB332]

SENATOR STINNER: Thank you, Mr. President. The committee amendment, AM595 reflects Appropriations Committee recommendations which makes the following changes to the original bill. Number one, it makes a series of quarterly transfers, totaling \$173 million from the Cash Reserve Fund to the General Fund during 2018-'19. Please note there is an error in the committee statement identifying this transfer as \$170 million. The committee amendment under Subsections (7), (8), (9) and (10) bring the sum to \$173 million as per committee intent and is reflected in the budget book. I wish to make this clarification point for the record. Number two,

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it eliminates the Governor's proposed transfer of \$17.5 million from the General Fund to the Cash Reserve Fund on or before June 30, 2019. Three, it strikes certain provisions of the bill that identify transfers already completed in fiscal year '15-16. I wish to point out that the quarterly transfers in the next fiscal year gives greater flexibility to the Legislature to alter those transfers in the next legislative session should the opportunity arise. These transfers are meeting one purpose of the fund as a rainy day fund to bridge the gap in times of budget stress until revenue and expenditures can realign to structural balance. This will ultimately move us toward restoration of our minimum reserve requirement. It also sustains a higher balance for Cash Reserve Fund for the first fiscal year, which may be desirable should the cash flow from General Fund necessitate short-term transfers. Keep in mind the original purpose of this fund as described in law has been as a short-term borrowing pool of funds for the General Fund. The purpose remains to this day. Such borrowings have happened in the past and have automatically paid back by the General Fund through operations of law when the General Fund balance has returned to sustainable levels. In effect, the General Fund acts as a line of credit. I believe the way the \$173 million is scheduled for transfers maximizes our opportunities to manage through the financial stress we are facing. Additional transfers currently authorized under AM595 may be found on page 15 of the budget book. Thank you, Mr. President. [LB332]

PRESIDENT FOLEY: Thank you, Senator Stinner. Debate is now open on LB332 and the committee amendment. Senator Stinner, you're recognized to close on the committee amendment. He waives close. The question before the body is the adoption of AM595 committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB332]

CLERK: 35 ayes, 1 nay, Mr. President, on the adoption of committee amendments. [LB332]

PRESIDENT FOLEY: AM595 committee amendment is adopted. Senator Stinner, you're...Senator Schumacher, you're recognized. [LB332]

SENATOR SCHUMACHER: Thank you, Mr. President and members of the body. Digging into the cash reserves a significant amount of money. So easy to do, just press the button. That cash reserve took a long time to build up, so easy to spend. So terribly hard to build up again, terribly

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hard. You're going to wish it was there at some point in the future. A cash reserve was one of the things that I had hoped to have as a guidepost in my time here and to that extent I failed. The guidepost on revenue were very simple: not shift tax burden to the folks who make \$20,000 to \$120,000 a year; pay our bills; protect the cash reserve. Not a happy event that we have to dig into that and really sobering when you look across the economy of this country and the state and there's no real crisis. No real crisis. Farm prices are back on the trend line after a blip of an unusual nature. No unusual unemployment, we're at full employment, maybe over full employment. It's not a happy day, not a happy day. And so you have to ask ourselves, being spared the disaster of the 2008 crisis for the most part, what did we do wrong? What opportunity did we miss? What irrational exuberance did we engage in? Sad day we have to do this. I think we did something wrong, and I'll probably spend my last year here trying to figure out exactly what that was and what programs we locked in, and maybe have an opportunity to at least express that to you folks who will be here longer so that maybe you can use that as a guidepost to try to work your way out of the mess that we got ourselves into. Thank you. [LB332]

PRESIDENT FOLEY: Thank you, Senator Schmuacher. Senator Chambers. [LB332]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Stinner a question if he would yield. [LB332]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB332]

SENATOR STINNER: Yes, I will. [LB332]

SENATOR CHAMBERS: Senator Stinner, are we talking about what is in popular parlance referred to the rainy day fund? [LB332]

SENATOR STINNER: Yes, we are. [LB332]

SENATOR CHAMBERS: Whose idea was it originally to go into the rainy day fund to help close this gap that everybody is talking about? [LB332]

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SENATOR STINNER: Actually, I believe we were using the rainy day fund in LB22, which was the deficit bill and the Governor had, I believe, a \$92 million proposal to use the rainy day fund for balancing. [LB332]

SENATOR CHAMBERS: So it originated, frankly speaking, with the Governor? [LB332]

SENATOR STINNER: Well, it was in the first deficit bill, yes. [LB332]

SENATOR CHAMBERS: Thank you. Members of the Legislature, my name was invoked today. I started to say it was taken in vain, but when I mentioned that to Senator Harr who invoked my name, he said, well, I didn't take it in vain. So I said, well, I'll say you invoked it. He said I was not here. I was not here in this Chamber, but I was here with you. Remember what Jesus...well, you don't remember because you don't read the "Bible." But Jesus told his disciples when he was going wherever he was going, lo, I am with you always, even until the end of the world. My fractious children, lo, I am with you always even though you may not see me physically here I am watching. You've heard that song, prying eyes are watching you. Then I think two fellas named Hall and Oates sang a song, "Every Breath You Take," every move you make, every smile you fake, Every claim you stake I'll be watching you. You've heard of Hall and Oates? It wasn't Hall and Oates? Who was it? The Police. Do you know why I'm glad I was corrected on that, because I used that song at a time when I was being attacked by people for comments I made about the police. And Senator Williams and I laughed about it because he and I were the only ones who knew that the Police were the ones who sang that song. But Hall and Oates did sing a song about spying. And for those of you all who don't know, it was Daryl Hall and John Oates. And some of you may be more familiar with that song, "She's a Maneater" and other songs like that. They could sing well. I'm watching you, and I mentioned this to some of my colleagues. It's more of a strain to watch you as I do on that gadget in my office than it is to be watching you and listening up here. Up here I can look around. I see as somebody said deals being made, conversations going on, but down there it's like the isolation camera or isolated camera in football. It's focused right on the player and where the action is. The replay, if you will. So I don't have anything to distract me, and I listen, and that is very painful. But nevertheless that's what I signed on for. So lo, I am with you always. Senator Harr invoked my name saying that he learned from me, so I will give him this little shout out as they call it. Behold my protege in



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whom I am well pleased. Not where one of you invokes my name, there will I be with you. Jesus said, where two or three of you are gathered together, there will I be with you. [LB332]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR CHAMBERS: So why do I invoke this Jesus fellow? Well, he was a person...I will go into that the next time I'm recognized. Thank you, Mr. President. [LB332]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Krist. [LB332]

SENATOR KRIST: Thank you, Mr. President. Good afternoon, colleagues, Nebraska. I wondered if Senator Stinner would yield to a question or two? [LB332]

PRESIDENT FOLEY: Senator Stinner, would you yield, please? [LB332]

SENATOR STINNER: Yes, I will. [LB332]

SENATOR KRIST: Given the results of LB332 and what you can see in your crystal ball looking at our additional \$55 million shortfall, what will be the target figure that we will end up in that rainy day fund after we're said and done on this budget? [LB332]

SENATOR STINNER: Well, depending on the approach that the committee makes, either finding \$55 million in cuts or some other mechanism, we're sitting at an ending balance of about \$369 million, \$379 (million) at the end of the biennium, but then there's another \$10 million out there that's also pledged for the HVAC. So if you'd go out that far, it's another \$10 million off. [LB332]

SENATOR KRIST: And that's at the 3 percent level? [LB332]

SENATOR STINNER: I think the rainy day fund will still be at 7 percent level. [LB332]

SENATOR KRIST: Seven percent level. Okay. [LB332]

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SENATOR STINNER: It's actually the fourth largest in the United States. [LB332]

SENATOR KRIST: Okay, \$360 (million), for sake of argument, \$367 (million) you said. Thank you, Senator Stinner. I appreciate that. Colleagues, I will continue to remind you that at the end of the 2009 Special Session we ended up with about \$255 million, which is exactly what the federal subsidy--or what's called Obama money--brought into the state, and we were able with that money to hold the \$255 million, \$250 (million) to \$255 (million) level, I believe--let's call it \$250 (million) plus or minus--and we were able to restore money that was proposed to be cut in an even deeper fashion to education, in particular. So in perspective, we were able to move forward with \$250 (million) plus or minus, this being \$360 (million) plus or minus. We are on an edge. I am not as pessimistic as my colleague, "Professor" Schumacher, in terms of moving forward, but I think it's a benchmark by which you should take note in long term to make sure that that rainy day fund is there for the second of the April showers that will come along potentially in six to eight months when that committee meets again. So just as a matter of legislative record, we were at \$250 (million), we survived it. We put the money back in when we needed to. But it wasn't by accident, it was by focus and by intent. I think we need to keep that in mind as we move forward. Thank you, Senator Stinner and committee for your hard word and I rise in support of LB332 to advance to (microphone malfunction). [LB332]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Chambers. [LB332]

SENATOR CHAMBERS: Thank you, Mr. President. Members of the Legislature, I deliberately wanted to bring up that term, "rainy day fund" and the fact that the Governor decided to dip into that. And he had a theme song. You know what his theme song was? He looked over here at these chuckleheads and here's the song: Rain, rain, go away, little Johnny wants to play. Who is Johnny? The Governor. He's going to have his way, basically, with this body. That's why there's no respect for the Legislature. But I have to give Jesus that shout-out every day, because you all don't believe in him. Nobody wishes more fervently than I do that you all believed in this Jesus that you're always invoking. I wish you believed in him. If prayer worked, I would say my most fervent prayer is that you all would believe in this Jesus, but you don't believe him. But if there were such a person and if I were still in the streets I'd say, this is a cat that I could hang out with. You know why? Based on the accounts in the "Bible" he healed sick people and made the

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doctors mad at him. He raised the dead, he made the morticians and undertakers and gravediggers mad at him. When he fed the hungry he made the retailers mad at him. When he loved and cuddled the little children he made all those child haters mad at him who say that children who go to court don't need representation of a lawyer. Who else? He spent time with the ladies of the night for a reason other than what those who generally spend time with them, and he made all the pimps mad at him. You know how he made the religious people like you all mad at him? He healed people on the Sabbath, and then he taught them a very important lesson. He said, the Sabbath was made for man, not man for the Sabbath. Which one of you has an ass or a lamb that would fall in a well on the Sabbath and would not rescue that lamb or that ass, showing how phony all of these things are that you all say mean something? So when we see all of these different classifications of people across the spectrum that this Jesus fellow dealt with, you can say what was said of Thomas More, he was a man of all seasons. And that's quite a compliment, quite--if you pardon the expression--quite a cross to bear. And he wound up bearing a cross literally. So what does that have to do with this talk of going into the rainy day fund? Not very much. But when people watch these discussions about budgets and shortfalls and deficits and rainy day funds, cash funds, transfers, and all the rest of it, they get bored and they'll tend to go away. But when I speak they pay attention. You know how I know it? Because I've been getting letters to that effect. That's what they listen to. And then I began to think, if I were just reading transcripts of what happened in the Legislature, how long would I be able to read this talk of budgets and the things you all talk about when I'm not here? Not very long. But then if there was somebody who made comments that related to the sociological aspects of what was going on at that time during that period of history... [LB332]

PRESIDENT FOLEY: One minute. [LB332]

SENATOR CHAMBERS: ...talking about the ideological notions, I would search through those transcripts till I came to that person's name if I wanted to see what the blood, the sinew, the muscle of legislative debate is and indeed ought to be. So I take these opportunities on these bills that mean nothing to anybody, to get my two cents' worth in and that's what I'm doing. Thank you, Mr. President. [LB332]

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PRESIDENT FOLEY: Thank you, Senator Chambers. You may continue. It's your third time.  
[LB332]

SENATOR CHAMBERS: Now I'm going to get down to something serious. I heard during the debate on the last bill, the one that Senator Smith was valiantly trying to save from perdition-- where it deserved to go, and he knew it--I began to hear some rumblings about certain activities that could be described as procedural, where one amendment would be substituted for another, and how could you get something heard if other people were trying to stop it? Well, when you decide that you're going to deal with procedural matters, then you are getting onto my turf. You're intruding into my territory. And at this moment, you will not listen, but this that I'm saying is transcribed, and I can maybe use of it, perhaps during the latter days of this session that still remain. But if you decide to play the game of procedural one-upmanship, then make sure you know what you're getting into. There was a German military man, and he might have been called a marshal. I don't believe he was called a general, but he was respected, highly respected, even by his enemies. His name was Rommel and he was very clever. He may have been referred to as the Desert Fox. One time he took some poles and tricked the enemy into thinking they were artillery pieces, and because he was so renowned and had such a reputation, it worked. So when you're dealing with somebody who understands the techniques, the tactics, the strategies of warfare and you talk to that person, that person will tell you that you make a mistake when you have your enemy on the ropes, and this is whether you're in the boxing ring or on the battlefield. When your enemy is on the ropes, you don't let up, you don't back off, because the only one who gains from more time in your let up is your enemy. When the enemy is in full flight, you keep him running. When Muhammad Ali was fighting George Foreman, whom everybody feared, George had Ali on the ropes and thought he was going to win. He was flailing away. But Ali was doing what they call the rope-a-dope, he was moving, he was bobbing, weaving, riding with the punches, and George punched himself out. Then when George was on the ropes and Ali had his head on George's chest, Ali said, George, it sounds to me like you're tired and this is the worst place in the world to get tired and proceeded to knock him out. You all need to learn something. You're going to listen to the Governor, you're going to listen to the people out there in that rotunda, but this part of the session belongs to me. You're not listening, but I'm telling you. And the fact that you don't listen, doesn't mean you were not served notice. This is a bill of no

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consequence to anybody, but it offers a teaching moment. I'd like to ask Senator Stinner a question if I have time and he has time to respond. [LB332]

PRESIDENT FOLEY: Senator Stinner, will you yield, please? [LB332]

SENATOR STINNER: Yes, I will. [LB332]

SENATOR CHAMBERS: Senator Stinner, do we really need this bill? [LB332]

SENATOR STINNER: Yes, we do. [LB332]

SENATOR CHAMBERS: Thank you. Thank you, Mr. President. [LB332]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Stinner, you're recognized to close on LB332 advance. He waives close. The question before the body is the advance of LB332 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB332]

CLERK: 27 ayes, 3 nays, Mr. President, on the advance of LB332. [LB332]

PRESIDENT FOLEY: LB332 advances. Proceeding on the agenda to General File, State Claims bill. Mr. Clerk. [LB332]

CLERK: LB171 is a bill introduced by Senator Albrecht. (Read title.) Introduced on January 10, referred to the Business and Labor Committee. There are committee amendments pending. (AM672, Legislative Journal page 776.) [LB171]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Albrecht, you're recognized to open on LB171. If you'd like to proceed immediately into the committee amendment, you may do so as well. [LB171]

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SENATOR ALBRECHT: Great. Thank you. I would like to do that. Thank you, President Foley. LB171 provides the payments for the claims against the state. The Business and Labor Committee introduces the claims bill every year at the request of the Department of Administrative Services, Risk Management Division. This year's bills contain one miscellaneous claim, six tort claims, and an agency write-off request. We also have a committee amendment, AM672, which becomes necessary because, between the time the bill is drafted and the time that we get to the committee, there are additional claims brought to us by the Claims Board. The committee amendment replaces the bill. The committee amendment adds a new Section 2, consisting of four tort claims; a new Section 3, which contains two workmen's comp claims; and eight additional tort claims to Section 4. Because the committee amendment replaces the bill, I will go through AM672 to explain the claims. Please bear with me, for this is a lengthy opening as I go through the claims. Okay, Section 1 is a miscellaneous claim payable to the Nebraska Press Advertising Service to account for the cost of notice publications regarding the death penalty ballot measure voted upon during the November 2016 General Election. Publication of these legal notices is required by the Nebraska Constitution and the Nebraska statutes. Section 2 of the committee amendment contains four tort claims that arise out of the same incident. On May 20, 2014, a multiple motor vehicle accident occurred at an intersection approximately 13 miles south of Pilger, Nebraska. An eastbound vehicle failed to stop at the intersection and her vehicle was struck by a semi. The semi then crossed lanes and collided head-on with a vehicle owned by Pete Klein trucking. During the time of the collision, the Nebraska Department of Roads was repairing or replacing stop signs for eastbound traffic and this particular stop sign was missing. The department failed to properly warn of the missing stop sign. In Section 3, it involves two workers' compensation claims. The first claim for \$50,000 consists of a lump sum indemnity settlement involving a University of Nebraska custodian who injured his back on the job and has since undergone three back surgeries. Payments in the amount of \$100,000 have already been made to the claimant on the settlement. The second work comp claim in this section for \$50,000 involves a former University of Nebraska security officer who was injured while he was placing a box on a shelf and he was standing on a bench. The bench collapsed. The claimant lost consciousness as a result of the fall and was diagnosed with a concussion and bleeding outside the brain. Payments in the amount of \$100,000 have already been made to the claimant on the settlement. Section 4 contains settlements from the Attorney General's Office. The first claim is for \$100,000 dollars. The claimant alleges that the state trooper, while attempting to

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overtake a speeding vehicle, lost control and struck the claimant. The claimant sustained injuries, medical expenses, and lost wages. The next two claims are companion claims that arise out of the same incident. Dannie Fielder pulled onto the shoulder of I-80 to check on the welfare of the state trooper who slid into the ditch due to slick road conditions. When Mr. Fielder pulled off the road, his vehicle was still partially in the lane but he was unaware because now...because snow was covering the markings. A second vehicle struck Mr. Fielder's vehicle and slid into the ditch. The trooper advised Mr. Fielder to pull his car closer to the shoulder, avoiding being hit, and while doing so a third vehicle driven by a state trooper, a state of Nebraska employee, struck Mr. Fielder's vehicle, causing damages and injuries. The next six claims, starting on page 4, line 11, and continuing through page 5, line 3 of the amendment, arises out of the same incident. A family was driving when a Nebraska trooper failed to heed the red light and ran through it. The trooper did not have any lights or his siren on and was not on official Patrol business at the time of the incident...or the accident. Excuse me. As a result of the accident, injuries were sustained by all parties, as well as the total loss of the vehicle. The final four claims of Section 4 arise from an accident that occurred when a Department of Corrections state employee was operating a Freightliner owned by the state, stopped at a stop sign, and then entered the intersection where he collided with a vehicle, causing injury and property damage. Section 6 claims concern agency write-off requests. Agencies are required to seek the Claim Board's approval for debt write-offs. The board approved all of the requests, which are found in LB171 and the committee amendment. The board determined that the debts were uncollectible either because the debtor or the deceased or the debt has been discharged through bankruptcy or the board was satisfied with the department's effort to collect the debt, which were unsuccessful. The Clerk of the Legislature's request involved money owed from reproduction, certifications, and postage, and packaging. The Military Department's request is for course fees under the National Guard Tuition Assistance Program, where participants failed to repay when they withdrew from classes. The Nebraska Game and Parks' request involved nonsufficient funds, a 2015 permit agent, and cash change fund shortage. The Nebraska Public Employees Retirement System involves overpayments of retirement benefits to payees who have since become deceased. The beneficiaries were notified of the overpayments; however, repayment was not made. The date of these overpayments ranged from May of 2009 through January 2014, and were made to 11 employees. The State Fire Marshal's request is for an uncollectible annual registration fee of underground storage tanks, unpaid invoices for fire reports, and unpaid inspection fees. They

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involve 40 claims ranging from 2009, 2011, 2013, and 2014. These debts are uncollectible for numerous reasons, including bankruptcies, inability to locate listed owners, and deaths. The Supreme Court's request involves uncollectible fax, copy, postage, and certification fees. The Department of Health and Human Services' requests represent debt either referred to a collection agency and returned as uncollectible or involves debtors who continue to be on a needs basis assistance past the application statute of limitation period. Well over 99 percent of the debts submitted are because, number one, the debtor has passed away with no probate filed or, number two, the debtor had the debt discharged in bankruptcy or, number three, the statute of limitations has passed. Category 3 includes 86 percent of this debt. The Department of Aeronautics' request relates to a hangar space that was leased by Charles Parmley at the Scribner airfield. Mr. Parmley stopped making payments in June of 2015 and abandoned the hangar. And finally, the Department of Roads' request relates to damage to state property due to a car accident. These typically involve guardrails, signage, and state-owned vehicle damage. This is the full introduction of the bill and the amendment. I would just ask for your support of AM672 and LB171. Thank you. [LB171]

PRESIDENT FOLEY: Thank you, Senator Albrecht. Debate is now open on LB171 and the committee amendment. Senator Albrecht, you're recognized to close on the committee amendment. She waives closing. The question before the body is the adoption of AM672, committee amendment. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB171]

CLERK: 30 ayes, 0 nays, Mr. President, on adoption of committee amendments. [LB171]

PRESIDENT FOLEY: Committee amendment is adopted. Continuing debate on the bill, Senator Chambers. [LB171]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask my Chairperson, Senator Albrecht, a question if she would respond. [LB171]

PRESIDENT FOLEY: Senator Albrecht, would you yield, please? [LB171]



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SENATOR ALBRECHT: Yes, sir. [LB171]

SENATOR CHAMBERS: Senator Albrecht, do you have a figure that gives the total amount of all these claims combined? [LB171]

SENATOR ALBRECHT: I do have, but it doesn't include the \$2 million, does it, for the first...? Can I get right back to you? [LB171]

SENATOR CHAMBERS: Yes. For the sake of the transcriber, she's procuring that figure. [LB171]

SENATOR ALBRECHT: Okay. [LB171]

SENATOR CHAMBERS: Here it comes. [LB171]

SENATOR ALBRECHT: In the fiscal note, which should be correct, a total for claims is \$689,196, and agency write-offs is \$937,293. [LB171]

SENATOR CHAMBERS: So \$900,000 about, and about \$700,000 would be about \$1,600,000. I would like to proclaim my Chairperson, Senator Albrecht, the biggest spender of this session. Thank you, members of the Legislature. [LB171]

PRESIDENT FOLEY: Thank you, Senator Chambers. Seeing no further discussion, Senator Albrecht, you're recognized to close on the advancement of the bill. She waives closing. The question before the body is the advance of LB171 to E&R Initial. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB171]

CLERK: 35 ayes, 0 nays, Mr. President, on the advancement of LB171. [LB171]

PRESIDENT FOLEY: LB171 advances. Proceeding in the agenda to Select File consent calendar, members, this will require a number of voice votes, as you know, so please be attentive. Mr. Clerk, first bill. [LB171]

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CLERK: LB371. Senator, I have no amendments to the bill. [LB371]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB371]

SENATOR WISHART: Mr. President, I move to advance to LB371 to E&R for engrossing. [LB371]

PRESIDENT FOLEY: Members, you heard the motion to advance LB371. Those in favor say aye. Those opposed say nay. LB371 advances. Next bill, please. [LB371]

CLERK: LB86 does have Enrollment and Review amendments, Senator. (ER71, Legislative Journal page 1192.) [LB86]

PRESIDENT FOLEY: Senator Wishart. [LB86]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB86. [LB86]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Next bill. [LB86]

CLERK: Nothing further on the bill, Senator. [LB86]

PRESIDENT FOLEY: Senator Wishart. [LB86]

SENATOR WISHART: Mr. President, I move to advance LB86 to E&R for engrossing. [LB86]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB86 advances. Next bill, please. [LB86]

CLERK: LB476. Senator, I have no amendments to the bill. [LB476]

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PRESIDENT FOLEY: Senator Wishart. [LB476]

SENATOR WISHART: Mr. President, I move to advance LB476 to E&R for engrossing.  
[LB476]

PRESIDENT FOLEY: Members, you heard the motion to advance LB476 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB476 advances. Next bill, please.  
[LB476]

CLERK: LB406 does have Enrollment and Review amendments. (ER73, Legislative Journal page 1192.) [LB406]

PRESIDENT FOLEY: Senator Wishart. [LB406]

SENATOR WISHART: Mr. President, I move the adoption of E&R amendments to LB406.  
[LB406]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB406]

CLERK: I have nothing further on that bill. [LB406]

PRESIDENT FOLEY: Senator Wishart. [LB406]

SENATOR WISHART: Mr. President, I move to advance LB406 to E&R for engrossing.  
[LB406]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB406 advances. Next bill, please. [LB406]

CLERK: LB584 does have Enrollment and Review amendments, Senator. (ER74, Legislative Journal page 1192.) [LB584]

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PRESIDENT FOLEY: Senator Wishart? [LB584]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB584. [LB584]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB584]

CLERK: I have nothing further on that bill, Senator. [LB584]

PRESIDENT FOLEY: Senator Wishart? [LB584]

SENATOR WISHART: Mr. President, I move to advance LB584 to E&R for engrossing. [LB584]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB583 advances. Next bill, please. [LB584]

CLERK: LB375. I have no amendments to the bill. [LB375]

PRESIDENT FOLEY: Senator Wishart. [LB375]

SENATOR WISHART: Mr. President, I move to advance LB375 to E&R for engrossing. [LB375]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB375 advances. Next bill, please. [LB375]

CLERK: LB463. Senator, I have no amendments to the bill. [LB463]

PRESIDENT FOLEY: Senator Wishart. [LB463]

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SENATOR WISHART: Mr. President, I move to advance LB463 to E&R for engrossing.  
[LB463]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB463 advances. Next bill, please. [LB463]

CLERK: LB318. Senator, there are E&R amendments pending. (ER76, Legislative Journal page 1193.) [LB318]

PRESIDENT FOLEY: Senator Wishart. [LB318]

SENATOR WISHART: Mr. President, I move the adoption of E&R amendments to LB318.  
[LB318]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB318]

CLERK: Nothing further, Senator. [LB318]

PRESIDENT FOLEY: Senator Wishart. [LB318]

SENATOR WISHART: Mr. President, I move to advance LB318 to E&R for engrossing.  
[LB318]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB318 advances. Next bill, please. [LB318]

CLERK: LB280, Mr. President. E&R amendments first of all, Senator. (ER75, Legislative Journal page 1193.) [LB280]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB280]

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SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB280.  
[LB280]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB280]

CLERK: I have nothing further on that bill, Senator. [LB280]

PRESIDENT FOLEY: Senator Wishart. [LB280]

SENATOR WISHART: Mr. President, I move to advance LB280 to E&R for engrossing.  
[LB280]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB280 advances. Next bill, please.  
[LB280]

CLERK: LB624, I have no amendments to the bill. [LB624]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB624]

SENATOR WISHART: Mr. President, I move to advance LB624 to E&R for engrossing.  
[LB624]

PRESIDENT FOLEY: That's a debatable motion. Senator Crawford, you're recognized. [LB624]

SENATOR CRAWFORD: Thank you, Mr. President, and thank you, Senator Wishart. We just had a couple of questions I wanted to make sure we got on the record for legislative intent. And so I appreciate your cooperation to answer just a couple of questions, if Senator Wishart would yield. [LB624]

PRESIDENT FOLEY: Senator Wishart, would you yield, please? [LB624]

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SENATOR WISHART: Yes. [LB624]

SENATOR CRAWFORD: Thank you. So my first question is on the first line, it says "Unless requested in writing." Will an e-mail or Web form suffice as "in writing"? [LB624]

SENATOR WISHART: Yes, it will. [LB624]

SENATOR CRAWFORD: And will the county have any responsibility to monitor the identity of who sends that e-mail or fills out that Web form? [LB624]

SENATOR WISHART: No, they will not. [LB624]

SENATOR CRAWFORD: Thank you. And then also in the bill there is a definition, it's a "certified law enforcement identification number." So is it your intent that currently this bill will apply to those individuals who have that identification number currently? [LB624]

SENATOR WISHART: Yes. [LB624]

SENATOR CRAWFORD: And it would be up to the counties to interpret what that means and...in terms of how they request that number in their own county? [LB624]

SENATOR WISHART: Yes. [LB624]

SENATOR CRAWFORD: Thank you. I appreciate that, Senator Wishart. [LB624]

PRESIDENT FOLEY: Thank you, Senators Crawford and Wishart. Senator Chambers. [LB624]

SENATOR CHAMBERS: Mr. President, I'd like to ask Senator "Wiseheart" a question if she would respond. [LB624]

PRESIDENT FOLEY: Senator Wishart, would you yield, please? [LB624]

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SENATOR WISHART: Yes. [LB624]

SENATOR CHAMBERS: Senator "Wiseheart," since you are the introducer of this bill and also the one making the motion, do you detect any conflict of interest? [LB624]

SENATOR WISHART: Not at this time. [LB624]

SENATOR CHAMBERS: Thank you. I don't either. [LB624]

PRESIDENT FOLEY: Thank you, Senator Chambers and Senator Wishart. Senator Chambers, you're...members, you've heard the motion to adopt the E&R amendments (sic). Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Senator Wishart. [LB624]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB624 to E&R for engrossing. [LB624]

PRESIDENT FOLEY: Members, you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB624 advances. Next bill, please. [LB624]

CLERK: LB204, Senator, I have no amendments to the bill. [LB204]

PRESIDENT FOLEY: Senator Wishart. [LB204]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments (sic) to LB204. [LB204]

PRESIDENT FOLEY: Members, you heard the motion to advance LB204 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB204 advances. Next bill, please. [LB204]



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CLERK: LB492. No E&Rs. Senator Harr, Senator, I have amendments pending. The first is AM1218 but I noted you wish to withdraw that. Mr. President, Senator Harr would move to amend with AM1234. (Legislative Journal page 1260.) [LB492]

PRESIDENT FOLEY: Senator Harr, you're recognized to open on AM1234. [LB492]

SENATOR HARR: Thank you, Mr. President, members of the body. AM1234 is a technical amendment worked out by the Department of Motor Vehicles, the Nebraska Bankers Association, and the self-storage industry to clarify language regarding liens of vehicles, motorboats, and trailers. Specifically, AM1234 makes it clear that if a good-faith purchaser buys a vehicle, motorboat, or trailer at a lien sale conducted by an operator of a self-service storage facility, the sale shall extinguish any lien or security interest in the property of any holder of such lien or security interest to whom notice of the sale was sent. Thank you. [LB492]

PRESIDENT FOLEY: Debate is now open on the amendment. Senator Chambers. [LB492]

SENATOR CHAMBERS: Thank you. I'd like to ask Senator Harr a question. [LB492]

PRESIDENT FOLEY: Senator Harr, would you yield, please? [LB492]

SENATOR HARR: Yes. [LB492]

SENATOR CHAMBERS: Senator Harr, was this matter that you're bringing in this amendment covered in the bill as dealt with up to this point? [LB492]

SENATOR HARR: There were requests for some clarity. Yes, it was. It was in there, but there was some concerns as to whether it was clear enough. [LB492]

SENATOR CHAMBERS: What is new? What actually is added to the bill that would not be in the bill were not this added? In other words, what is the new matter? [LB492]

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SENATOR HARR: Oh. What happens if there's security interest on a motor vehicle, a trailer, or a motorboat. [LB492]

SENATOR CHAMBERS: And that is covered in the bill, even without this language you're offering? [LB492]

SENATOR HARR: Yes, it's covered already, but this clarifies more specifically. [LB492]

SENATOR CHAMBERS: That's all I have. Thank you, Mr. President. [LB492]

PRESIDENT FOLEY: Thank you, Senators Chambers and Harr. Seeing no further discussion, Senator Harr, you're recognized to close. He waives closing. The question before the body is the adoption of AM1234. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk. [LB492]

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of Senator Harr's amendment. [LB492]

PRESIDENT FOLEY: AM1234 is adopted. [LB492]

CLERK: I have nothing further on the bill, Mr. President. [LB492]

PRESIDENT FOLEY: Senator Wishart. [LB492]

SENATOR WISHART: Mr. President, I move to advance LB492 to E&R for engrossing. [LB492]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB492 advances. Next bill, please. [LB492]

CLERK: LB274. Senator, I have no amendments to the bill. [LB274]

PRESIDENT FOLEY: Senator Wishart. [LB274]

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SENATOR WISHART: Mr. President, I move to advance LB274 to E&R for engrossing.  
[LB274]

PRESIDENT FOLEY: That's a debatable motion. Senator Chambers, you're recognized.  
[LB274]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I'd like to ask Senator Halloran a question, if he would answer. [LB274]

PRESIDENT FOLEY: Senator Halloran, would you yield, please? [LB274]

SENATOR HALLORAN: Indeed. [LB274]

SENATOR CHAMBERS: Senator Halloran, are grasshoppers no longer a problem in Nebraska?  
[LB274]

SENATOR HALLORAN: I've only found two in my lifetime. [LB274]

SENATOR CHAMBERS: So then there's no further need to control them. [LB274]

SENATOR HALLORAN: Well, occasionally. It might happen. It might be a plague. [LB274]

SENATOR CHAMBERS: But you're doing away with the control...the Grasshopper Control Act.  
[LB274]

SENATOR HALLORAN: Oh, be done with it. Let's just vote on this and move on. (Laugh)  
[LB274]

SENATOR CHAMBERS: Thank you. That's all. [LB274]

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PRESIDENT FOLEY: Thank you, Senators Chambers and Halloran. Members, you heard the motion to advance the bill. The question before the body is to advance it. All those in favor say aye. Those opposed say nay. LB274 advances. Next bill, please. [LB274]

CLERK: LB209. Senator, I have no amendments to the bill. [LB209]

PRESIDENT FOLEY: Senator Wishart. [LB209]

SENATOR WISHART: Mr. President, I move to advance LB209 to E&R for engrossing. [LB209]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB209 advances. Next bill, please. [LB209]

CLERK: LB307. I have no amendments to the bill. [LB307]

PRESIDENT FOLEY: Senator Wishart. [LB307]

SENATOR WISHART: Mr. President, I move to advance LB307 to E&R for engrossing. [LB307]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB307 advances. Next bill, please. [LB307]

CLERK: LB517 does have Enrollment and Review amendments. (ER79, Legislative Journal page 1208.) [LB517]

PRESIDENT FOLEY: Senator Wishart. [LB517]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB517. [LB517]

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PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB517]

CLERK: Senator Pansing Brooks would move to amend with AM1221. (Legislative Journal page 1260.) [LB517]

PRESIDENT FOLEY: Senator Pansing Brooks, you're recognized to open on AM1221. [LB517]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. Senator Clements raised a question during debate on General File, and he and I spoke afterwards, after the bill had advanced. And my office and I have worked with the Nebraska Bankers Association and the Nebraska State Bar Association, who did bring this bill originally, to prepare AM1221. At a high level, the amendment simply is designed to maintain existing law regarding how banks handle jointly held bank accounts or accounts with a payable on death designation. Because these types of accounts are used very commonly, there are already statutes governing how notice is provided to a bank and how a bank distributes those assets under these accounts. So this amendment, a friendly amendment, ensures that those statutes will still apply. And I think that Senator Clements wants to speak a little bit further about the amendment. [LB517]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Clements, you're recognized. [LB517]

SENATOR CLEMENTS: Thank you, Mr. President. AM1221 to LB517 addresses a concern I did raise during General File. LB517 is an update to the Nebraska Probate Code regarding who is to receive payment where there has been a divorce, annulment, or remarriage but a prior name is still on the payer's record. My concern was regarding what constitutes knowledge for financial institutions. I was informed that existing law in Section 30-2732 already provides rules for financial institution payments in these situations, so in order to avoid conflicting rules regarding financial institution liability and notices, AM1221 provides that financial institutions will be governed by 30-2732. Senator Pansing Brooks and the Bankers Association, the Bar Association worked out this wording and provided it to me. It's my understanding that both associations are

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supportive of the amendment. I thank Senator Pansing Brooks for working with me. In closing, I request you vote for AM1221 and for the advancement of LB517. Thank you. [LB517]

PRESIDENT FOLEY: Thank you, Senator Clements. Senator Chambers. [LB517]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I would like to ask Senator Pansing Brooks a question or two if she would respond. [LB517]

PRESIDENT FOLEY: Senator Pansing Brooks, will you yield, please? [LB517]

SENATOR PANSING BROOKS: Yes. [LB517]

SENATOR CHAMBERS: Senator Pansing Brooks, you may not remember this, but during what was called the Farm Crisis in the farm community, there was a feeling that bankers had taken advantage of farmers, encouraging them to borrow beyond what they would be able to pay back. Have you heard that, without making a judgment? Had you heard that feeling expressed? [LB517]

SENATOR PANSING BROOKS: I have heard that. [LB517]

SENATOR CHAMBERS: And you said that the Bar Association is the other group that worked on this amendment? [LB517]

SENATOR PANSING BROOKS: It is, but there were no grasshoppers. [LB517]

SENATOR CHAMBERS: Have you heard...have you heard people say, don't hop to conclusions, my godchild? Have you heard people say that lawyers rob you all the time? [LB517]

SENATOR PANSING BROOKS: I have never heard that. [LB517]

SENATOR CHAMBERS: Have you heard anybody say that lawyers rob people? [LB517]

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SENATOR PANSING BROOKS: Uh, I think, yeah, I don't...no, I really haven't heard that before. [LB517]

SENATOR CHAMBERS: Well, if people had made such a claim--and I've heard it made--would you object to this being dubbed the Jesse James-Frank James amendment? [LB517]

SENATOR PANSING BROOKS: (Laugh) No, you mean because of Senator Rob Clements? Is that why this is that...? [LB517]

SENATOR CHAMBERS: Call no names and bear no blame. That's all I have. Thank you. [LB517]

PRESIDENT FOLEY: Thank you, Senator Chambers, Senator Pansing Brooks. Seeing no further discussion, Senator Pansing Brooks, you're recognized to close on your amendment. She waives closing. The question before the body is the adoption of AM1221. Those in favor vote aye; those opposed vote nay. Have you all voted? Record please, Mr. Clerk. [LB517]

CLERK: 39 ayes, 0 nays on adoption of the amendment. [LB517]

PRESIDENT FOLEY: AM1221 is adopted. [LB517]

CLERK: Nothing further on the bill. [LB517]

PRESIDENT FOLEY: Senator Wishart. [LB517]

SENATOR WISHART: Mr. President, I move to advance LB517 to E&R for engrossing. [LB517]

PRESIDENT FOLEY: Members, you heard the motion to advance LB517 to E&R for engrossing. Those in favor say aye; those opposed say nay. LB517 advances. Next bill, please. [LB517]

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CLERK: LB320. I have no amendments to the bill, Senator. [LB320]

PRESIDENT FOLEY: Senator Wishart. [LB320]

SENATOR WISHART: Mr. President, I move to advance LB320 to E&R for engrossing.  
[LB320]

PRESIDENT FOLEY: Members, you heard the motion to advance LB320. Those in favor say aye. Those opposed say nay. LB320 advances. Next bill, please. [LB320]

CLERK: LB458. I have no amendments to the bill. [LB458]

PRESIDENT FOLEY: Senator Wishart. [LB458]

SENATOR WISHART: Mr. President, I move to advance LB458 to E&R for engrossing.  
[LB458]

PRESIDENT FOLEY: Members, you heard the motion to advance LB458 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB458 advances. Next bill, please.  
[LB458]

CLERK: LB200. There are E&R amendments. (ER78, Legislative Journal page 1208.) [LB200]

PRESIDENT FOLEY: Senator Wishart. [LB200]

SENATOR WISHART: Mr. President, I move the adoption of E&R amendments to LB200.  
[LB200]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB200]

CLERK: Nothing further on that bill, Senator. [LB200]



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SENATOR WISHART: Mr. President, I move to advance LB200 to E&R for engrossing.  
[LB200]

PRESIDENT FOLEY: Members, you heard the motion to advance LB200. Those in favor say aye. Those opposed say nay. LB200 advances. Next bill, please? [LB200]

CLERK: LB508. There are E&R amendments. (ER77, Legislative Journal page 1208.) [LB508]

PRESIDENT FOLEY: Senator Wishart. [LB508]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB508.  
[LB508]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB508]

CLERK: I have nothing further on that bill, Senator. [LB508]

PRESIDENT FOLEY: Senator Wishart. [LB508]

SENATOR WISHART: Mr. President, I move to advance LB508 to E&R for engrossing.  
[LB508]

PRESIDENT FOLEY: Members, you heard the motion to advance LB508. Those in favor say aye. Those opposed say nay. LB508 advances. Next bill, please. [LB508]

CLERK: LB382. Senator, I have no amendments to the bill. [LB382]

PRESIDENT FOLEY: Senator Wishart. [LB382]

SENATOR WISHART: Mr. President, I move to advance LB382 to E&R for engrossing.  
[LB382]

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PRESIDENT FOLEY: Members, you heard the motion to advance LB382 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB382 advances. That completes Select File. Mr. Clerk, items for the record? [LB382]

CLERK: Mr. President, amendments to be printed to LB461 by Senator Watermeier, and to LB327 by Senators Craighead and Wayne. (Legislative Journal pages 1287-1290.) [LB461 LB327]

Mr. President, Senator Linehan would move to recess the body until 6:15.

PRESIDENT FOLEY: Members, you heard the motion to recess for 45 minutes. Those in favor say aye. Those opposed say nay. We are in recess.

RECESS

PRESIDENT FOLEY PRESIDING

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

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

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

CLERK: I have nothing at this time.

PRESIDENT FOLEY: Thank you, Mr. Clerk. We will now proceed to the evening agenda and the motion to place a bill on General File. Mr. Clerk.

CLERK: Mr. President, Senator Linehan would move to place LB651 on General File pursuant to Rule 3, Section 20(b). [LB651]

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PRESIDENT FOLEY: Senator Linehan, you're recognized to open on your motion. [LB651]

SENATOR LINEHAN: Thank you, Mr. President. And thank you all for being here this evening. LB651, Nebraska Reading Improvement Act, is an effort to make certain that all children by the time they end third grade are proficient at third grade reading because these are the statistics. And I think to really understand the importance of this, these are the numbers we should focus on. Nearly 90 percent of the students who fail to earn a high school diploma were struggling readers in the third grade, 90 percent. Almost 85 percent of teenagers in the juvenile justice system are functionally illiterate. Seven out of ten adult prisoners can't read above the fourth grade level. High school dropouts make up 90 percent of the Americans on welfare and 75 percent of food stamp recipients. Two thirds of the students who cannot read proficiently by the end of the fourth grade will end up in jail or on welfare. Our prisons' records show that inmates have a 16 percent chance of returning to prison if they receive literacy help as opposed to 70 percent who receive no help. Literacy and crime are closely related. The Department of Justice states the link between academic failure, delinquency, violence, and crime is welded to a reading failure. Over 70 percent of inmates in America's prisons cannot read above fourth grade level. Forty-three percent of adults at level one literacy skills live in poverty compared to only 4 percent of those at level five. Low literacy costs \$73 million per year in terms of direct healthcare costs. High school dropouts make up 75 percent of the citizens receiving food stamps. According to the 2015 National Assessment of Educational Progress, only 39 percent of fourth grade readers and only 38 percent of eighth grade readers are proficient in reading. Low income students and students of color perform significantly worse than middle to high income white students. And Nebraska, as I think we're all aware, has one of the largest white-black student achievement gaps in the nation in eighth grade reading. There is a lot of discussion about scores and I just...there's two scores we talk about in Nebraska is the NeSA scores which are Nebraska testing which started in 2011-12 school year, which were...efforts have been built on that by that time. But the time before then, we didn't do statewide testing. And Chairman Raikes, who was Chairman of the Education Committee, had a huge battle with people in education about whether we should do statewide testing at all. After a couple of years of real wrangling, he won that battle. We instituted statewide testing and every year our state scores have gone up because I think as we all know, what gets measured improves. Now there has been a lot of conversation, a lot of e-mail traffic about what the bill does and does not do. First and foremost, it is not an

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effort to try and hold kids back. It's quite the opposite. The bill states that when a kindergartener, first grade, second grade, and third grade you are watching their reading progress every grade level. Some school districts I've talked to do this already. Kindergarteners come in, they take a test, where are they? Do they know their letters? Are they already reading? Are we starting at ground zero? Then they also look at them again at semester break--and I have had administrators tell me this--that way you can see if you got 4 or 5 kids struggling out of 18 or if you have all 18 struggling. If all 18 are struggling, you probably need a teacher that needs some coaching. If you have got four or five, you can find those kids in kindergarten and start helping them then. And then you test them again in the spring. And all this time the parents need to be involved. You can't leave parents out of the loop on this. And I know that most schools, I'm sure, always try to be in contact with parents and sometimes it is more difficult than it should be; but the parents need to be part of this equation. So if they are found to be struggling in kindergarten or first grade, they get help then. So hopefully by the time they are third graders, they've worked through the problems, everybody know what the situation is, and they are reading. There are exceptions to holding the child back too. There are seven of them. If a child is an English language learner and had less than two years of English, you wouldn't expect them to read at grade level and the bill clearly states that they are not expected to. Also if a student demonstrates performance at or above grade level on alternative standardized reading assessment, they will not be held back. A student who demonstrates through a student portfolio performance at or above grade level as evidenced by demonstrating mastery of all third grade state reading standards through multiple work samples, those two. A student who is a child with disability as defined in section 79-117 and has an IEP which indicates that participation in a local assessment program is not appropriate. Three, a limited...I said this already, I'm sorry, a limited English proficiency student. Four, a student who has a child with a disability defined as Section 79-117 and participates in a local assessment and has an individualized IEP. Five, a student who has received intensive reading intervention services for more than...for two or more years but still demonstrates reading deficiency and who was previously retained. So if the child gets to third grade but they've already been retained, they wouldn't be retained again. Obviously, I have no desire, I don't think anybody who is working with me on this bill has the desire to see kids held back. And I have asked my colleagues bring me another hammer. I know that holding a child back sounds harsh. But if we don't have some kind of measurement, I fear that nothing really will happen, again going back to we correct what we measure, what we watch I've talked to some about an amendment. I am

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willing to look at amendments. It is not appropriate now because we have to get it on to the floor first. But it has been brought to my attention and I agree with this that parents maybe should be more involved and maybe even should have the ability to say no to holding the child back. I am willing to look at that. I'm also willing to look...oh, one thing I do want to make clear and I will make because I think this is right. I have talked to enough school districts now--different ones use different assessments whether it's DIBELS or MAPP. And I think if the districts are using assessment and they are happy with that assessment, I don't see any need for a statewide testing program. So if you take that out, there is no fiscal note at the state level. So again, this is to make sure that kids get started right because you can imagine...and I've talked to people here on the floor who were not good readers and I've talked to staff who is here with us tonight who had family that were not good readers. And, yes, it might be hard to hold a third grader back. But if you leave the third grade not reading, I can promise you school just gets more miserable every year you are there. And by the time you get to the seventh and eighth grade and you can't read and people are making fun of you and teachers are keeping you in or your parents are mad at you because your grades aren't well or you're getting kept off the sports teams... [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR LINEHAN: ...you will quit school unless you have parents and hopefully some of the people who had children with struggles will speak to this tonight. Unless you have parents who can somehow get you the extra help, whether it be a tutor or some take them to programs and you have the parents with the means to do that, you are going to most likely drop out of school. And what's...I know you've all heard me talk about this before but in my particular situation and I think Patty can speak to this, too, excuse me, Senator Pansing Brooks, if you're a kid with dyslexia, the chances that somebody in your family has that are very strong. And chances if you are a child who can't read, one of your parents can't read. So this is something that the schools have to... [LB651]

PRESIDENT FOLEY: Time, Senator. [LB651]

SENATOR LINEHAN: ...there's no other way to... [LB651]

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PRESIDENT FOLEY: Time, Senator. [LB651]

SENATOR LINEHAN: ...grab those kids. Thank you very much. [LB651]

PRESIDENT FOLEY: Thank you, Senator Linehan. There are currently 20 senators in the speaking queue. Senator Craighead, you are recognized. [LB651]

SENATOR CRAIGHEAD: Thank you, Mr. Lieutenant Governor. And good evening, colleagues. I hope we all don't get carbohydrate overload over that great pizza. To me, reading is the basic of education. While I was never trained as an educator, I have taught in every single job that I have ever had. I think this is a very important bill and I support MO103 and LB651 and I yield the rest of my time to Senator Krist. [LB651]

PRESIDENT FOLEY: Thank you, Senator Craighead. Senator Krist, 4:30. [LB651]

SENATOR KRIST: Thank, Mr. President. Good evening, colleagues, and good evening, Nebraska. Although I wholeheartedly support the bill, LB651, and have for many years talked about our issues in dyslexia in terms of early intervention and reading skills and have been a supporter of the issue, at hand tonight, colleagues, is not whether or not we support the bill, but whether or not we support the process involved with pulling the bill out of committee. If you look at your schedule, it references Rule 3, Section 20(b). "Any senator may move that a bill be placed on General File twenty calendar days or more after the committee hearing, if the committee has not taken final action on the bill, and by a vote of a majority of the elected members, said bill shall be placed on General File. Final action taken by the committee following a motion filed pursuant to this subsection, and prior to when debate is initiated on the motion by the Legislature, shall take precedence over such motion. If, at the expiration of eight calendar days from the date final action was taken, the chairperson has not reported the bill, any senator may file with the Speaker a motion that the chairperson be compelled to submit a report. After determining that final action on the bill has been taken at least eight calendar days prior to the date the motion was submitted, the Speaker shall accept the motion and compel the chairperson to file the committee's report on the matter." To my knowledge, this bill--and those that follow me will have to confirm or deny--to my knowledge this bill has not had a vote to

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actually take it out or an Executive Session to take it out of committee. And I think the members of Education Committee are going to have to confirm that for us. And as much as I support Senator Linehan's bill and the emphasis on reading skills for third graders, colleagues, I don't want to lecture tonight, Senator Erdman, in any way. I just want to bring to the attention of this body that pulling a bill out of committee, particularly when it has not had a vote or the committee Chairman has not reported it out, is an action that should not be taken lightly. And I think that is enough justification for us to actually talk about the process of pulling it out and putting it on General first before we should discuss the validity of the bill. And I know that Senator Craighead yielded me her time and she does as strongly support this bill as I do in content, in content. But I think we need to at least have a discussion about the process that we are undergoing here bringing that bill forward out of committee, pulling it out and putting it on General. Senator Murante is lecturing in terms of what is happening over here, and I can hear him because he is talking loud enough. He is saying it used to happen all the time. It used to happen. I won't put all the time after it. It used to happen. And it used to happen because there were such substantive bills in committees that were not being pushed out and we didn't have a discussion on the content of the bill. If that is Senator Linehan's intent, that was not addressed in her opening statement, so I would ask her to clarify. How much time do I have left? [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR KRIST: Okay. And with that, I can't yield the time to Senator Linehan, but I can ask her a question if Senator Linehan would yield. [LB651]

PRESIDENT FOLEY: Senator Linehan, will you yield, please? [LB651]

SENATOR KRIST: Is it your intention, Senator Linehan, to have this discussion on the floor because you felt it substantive enough and it did not get out of committee, you did not get it voted out? Is that the intent? [LB651]

SENATOR LINEHAN: I would like, yes. The intent is to have the discussion on the floor. And we couldn't get it out of committee. And I don't, you know, I would let other members of the

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committee speak to it, but I have been working I think since the second or third day I was here on this bill. It is my priority bill. [LB651]

SENATOR KRIST: I thank you for your answer and that's what I thought. And I also say, folks, I have been trying to get LB14 out of the Education Committee too. So I could do this and many others of us could do this. But I thank Senator Linehan for bringing the bill and applaud the content, but I think we need to be careful of the process that we are engaged in. Thank you, Mr. President. [LB651 LB14]

PRESIDENT FOLEY: Thank you, Senator Krist and Senator Linehan. Senator Baker. [LB651]

SENATOR BAKER: Thank you, Mr. President. Mr. President, may I make a deal with you? You know, I understand it might be important to talk about process. I am prepared to talk about content. If you would drop me down two or three behind people--I don't want to go clear to the end of the line--if you drop me down two or three and let people talk process first. And if you won't let me do that, I will go ahead and talk. [LB651]

PRESIDENT FOLEY: Senator, I'm sorry, I cannot do that. [LB651]

SENATOR BAKER: That's fine. I just want to say that Senator Linehan and I are in total agreement on importance of reading and getting kids at or above grade level in reading early on. You know, I have made that my top priority in my career. I think the state has made some pretty decent progress in the last 10, 15 years. You know, I look back at last year's testing on Nebraska students--82 percent of students were proficient in reading. My district of the six grades tested range anywhere from 91 percent of students proficient in reading to 96 percent of students proficient in reading. And the 11th grade, 92 percent of students are proficient at reading. There are reasons why you are not going to get to 100 and Senator Linehan mentioned some of those. You know, if you have a non-English speaking student or, you know, some kids with maybe a severe enough disability that they are just not going to be at grade level. But you look at that 82 percent of Nebraskans tested last year of the students proficient in reading. You go back 40, 50 years, there wasn't even that percent of students graduating from high school. So I think that there has been attention, good attention, placed on that. Interesting to note in Iowa this year they



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have legislation underway to undo a grade three retention provision. I think that moving forward if we're going to focus on helping schools that probably this conversation needs to be intensely involved with Department of Education. It's probably more in their purview than ours, and I think they are doing some things. The key to getting better at teaching, having more students proficient in reading is building teacher capacity. And you can't do that by bringing in a dog and pony show once or twice a year. There has to be intensive, continuous, and furthermore, we added one of the first reading coaches in the state to provide that daily support for teachers as we implemented the reading plan. My direction when we hired the reading coach was that I gave her an office, said I want your office to look like a war room. I want charts on the walls of students at each grade level and each teaching section who are not there yet and what it is exactly that is holding them back. I have read some of Senator Linehan's materials on reading. She is on the same path that I am as far as looking at what fundamentals are important, you know, the phonemic awareness, alphabetic principles, fluency, vocabulary, and comprehension. So any student who is not at grade level you need to identify what it is specifically on those five fundamentals and focus in--would that student need one-to-one or a group of people who also are short on that particular element? There is a part of... [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR BAKER: Did you say one minute or time? [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR BAKER: You know, part of this, I am not sure it's the right way to go. I mean, this seems to be a Theory X proposition if you are familiar with Douglas McGregor's theories. Theory X propositions, people won't do the right thing unless there is a hammer over them. And I guess I prescribe more to Theory Y where people want to do the right thing. If you help them to do the right thing, they will be rewarded internally as well as being happier on the job. So much as I agree of the importance of students being at or above grade level reading early on, I cannot support LB651. Thank you. [LB651]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Harr. [LB651]

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SENATOR HARR: Thank you, Mr. President, members of the body. In case you were not aware, this is a pull motion. We are here to talk about a pull motion. We are here to decide what role do we want our committees to play. I want to thank Senator Krist for reading the rules earlier about a pull motion. I do not recall the last time this Legislature had a pull motion. It has been a long time. And if you are going to pull a bill from committee, you better have a good reason. I listened to the entire introduction. I did not hear a reason for it to be pulled other than it was a Senator's priority bill. There are a number of bills stuck in committee that were personal senators' priority...senators' personal priority bills. Are we going to start pulling all of those? Let me tell you what used to happen. Committees would get together before priority day, and they would decide which bills they were and were not going to pass out. And if you were a senator and you prioritized a bill that was not out of committee, you knew you were taking a risk. You did not rely upon the body to bail you out. There was a risk taken in this situation. Whether the underlying bill is good or bad is irrelevant. The question before the body today is, when do we want to start pulling bills from committee? Is it when it's a bill I like? Is it when it's a bill you like? And then you have to ask yourself, what is the purpose of committees? Do we trust our committees to have subject matter knowledge over certain areas? I understand this was debated early on within the committee. It was brought up once. There are ways to work bills. You need to learn to work fellow members of a committee. You need to learn to work other individuals to work other individuals of a committee. This bill should not be pulled, whether you like the bill or not. Because, folks, we're going to spend a lot of time on pull motions if we start doing this. You have to respect your party or, excuse me, your committees and you have to respect your committee chairs. That's why you elected them. And you have to respect Committee on Committees that chooses the committee members. I wanted to be on Education. I acquiesced because I felt Senator Linehan had more subject matter knowledge than I did. I don't have a problem with that. But, folks, pulling a bill is a big deal, not to be taken lightly. The fact that we only have an hour for this tells you this is something serious, that we're doing something out of the norm. And when we're doing something out of the norm and something extraordinary, you better have a strong reason to pull. And we better be talking about the reason it's being pulled and not the underlying bill. There is plenty of time to talk about the underlying bill, six hours, I believe, if this is as controversial as I've heard it is. What we're talking about is implementing best practices. How do we want to run this body? I know how I think it should be run. We should

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follow the rules; and when we go outside the rules, have a strong reason and talk about it. That should be the emphasis of your pull motion is why you are pulling it. Thank you. [LB651]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Walz. [LB651]

SENATOR WALZ: Thank you, Mr. President. I do stand in opposition to Motion 103 to pull LB651. I serve on the Education Committee, and I did not support it moving to the floor. There wasn't the support in our committee to bring it out to the floor or to even bring it to a vote, so I am having a hard time understanding why it's here tonight. Secondly, we need to let our teachers teach and not have standardized tests running our classrooms or be the sole component of evaluating a student's progress. Some students do not perform well during standardized tests. Others may excel. And there are many factors that can contribute to how a child performs in a classroom, including poverty, language barriers, broken homes. There are a lot of students who are facing trouble at home or at school and may be distracted and wouldn't perform as well on that specific day. So one day could make the difference in the life of a child. The one day they take that test will determine whether or not they move on to fourth grade or they're retained. The issue I have with this bill isn't that we should not be striving to serve all children or to make sure that they're reading by third grade. I totally would support that. It is the fact that we don't know the child's circumstances. The test doesn't know the child's circumstances. The discussions regarding retention should be left up to the family and the educators, certainly not legislators who have never spent any time in the classroom teaching. School districts can hold children back. There is nothing that prevents them from doing that, but it is wrong to tie their hands to state standards. I truly feel that simply repeating a grade will not provide a student with the instruction they need to "remediate" reading instruction. In fact, research in the negative affects consistent...effects is consistent. It does not improve academic outcomes but instead is the higher likelihood of dropout rates, social difficulty, and academic failure. The goal for education should be to support our teachers and empower them to collaborate with early childhood programs, encourage parent involvement, and continue to provide individual teaching plans that will meet a child where he or she is. Rather than spending more money on tests and spending more time on tests, let's let the teachers teach the kids. I want to yield the rest of my time to Senator Patty Pansing Brooks. [LB651]

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PRESIDENT FOLEY: Thank you, Senator Walz. Senator Pansing Brooks, 2:12. [LB651]

SENATOR PANSING BROOKS: Thank you. Thank you, Senator Walz. I want to rise and just...how much time, I'm sorry? How much time is it? [LB651]

PRESIDENT FOLEY: Two minutes right now. [LB651]

SENATOR PANSING BROOKS: Thank you. I want to rise and just say something positive about what Senator Linehan is attempting to do. I know that her heart is in the right place. She has great passion for the kids. I have worked with her directly on the issues of dyslexia, and I know where her heart is and how her passion is determined. I do not love the way that we're going forward on this. I am not in support of the pull motion. But I am determined to work with Senator Linehan to encourage schools either with...I mean, Senator Linehan is using a stick. And it is a matter of whether we use a carrot or a stick to have the schools start making sure the kids are reading. And there is no question that you can't just take one test on a certain day in third grade and say that's it. [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR PANSING BROOKS: But the goal, as Senator Linehan has expressed before, is to make certain that the schools are working the whole way long K-3 to get them to the point where they are reading. And if they are not reading, then there need to be early childhood interventions. And the discussions that we heard on dyslexia made it clear that some people don't even believe it's something that is a true actuality, that there is something like dyslexia. So I am determined to work with Senator Linehan. And some of the schools may not end up liking what we've come to an agreement to, the common ground we find together. But I do not appreciate...I cannot support this process of pulling this out when we didn't have a full vote in committee as Senator Walz said. And I just hope that Senator Linehan can know that I am with her... [LB651]

PRESIDENT FOLEY: Time, Senator. [LB651]

SENATOR PANSING BROOKS: ...in helping these kids. Thank you. [LB651]

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PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Kuehn. [LB651]

SENATOR KUEHN: Thank you, Mr. President. And good evening, colleagues. I stand in support of the motion to pull to General File from committee as well as stand in support wholeheartedly with Senator Linehan in LB651. I support the pull motion and I think we're having an important discussion here this evening because I think there is a lot of information that we as a body as a whole who did not have the privilege of participating in the committee hearing and the committee process on LB651 need to have a full understanding of what the bill does and what its intent is as well as cut through some of the misinformation that has been distributed relative to LB651 so we can make an appropriate decision about its relevance for debate by this full body in the coming days. And I wholeheartedly believe this is an issue of which there is no greater importance for us to discuss as a body as a whole which is why I support the pull motion. One of the things that we cannot emphasize enough about what this bill really is, is this is not about retention. This is not about a high stakes test. This is about clarifying what schools ideally should be doing K-3 and that is identifying students who are not at grade level proficiency and working with the teachers, the principals, and the parents--I think it's a key element of this bill just how much the parents are involved--every year a student is not meeting their proficiency guidelines in those first three years, and establishing a plan. The retention piece which has garnered so much ire and such a lightning rod is a last resort. We're talking about four years of failed intervention before a student even becomes eligible for retention. Senator Linehan has done a great job and will continue to do a great job outlining the importance of third grade reading, but I want to paint a little bit different picture because I am someone who deals with students coming into an undergraduate curriculum in the sciences which is a cumulative basis. And you would be surprised the number of college students who are not at grade level, certainly not at college level for quantitative skills and reading comprehension. And we tend to demonize standardized tests and those types of things, but you know what? If you want to be a doctor in this country, you take a really important standardized test, an MCAT. You want to be an attorney, you take an LSAT. You want to go to grad school, you take a GRE. We do a lot of testing and we use it in a lot of ways. And so simply saying we're not going to define a child with a single test, we are not going to define a child by where they are at third grade, there is no single characteristic of their future academic success more important than early reading. And a full discussion by the floor of the Legislature in its entirety as to the merits of LB651 and how it

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applies to our education policy in the state of Nebraska is most certainly warranted, which is why I support this motion and look forward to continued robust discussion about this bill. With that, I yield my remaining time to Senator Linehan. [LB651]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Linehan, 1:50. [LB651]

SENATOR LINEHAN: Thank you. I would just like to respond to a couple of things that have been said. I am not asking the body to bail me out. If anybody were bailing here, we're not...we're talking about kids who are in the kindergarten, first, second, and third grade who need extra help. So, yes, I will look at all the rules in the Legislature to see if we can address that. It's that important. And I think that's probably why we have rules. As far as working within the committee, I think our committee has done yeoman's work this year. The Chairman has had...we've had to take a TEEOSA formula that was fully funded last year and find savings in it. And it is worse than trying to divide up the family china. [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR LINEHAN: It is a struggle. And I think everybody on the committee would admit that to get LB409 out of committee was absolutely mandated by the budget that we had to get the committee out. It took a roving, all-day executive meeting and a threat of a pull motion. The reason we got LB409 out is because we were going to pull it out or get it out. So on this, I talked to committee members. I think Senator Pansing Brooks was very kind in her remarks. She knows I worked on this. She knows I am willing to work on it. It is...I am not sure why we can't get it out of committee. I spent several...well, maybe not enough time, but obviously not enough, with other members on the committee. I offered bringing an amendment. I even took them amendments that I thought answered their questions and it was no motion. There is...this goes back and...this goes back...I will again call back to Senator Raikes. [LB651 LB409]

PRESIDENT FOLEY: Time, Senator. Time. [LB651]

SENATOR LINEHAN: Okay, thank you. [LB651]

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PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Hansen. [LB651]

SENATOR HANSEN: Thank you, Mr. President. Colleagues, I rise in opposition to the pull motion. I am not even necessarily going to speak on the merits of the bill. I want to redirect to the process. So as you all remember, we spent a considerable amount of time talking about the rules. And one of the rules proposals that we got stuck on for a couple of days because actually Senator Chambers objected to it was my amendment of this very rule that Senator Linehan is trying to change. I wanted to raise the threshold from 25 votes to 30 votes, from a majority to three-fifths in order to ensure that we respect our committee process. That is what I wanted to do early on in the session. After having the fights of committee chairs, the fights on committee assignments, and all sorts of different things and referencing, I was worried that the integrity of our committee process was getting worn down, worn down, worn down. I was worried that this was going to be the next fight that we were going to have. I am worried now that with Senator Linehan firing this motion and I believe some others have followed suit on their own bills, that that's where we're getting at. That was the speech I was getting ready to give and thinking on when I knew this was coming up in the agenda. But in my conversations just off the mike with Education Committee members, it seems that not only is this bill...I am not even sure if it's stuck in committee. I am not even sure what is going on. It seems like the Education Committee has never taken a vote on this. It's not like it got stalled 4-4. It just...they never voted on it. I don't know if that's our role as a Legislature to give a committee chair the power to not schedule a vote, to not take a vote, and then come to the committee and try and leapfrog it by using this pull motion. What do we want the committee chairs to do in that situation? If any committee chair who is ever worried about a vote in their committee but thinks they have a good shot at the floor can just refuse to have an Exec Session, refuse to vote on the bill, refuse to have any action positive or negative, pass it out of committee, indefinitely postpone it, could just refuse to do all of that because we know we got the pull motion coming up. We've got the option of the pull motion. Now I understand why we have the pull motion. And without...this is getting closer to the merits of the bill. I understand why we have the pull motion. Senator Linehan mentioned that we were going to pull the TEEOSA formula out of committee if we couldn't come to some sort of agreement. You know, I think that might have been fair. But that is a bill that if we don't handle it this year right now, we are seriously not going to be able to operate as a state in a school system in the state of Nebraska. Those stakes in my mind are why we have a pull motion.

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I get the passion on this issue and I get that there is a lot of people who support this bill, whether or not they support the pull motion, whether or not they support the process. I am excited that we could work on it. But that's the opportunity there is to work on it, to work on it through committee, to get five members of that committee at a minimum to agree to move forward and move on as opposed to trying to then leapfrog and do a pull motion. If you look at the rules, we have got all sorts of different options--and I set my Rule Book somewhere I can't see--while we're debating this bill, the Education Committee still has the opportunity to meet while we're discussing this motion and either vote or IPP this bill. We can still do this up until this point. And that could take some preemption. And note if they did IPP this bill as I am worried that if it's stuck in committee it might be a 5-3 vote against, that we would have raised the vote threshold. So again, if we go down this line, if we kind of put the first chink in the dam, letting the water rushing out that we're going to go this pull motion route, we are going to incentivize committee chairs to kind of start being...playing games with what to schedule for committees these sessions and whatnot. I understand genuinely if you are butting heads after months and months or weeks and weeks or whatever days of negotiations and especially on an eight-member committee you are stuck 4-4, I understand why we might have that. That is not the situation here, and I do not think this is the road we want to go down. I'm worried about the process, and I am worried about some of the last vestiges of the committee process we have in the Legislature. So with that, regardless about how you feel about LB651, regardless about how you feel about the issues underneath that, I ask you to stand with me and oppose MO103. Thank you, Mr. President. [LB651]

PRESIDENT FOLEY: Thank you, Senator Hansen. Senator Halloran. [LB651]

SENATOR HALLORAN: Thank you, Mr. President. While I find the discussion about the rules rather compelling, I am going to save my emotions for...not my emotions but my passion for third grade reading and making sure that children are able to read at that third grade level and save the passion for rules a little bit later. With that, I would like to ask Senator Wayne a question if he would yield, please. [LB651]

PRESIDENT FOLEY: Senator Wayne, will you yield, please? [lb651]



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SENATOR WAYNE: Yes. [LB651]

SENATOR HALLORAN: Senator Wayne, would you briefly give us your opinion on this issue, please? [LB651]

SENATOR WAYNE: Briefly, I support the pull motion because sooner or later this body has to have a conversation about education and how we make education better. Another reason why I support it, to be very frank, is this committee put out a bill to this floor that allows force to be used for children but they won't put out a bill that talks about third grade reading. I have a fundamental problem with that. And I have a problem with the fact that many kids in my district are struggling and we as a state, this is our constitutional duty. It is in our constitution that the state provide a public education. And so it's time that we start having a conversation about education. And quite honestly, again, they put out a bill that dealt with restraining students and using force on students; but we can't put out a bill about how we can teach kids better to read. I have a fundamental problem with that, and it's time that we start having a conversation about that. Thank you. [LB651]

SENATOR HALLORAN: Thank you, Senator Wayne. I would like to yield the balance of my time to Senator Linehan, please. [LB651]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Linehan, 3:20. [LB651]

SENATOR LINEHAN: Thank you, Senator Halloran. I...Senator Wayne just hit on a point and I...back up a second. I want to thank very much Senator Baker for his comments. I think I was thrilled when we were discussing Senator Pansing Brooks's bill, and Senator Baker stood up and spoke to the importance of reading and catching kids early and phonics. I think I could count on one hand--and this is not...I'm not trying to shortchange anybody--but I think I could count on one hand the number of times I've heard administrators and teachers talk about phonics, which I think is a problem because all kids are not whole language learners. Some need phonics, some need more help, and clearly Senator Baker, who has been a superintendent for years, believes that. And I find that very hopeful. Another thing that Senator Wayne spoke to and, you know, I'm not going to read out names of schools; but if you go to the Nebraska Department of Education's

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Web site, you can pull every school in the state up, which is good because we have NeSA, and you can look at reading proficiency of third graders. So here's one school. Reading proficient--56 percent of the kids, 56 percent are not reading at grade level. There's another Nebraska school--77 percent of the kids are not reading at grade level. There's others where you've got 41 percent. There's one in here--there's some that do great. Here's a school--19 percent, only 19 percent are not proficient. And if you look at all the scores, that's pretty good. You're happy when you see only 19 percent. The problem we have when we look at the statewide averages, which might look okay; but if you're in Harrison Elementary or Western Hills Elementary or Spring Lake Elementary or Central Park Elementary, Saratoga Elementary, Walnut Hill Elementary, chances are... [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR LINEHAN: ...50 percent of the third graders are not proficient. And chances are that they will drop out of school and end up unemployed or worse, in prison. This is like talk about money and how we can save our state millions of dollars by directing our attention to a problem and a challenge that we can actually meet. We could actually do this. There's a lot of things we can't probably fix and would take years to fix, but this is not one of them. This is something we can do right now, and it would have long-term effects. It saves us millions of dollars in the long run; and on top of the savings, you actually improve people's lives,... [LB651]

PRESIDENT FOLEY: Time, Senator. [LB651]

SENATOR LINEHAN: ...families' lives. Thank you very much. [LB651]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Hughes. [LB651]

SENATOR HUGHES: Thank you, Mr. President, I'd like to yield my time to Senator Larson if he would like. [LB651]

PRESIDENT FOLEY: Senator Larson, you've been yielded 4:40. [lb651]

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SENATOR LARSON: Thank you, Mr. President. Colleagues, I'd urge all of you to support Senator Linehan's pull motion. I've supported pull motions on the floor. And if Senator Chambers were here, I'd ask him about his last pull motion that he offered a few years ago, and I know many people supported that. I think Senator Morfeld even voted for that pull motion. But more importantly, and I think Senator Wayne hit the good message, is this is an issue that needs to be discussed. Education reform in general needs to be discussed on this floor of the Legislature. Most states are going through education reform 2.0, yet the Nebraska Legislature can't hardly even get it discussed on the floor because, specifically, one union group continues to fight it tooth and nail in the Education Committee and spends significant amount of dollars ensuring they control that Education Committee. I understand that there's a committee process and unwritten rules. I'm yet to read those unwritten rules about how the committees work, but it's there for a reason. Those rules are there. They need to be used. And as a committee Chair, if someone has a bill in my committee that they would like to pull, please do so. If it is that important to you, if it is your priority, I have no problem with that. My committee and the bills there aren't the end-all, be-all. If you don't have the votes in my committee, please, by all means, use the rules at your disposal to do what you need to do. Would Senator Murante yield to a question? [LB651]

PRESIDENT FOLEY: Senator Murante, would you yield, please? [LB651]

SENATOR MURANTE: I would. [LB651]

SENATOR LARSON: Senator Murante, would you tell me what you think about this? [LB651]

SENATOR MURANTE: Sure, Senator Larson. I rise in support of Senator Linehan's motion and for two reasons. First of all, I believe the argument that needs to be explicitly rejected is the argument that Senator Linehan is doing something in contrary to the rules. I'm not going to speak on the merits of LB651, but I can speak to MO103 which is to say that the rules of the Legislature that this body adopted explicitly permits what she is doing right now. And those who argue that it is somehow circumventing the committee process, I would submit to you that there is a committee process and it is good. But it does not trump general principles of how representative governments work. And the problem I have with the system we have right now is

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that when Senator Linehan brings LB651 to the Education Committee, we...our constituents have a seat at the table when we have an opportunity to vote. The citizens of Gretna do not have an opportunity to vote on LB651 because I don't sit on the Education Committee. And it shouldn't be in the power of four people to hold up a bill and prevent my constituents from even having an opportunity of having their voices as exercised through their representatives be heard. Now I do think that it is fair to say that we should use what Senator Linehan is doing here sparingly and we should be caution about it, but this is her priority bill. This is what she identified as the top priority facing her district. So I am going to support her so that my constituents have an opportunity to have a seat at the table on this bill. And as was stated on this floor in years past, there are no good rules and bad rules. There are just rules. There are just the rules that exist when we adopted them on the 30-something day, whenever we adopted the permanent rules. So, Senator Linehan, I applaud you for bringing this issue. I do think that there is a meritorious argument for adopting what she is proposing here and... [LB651]

PRESIDENT FOLEY: Time. [LB651]

SENATOR MURANTE: Thank you, Mr. President. [LB651]

PRESIDENT FOLEY: Thank you, Senator Murante. Senator Geist. [LB651]

SENATOR GEIST: Question. [LB651]

PRESIDENT FOLEY: Members, as a point of reference, we've been on the motion for roughly 50 minutes, I believe, out of the 60 allocated. Do I see five hands to cease debate? [LB651]

SENATOR HARR: Object to overrule the Chair. I move to overrule the Chair. [LB651]

PRESIDENT FOLEY: There's been no ruling made yet, Senator. I do see five hands. The question is shall debate cease? Senator Harr, could you state your objection on the mike, please? [LB651]

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SENATOR HARR: Yeah. There has not been full and fair debate. There are nine people in the queue who have not been given a chance to speak yet. [LB651]

PRESIDENT FOLEY: Thank you, Senator Harr. It's the ruling of the Chair that there has been full and fair debate. Senator Harr. [LB651]

SENATOR HARR: I move to overrule the Chair. [LB651]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Harr, you're recognized to open on your motion. And members, just to refresh you on the rules, you cannot yield time while the Chair is being challenged. Senator Harr. [LB651]

SENATOR HARR: Thank you. How much time do I have for this opening? [LB651]

PRESIDENT FOLEY: A ten-minute opening. [LB651]

SENATOR HARR: Thank you. Folks, I'm moving to overrule the Chair because we have had...we have a number of people who want to speak. This is, and I think I've been pretty clear about it, a big deal. We have a committee process. We have committee Chairs that traditionally in the past have said, folks, you got to honor the committees. Now we had a couple of committee Chairs this year who say no, no, don't worry about it. The rules may allow this. I agree. But when you do a pull motion, it should be something extraordinary. It should be because there was a misjustice that occurred in committee. And before you file that pull motion, you better have done everything you could to get that bill out of committee. What have we heard here? There was a hearing. It was discussed. There was never a motion made to advance the bill. We don't know what that committee would or would not have said. Senator Linehan shakes her head and says, as if she does, she should have called and put a motion and had a second. That's the way we do things. We don't just sit back and say, well, I knew I was going to lose anyway so why bother? Why go through this? No. No. Look, do I think third graders should be able to read? Sure. Does anyone in this body think third graders shouldn't read? You learn to read K-3. You learn from reading from there on out. Right? But that doesn't mean it's a good bill. And maybe there were issues if it had been Execed on and talked about. Hey, I want kids to read but what are we doing?

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What are best practices? We're not the first state who's done this. What have other states done? And when we look at what other states have done, what have we learned? Now, I'm assuming Senator Linehan has done that work and she's looked into it. And she can answer those questions. And so then when it is on the floor, she will have won over some individuals. But talk it out. Try to find compromise. We have a situation in this body right now where I think there is almost a feeling of might makes right. I am going to force this through, and we are going to take a vote on this and we are going to hold people accountable. That is not leadership. Leadership is finding a way to make it easy to say yes and hard to say no. It's working compromises. It's saying I'm not comfortable but I can live with that and working with your fellow committee members so that you have a clear vision of what you want education to be in Nebraska. And we're pulling this. There is a motion to pull it. There are nine people who feel strongly about this who haven't been given one chance, let alone two, to talk about this. This motion is amendable. We can have -- anyone can file a motion right now if they want to on this bill. Nothing can stop that, right? But I think the body said, no, we want to talk on this. We want to have fair debate and we want to talk...do we want to pull a bill? What happened? Instead of allowing people to speak on whether we should be pulling a bill or not, we go 40, 45 minutes and we say that's it. And we moved over and we moved to call the question with nine people not having had the chance to speak yet to tell us where they are. This is the first time we've done a pull motion this year, folks. Think about that. How many new members do we have this year? What percentage of the body have not had a chance to get up and talk about whether they think a pull motion is a good idea or a bad idea? Or to even listen for a full hour to determine is a pull motion a good idea or a bad idea? When did we get afraid of debate? When did we get afraid of talking to each other? Childhood education is very, very important. But so are a lot of other bills that we have. Senator Lindstrom has a bill that he prioritized that is stuck in committee. Shall we have a pull motion on that tomorrow? I don't know. Have I heard a doctrine as to when, why, where, and how we should pull a bill? When is it okay and when shouldn't we? Has anyone presented what was so bad in this case that we take the extraordinary step to pull it? It was I didn't get my way. I'm going to try this. Fine. Fine. You can do that. The rules permit it. But we as a body have a responsibility to our committees that we work hard on and to the Education Committee who works hard on bills to force people to compromise in committee so that when bills do come to the floor, they're ready. What I don't want to see is bills passed out of committee not ready. And then the idea is, well, we can amend it on the floor. We can work something out. That's not the

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process, folks. You got to work bills. Committee Chairs have duties and responsibilities to find out what bills people think are their priorities, which ones they want to pass out, and to work those bills. And you as a member have a responsibility to go to that committee Chair and say, Mr. Committee Chair or Madam Committee Chair, I want this bill. This bill is going to be my priority. And I don't want to waste my priority so let's talk about it. Can we Exec on it before we go and have to determine what our personal priority is or before we determine what a committee priority is? Let's work this out. Go to other committee members. Hey, this is my personal priority. Can you vote it out? We'll talk about it. Or say what is your problem with this bill? How can we find a way so that we aren't wasting time on the floor? We are limited in the amount of time we have. And if every bill that was stuck in committee that we wanted we pulled and we got an hour for it, folks, we'd never get anything done and you'd question why do we even have committees? We're just going to pull willy-nilly the ones we want and we'll debate them and we won't debate the pull motion. We'll debate the bill itself and we'll have an hour debating it. That is not the purpose of why we have committees. Think about it. We introduce a bill. It goes to the Exec Board. The Exec Board then says, where does this need to go so that the proper subject matter jurisdiction is found? So those who are most knowledgeable, who know the people in that area, where should we send it? So where do they send it? This one was sent to Education. Then once you get to Education, you have people who know both sides of the issue who know the questions to ask. [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR HARR: And then you vote it out. All right. You don't bypass the whole system. That's the problem. We need to learn and we need to respect our committees and we need to look to our fellow committee members and work on compromises in committee and then take a vote. And if you've done everything you can and you can't find a way and you think that bill is important, well, then do a pull motion. That's fine but don't do it right off the bat without having worked your fellow members, without trying to find a compromise. Thank you, Mr. President. [LB651]

PRESIDENT FOLEY: Thank you, Senator Harr. Back to the speaking queue, Senator Crawford. [LB651]

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SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. I rise in opposition to the pull motion and in favor of overruling the Chair. I think this is critically important for us to discuss. Again, it is important. Our committees have an important role. And that is not just to say it is important because of who sits around that table. But important role of the committee is to iron out the details of these bills. I know we all want our third graders to read. But, colleagues, we're not just pushing a green button to get third graders to read. If it was that simple, we would have done that long ago. We're pushing a button about details, about summer camps and additional instruction and what kinds of tests are taken and what standard a child has to meet. Those are critical details. And some of the language for those details, you know, comes from ALEC, a national group that's talking about what you should do in your state. That has to become Nebraskan. We have to figure out what that looks like in our state and that means getting people around the table and working on this until it is resolved, and that is an important test of the committee. These important bills like this, this is an ambitious great start and this is the kind of ambitious bill that usually does take a couple of years because it is critical to resolve those details and work on it. And this is not from my discussion of committee members off the mike. This is not something where there have been a lot of late night meetings, a lot of amendments going back and forth and they just could not get to a resolution. And that's the kind of work that needs to happen before you result to a pull motion. It should be something where you've been working with the stakeholders, you've been working with the committee, and it's just something that you cannot figure out how to get it out of committee but there is a lot of support on the floor for the issue. And it doesn't appear to me that we are at that with this yet. We want third graders to read, but we need it to be a bill that has been hashed out and the details have been hashed out. I yield the remainder of my time to Senator Morfeld. [LB651]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Morfeld. [LB651]

SENATOR MORFELD: Thank you for yielding time to me, Senator Crawford. Colleagues, how in God's name did we have full and fair debate? [LB651]

PRESIDENT FOLEY: Senator Crawford, I apologize. When we're on the challenge of the Chair, you cannot yield time. My error. But you are next in the queue. [LB651]



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SENATOR MORFELD: Thank you, Mr. President. You got me right at my punch line. Colleagues, this is my problem, number one, with the ruling of the Chair. How did we have full and fair debate when not even I who punched my button about 15 seconds after this started didn't even have the opportunity to speak? And I'm a member of the committee. It's absurd to rule that we had full and fair debate. It's absolutely absurd. That even a member of the committee who pushed their button no less than 15 seconds after we started on this subject matter wouldn't even have the opportunity to speak, to be ruled that we have full and fair debate. At least with Medicaid expansion last year, which I think I challenged the ruling of that of the Chair there as well, which was Lieutenant Governor Foley, at least we had two hours of debate. There are nine other people in the queue that hadn't even had the opportunity to speak. This is a deliberative body. And in a deliberative body, we don't just get one hour to talk about a policy issue that affects thousands of students statewide and whether or not we overrule the prerogative of the committee, a committee that I will add hadn't even had the opportunity to vote on this. This was such an important issue that it wasn't even brought to a vote in the Education Committee by a Chair who's supportive of the issue. Now I will give Senator Linehan, she has worked with me the last few days and come up with a compromise amendment and talked me through the issue and I understand the issue a lot better. But you know what? You know when that occurred? That only occurred after I went up to Senator Linehan after she issued the pull motion. Now we can talk about Senator Groene's bill. I was one of the deciding votes on that bill. And to be honest with you, I've kind of regretted it every day since. But that being said, Senator Groene worked with me and the Nebraska State Education Association and several other stakeholders for several weeks before I was in a place to give that bill the opportunity and a chance. That's how the process should work. I talked to four other, excuse me, three other members of the committee who I was aware that didn't support the bill. I asked them, did Senator Linehan work with you? Did she talk to you extensively about this? All three said no. Now Senator Pansing Brooks said that she did. But that is the process. The process is working in the committee as a subject matter expert to find common ground. Now, yes, I did vote for a pull motion last year. But I voted for a pull motion after we had a vote on the bill, a vote that I think went wrong. I made the motion for that bill to be advanced out of committee and the motion failed. Now if we want to start doing pull motions on issues that are important and there are a lot of issues that are important, one of which all of you know that I'm very passionate about which is Medicaid expansion. So in response to Senator Linehan's pull motion, I submitted two pull motions of my own. And you

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know what? Third graders being able to read is important. But it takes time to craft good policy. And I have committed myself to going to south Omaha with Senator Vargas, to going to my own school districts and talking to high school students, middle school students, elementary students, parents, teachers and figuring out this issue. And I'm going to do that over the interim. [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR MORFELD: One minute? And I'm going to do that and I'm going to take a thoughtful approach to Senator Linehan's approach and hopefully work with her after the interim or during the interim. But the bottom line is in regard to the overrule of the Chair, there is no reason, there is no way that there has been full and fair debate when there are nine members of this body who haven't even spoke on the bill, one of which and I think another one that is a member of the committee. It makes absolutely no sense. And this is not how we should make policy. The committee process is so that we have subject matter experts so that we build consensus within the committee among subject matter experts and we push out good policy for debate. And then the floor can decide whether it merits law or not. I urge you to vote in favor of overruling the Chair and to defeat MO103 by Senator Linehan. Thank you. [LB651]

PRESIDENT FOLEY: Thank you, Senator Morfeld. Senator Blood, you're recognized. [LB651]

SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, I stand... I'm in support of the overrule and, unfortunately, in opposition to the motion. I want to say on the record that I think Senator Linehan is a plucky woman, and I give you props for doing this and I admire the fact that you've got a village surrounding you giving you support so good for you. Go girls. But with that said, when I listened to your introduction, the concerns that I have is the statistics that you shared with us were mostly national statistics. With the exception of the eighth grade cap, there weren't a lot of Nebraska statistics in the original introduction. You did share information later in reference to the schools which I appreciate. But here's my concern. You're talking about graduation rate and Nebraska leads in graduation rates. We're around 90 percent I believe. And even our low income, which isn't great, is at 82 percent. That is still better than the national average. We can do better, but let's really look at if this is a problem or not. Do third graders need to read? Absolutely. But where do we take this when we have a bill that is not

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evidence based? This is not an evidence-based practice and I believe in evidence. Are we talking about the fact that we need better trained teachers? Or in the schools where the children are not meeting the expectations, is it administration? I think we're talking about something mechanical that can be fixed. I know that in my district, Papillion-La Vista and Bellevue, we have got exceptional teachers. And I question the fact that we consider ourselves educators and we can tell them how to do a better job, and I think that that's what this bill is trying to do. She said if we didn't have some kind of measurements, there are measurements put into place already. So, again, the purpose of this bill I find puzzling. And the one thing that nobody is mentioning which is kind of the elephant in the room is that this also has a \$900,000 fiscal note. And I remember very early when we talked about priority bills that if a priority bill had a fiscal note it was going to be something that was going to be really difficult to justify, especially after the discussions we've had today on the budget. So with that, again, I stand in support of the overrule and, unfortunately, against Senator Linehan's pull vote. But again, well done on trying to get it to the floor. [LB651]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Pansing Brooks, you're recognized. [LB651]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I rise in support of overruling the Chair as well. I think that there were enough people still in the queue that needed to be heard that wanted to state something on this. And again, I am totally...I totally understand what Senator Linehan is trying to do. And in a way it's too bad because the bill really is focusing on that third grade level. And what she really means in committee is that and what she talks about in committee is the need to have a way to approach children and reading throughout their first...can I have a gavel, please because I'm having trouble with hearing. [LB651]

PRESIDENT FOLEY: (Gavel) Come to order, please. [LB651]

SENATOR PANSING BROOKS: Thank you. She talks in committee and to me personally about the need to tackle the issue in a way that increases outcomes, which I think we all agree with. It is important to look at kindergartens, first graders, second graders and then third graders. So in a way, it's being couched very simply as a way to just flunk kids in third grade and on one specific

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test, which is not...that's not her intention. But I do think that, as Senator Morfeld said, she had come to me to work with me on this. I've been trying to talk to the various groups whom I represent, the NSEA, the LPS, different groups like that who have real concerns with it. And I thought we were moving forward working on it and then things just sort of dropped. The session became busy with all sorts of other key issues. So there's no question that Senator Linehan and I are going to work during the interim to try to attack the issue of children reading, the very important issue of children reading, and to find a solution that is not counterproductive. We heard study after study that said holding the kids back really does way more harm than good. So I think that, you know, the issue of children reading is obviously something we care a lot about. Senator Wayne mentioned quiet wholeheartedly that that is something that affects his kids and his district, and there's no question we have to get the kids of Nebraska reading. But the problem is we're bringing this down to a simple version of we're just going to start punishing the kids. That's how it seems. Holding the kids back in third grade becomes punishment to the kids when in actuality we're attempting to force the schools to make sure that they are bringing in as much interventions as possible to make sure that those kids read. And I think most of the time they are doing a really good job, but there are some that slip through the cracks, as we've heard, with 77 percent in some areas and you can't just put it all off to poverty. We've got to figure out why it is that they're not reading. These aren't just neurological issues where they just can't read. We've heard that time and again. I do not believe that short of some kids with true mental disabilities, I believe that kids can be taught to read and there are consistent studies to that effect. So why is it not happening? Senator Linehan and I are determined to go forward and work in the interim to figure that out. We're talking about going across the state to figure out what is happening in the schools. Why is it that some schools say that they just can't get these kids to read? So again, I think there is work to be done. I think there is mutual common ground we can find. [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR PANSING BROOKS: I do not believe in having those third graders held back. We're punishing the child rather than the institution that may not be doing everything possible. If you had heard the discussions about dyslexia, as we had, it's quite clear that some people just believe it's a myth and there's nothing to do about it and these kids just can't learn. It's a neurobiological disorder. That is baloney. That is not true in the great proportion of kids who are dyslexic. They

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are very bright kids. They are kids that can learn, and we have got to be able to address those issues; and we didn't address them this year because of the funding issues with screening and training and intervention. So I'm with Senator Linehan that we need to look at this and we are planning to work together. I do not believe that this is the forum. [LB651]

PRESIDENT FOLEY: Time, Senator. [LB651]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. [LB651]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Speaker Scheer, you're recognized. [LB651]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. I just wanted to clarify essentially the process that we're working on right now. This is a pull motion. Historically, these have always been scheduled at 11:00 in the morning for a one-hour period. This is not normal. This is the norm. The...part of the problem is most people did not realize is that a question had to be called before the end of the hour, which it was. That is by the rule. I do want to explain the rule to you. The rule does not pull the bill from the committee. It tells the committee that they have to meet and release the bill within eight days. If they do not on the eighth day, then the Speaker compels the Chairman to release the bill. This is not an automatic thing that happens the next day. The rules that we're talking about, if anyone is interested, is Rule 3, Section 20, page 22 towards the bottom. It is a process. What we are talking about, and it should not take over an hour, is determining if you want to pull the bill. This is not about the bill. This is about the process. Do you want to allow a senator the ability to take a bill from a committee? It takes time to do so. Look at your calendars. So, please, as much as consternation has been caused, as much concern has been shown on the floor, we are talking about a process. The process was followed to the "t." It was given one hour. The senator has to within that hour call the question. That doesn't mean everyone that has a light on gets to talk, no different than a cloture vote. They called the question within the hour. And then the vote is taken. Now some will say, well, there has been a challenge to the ruling of the Chair so now we're past the hour. I don't perceive it to be as such. The senator followed the rules. The time limit was adhered to and the question was called within the hour. Now we can continue to discuss this and you can continue to debate if

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you want to overrule the Chair. But bear in mind the chair did exactly what he was supposed to according to the rules. This is about the pull motion, not about the bill. I could give a crap whether this is about third grade reading or something in Health and Human Services or Transportation. This is a process--do you want to allow the bill to be pulled? The discussion on the bill happens if and when the pull motion is successful; if and when the committee releases it from the committee; or after the eighth day if the Speaker compels it to be released. That's the system. Now we can continue to talk, but we are going to finish this. Everyone gets their five minutes if they would like. I would ask you to reconsider that. We all are adults, we can make a decision on what we would like to do. We can feel free to utilize the time if you'd like, but we will vote on this because it was within the parameters of the rules. The President's job is to enforce the rules, which he did. My job is to schedule. I did. The senator that is trying to pull it has the obligation to call the question within the one hour, the one hour that has been traditionally the amount of time given to any pull motion. So I would ask you, please, to consider that as we move forward. Thank you, Mr. President. [LB651]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator Hilgers. [LB651]

SENATOR HILGERS: Thank you, Mr. President. Good evening, colleagues. Based on the comments from Speaker Scheer, I would urge you to vote red on the motion to overrule the Chair, but I rise to speak on the motion itself. And as the Speaker mentioned, Rule 3, Section 20(b) gives this body the power to start the process to initiate the process to have a bill placed on General File that is otherwise pending in committee. And I think the question before us is an important one to address and think through and talk about because this is not a question as far as I can tell that has come up very often in the last few years. I polled a few of the older heads in this body over the last hour or so to see whether or not a motion like this has come up in their tenure. I asked Senator Schumacher; I asked some others. It may have happened, but I didn't hear that it had occurred in the last several years. And so in some ways, we're breaking new law for at least this body and the members that are in this body. This is the first time we've done it, and so we need to think carefully about the reasons why we would vote for it or why we would vote against it. And as it is with any kind of precedent, this maybe will guide our decision the next time; but it is not always dispositive. There may be distinguishing factors. And I think this is a helpful, deliberative process for us to go through. As part of this, I did ask one individual here,

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Senator Chambers, because if you don't have written precedent, he's the next best thing for some of his experience with this type of a motion. I was wondering if Senator Chambers would yield to a question or two. [LB651]

PRESIDENT FOLEY: Senator Chambers, will you yield, please? [LB651]

SENATOR CHAMBERS: Yes, I will. [LB651]

SENATOR HILGERS: Thank you, Senator Chambers. Could you describe to the extent, if at all in your experience, there has been motions to pull bills to the floor? [LB651]

SENATOR CHAMBERS: Mr. President, members of the Legislature, and Senator Hilgers, it's a good question. First of all, I know people don't respect what I say, but I told you I'd answer the question. Things were done a lot differently years ago. A motion to pull a bill was not that unusual. Nobody got heartburn. You either persuaded the body to agree to pull it or not. I managed to get a bill pulled to abolish the death penalty. That shows you the kind of pull motions that were made in those days. I'm not aware of a time limit having been imposed. You debate it; and then if somebody called the question, then the Chair would say, are there five hands. And if there were, then the...now they've got that formula, full and fair debate. You could not challenge the Chair's ruling or it wasn't challenged once those five hands had come up. The question was called. There would be the closing, then the vote taken. But bills were pulled from committee and it was not that highly unusual but that was a long time ago. [LB651]

SENATOR HILGERS: Thank you very much, Senator Chambers. As a quick follow-up because I don't think I have much time, could you describe some of the circumstances or justifications those would use to pull a motion? [LB651]

SENATOR CHAMBERS: Well, you just wanted to. You'd say, this is a bill that the body ought to discuss. It's serious enough, and I don't think the committee should be allowed to bottle it up. If you were effective in debating it or if the issue was important, then it would be pulled. [LB651]

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SENATOR HILGERS: Thank you very much, Senator Chambers. I very much appreciate that back and forth, Senator Chambers. I think it's an incredibly important history. I don't mean to suggest that Senator Chambers supports this particular motion or the bill, but I do think it is important to remember that this is a tool in our toolbox. It has been used. And I think one of the things Senator Chambers mentioned that I think is the basis for why I support Senator Linehan's motion is because I think this is a very important issue to be debated. And I think Senator Wayne and Senator Linehan both said that this is a conversation--I thought they said it eloquently--we ought to have a conversation on the floor about this issue. I think it's critically important to the citizens of Nebraska that we have this conversation. I support MO103, Motion 103, and I would ask you to vote red on the motion to overrule the Chair and the motion to bring the bill to the floor. Thank you, Mr. President. [LB651]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Senator Krist. [LB651]

SENATOR KRIST: Thank you, Mr. President. And I don't know if you're going to listen to me now, but I read you the rule. I started with a dialogue and I read you the rule. The rule clearly says that Senator Linehan had to convince us that this was going to have a pull motion with it. She didn't say anything about it in her introduction. So if you're taking notes, if you want to pull something out, make the case that you want it pulled; after an hour, call the question and get it out. And the Speaker had to say again. So, you know, you get to a point where you get on a mike and you try to read the rules and you try to at least say, folks, listen. The rule is the rule. This is the way things work. Senator Hilgers wants to make exception to say what version of what would you...how would you pull it out? It's very simple. Senator Chambers said it. What good does it do to spend four minutes on the mike reading you the rule, helping you understand what goes on? It hasn't been used frequently in my time. It's been very judicious in our time, in the time that you guys have been here. Senator Schumacher doesn't remember a time I would bet. Except for Senator Chambers, I can remember two or three times it was brought up; but you got to understand the rules to go forward. We just wasted another half an hour of time because all we had to do was take the question. I'm not sure you have 25. I support the subject matter. But in the future if you want to do a pull motion, you have to impede on us the reason why it should be pulled. It's very simple, very simple. And discussing the underlying matter of the bill is not only inappropriate at this time, it takes up a lot of time that we shouldn't be spending. There comes a



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point when if you don't understand the rule you're going to muck up the business, and right now we're mucking up the business. I'm sorry I had to lecture again tonight, Senator Erdman, but you know what? Read the rule. Buy you books, buy you books and you still can't read. Remember that? I would hope that everyone who wants to talk would turn off their light right now. We'll take a vote or Senator Harr will pull his overrule the Chair motion and then we'll vote whether Senator Linehan gets a chance to pull it out. And then eight days later, we'll find out whether Senator Groene is going to bring it out. And then after that, the Speaker will tell Senator Groene or compel him, as the rule says, to bring it out. Pop your lights off. Let's get on with business. Let's get it done the way we need to get it done. The Speaker made the request. I'm making the request. It will fall on deaf ears again, I'm sure, but let's move on. [LB651]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Wayne. [LB651]

SENATOR WAYNE: Well, if the issue was to just turn off the mikes, then that could have been said real quickly but we kept going on and on and on. So I'm going to take my time and talk because when I look at the districts in my school (sic) about proficiency, I see some strong issues. And so, you know, Fontanelle at 14 percent proficiency; Mountain View at 19 percent; these are issues. Wakonda at 11 percent, 11 percent. Talk about the prison pipeline, it starts right here with reading. So I heard Senator Chambers say on the mike that things were pulled because there are issues that need to be talked about as a body. And this body took up death penalty. Well, here's what I'm here to tell you. If a kid can't read, we're sentencing them to death so this is an important issue because they're either going to find themselves involved in the wrong activities or behind bars. I hope one day that it will change, and I think it starts with a conversation. I can have anybody come down and tour my schools. Anybody...I can bring 100 kids in here who have graduated from school--I know we talked about graduation rate--who call me and say, can you help me fill out an application because I still can't read? I can take you to visit many of my clients who can't read or read at a third grade level so this is an important issue. Do I agree with everything on the underlying bill? No. Are there things that we have to do to fix the bill? Absolutely. But I have watched this body since I was on the Omaha Public School Board and prior to that when I served on the Learning Community with Senator Chambers, refuse to take up education in a tough way. And it's time for us to start having that conversation. It's time for us to say what do we want as a state? Now when this bill comes out, if some things

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aren't fixed, I'll be the first one to stand up and take it the six hours, eight hours, whatever we need to do to take it. But we as a body have to start having that conversation. This year in Urban Affairs we put out a bill on TIF. I can't tell you the last time there was a TIF conversation in this body. But it is a conversation that we have to have. And in our Urban Affairs Committee, we are working on how to fix TIF, how to make it better and work for everybody. That is a big conversation that I am so glad Senator Crawford is leading. And I know her and Senator Groene don't agree on a lot of things with TIF, but we're going to have that conversation and we're going to put it out here on the body. And we're going to have a conversation out here on the body about that important issue. I know Senator Stinner is not going to do it this year, but we put it out to start a conversation. And I expect every committee to do the same thing as the Chair to have tough conversations and bring it out to the body to have those tough conversations. And I can't think of a more important issue facing my district than children being able to read because I can walk you down anywhere and talk to the kids in my district and we will have a problem when 11 percent at a school are proficient. So if the committee doesn't want to have a pull motion, then the committee needs to have a conversation and bring it to the floor. And if that means this process starts off with going back within eight days, having that conversation and bringing something out to the floor, then that's what needs to happen. This body by voting green on this motion is telling this committee there is a sense of urgency to do something about education in Nebraska. And go back to your committee and get it out of committee in a way that is palatable to have a conversation. That's what this motion is about and I support that. I support this body putting pressure on committees to figure out a solution and come back to the body with something. [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR WAYNE: And that's why I support this. Thank you, Mr. President. [LB651]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Vargas. [LB651]

SENATOR VARGAS: Thank you very much, President. I'll be honest about this. I have a hard time with this. I'm still debating on whether or not we...I support the pull motion and part of the reason is for a couple of different things. One is I think Senator Wayne brings up a really critical

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conversation that we're having here. I don't believe everything in this bill is the right thing, but I do believe that the content of what we're trying to get to is really critical. I echo a tremendous number of things that Senator Wayne brought up and Senator Linehan brought up about the state of our public schools. I'm going to be the first one to tell you I want to do everything we can to improve within our school system to make sure we're passing policy that is giving our public school system every ability to improve to support teachers, to make sure we're raising expectations, to make sure that every kid does not end up graduating or, sorry, every child ends up graduating with a degree that is preparing them for college, career, and success. We use that terminology in OPS a lot. And what I mean by college, career, and success is that when they're graduating, that that degree, the degree they receive from Omaha Public Schools means the same exact thing, as much as we can, to a degree from Elkhorn Public Schools, to the degree from Millard. And I will tell you, colleagues, that is just not happening yet. And I will always be happy to talk off the mike about this issue. I know we are not doing everything we possibly can yet to ensure that every single child is graduating and that degree means the same. Because when we see proficiency levels in reading and writing where we're seeing somewhere between 15 percent to 25 percent for some of our high schools or middle schools, we are not where we need to be. And that's what this conversation is ultimately about, whether or not we are going to take a stand to pass policy that improves the expectations we're expecting within the K-12 system. Now I know there are debates on whether or not we do this solely in funding, and I'll tell you we need to do more to support funding for specific things: English language learner, special education, early childhood. I'll be the first to support that. I also think we need to think about supporting policies that are going to ensure that our teachers are trained and have the tools they need to be able to do everything they can. We have had this conversation with Senator Groene's bill to make sure people are trained on how to create a safe and inclusive welcoming environment. But ultimately we also need to be talking about policies that are improving the public education system from within. And if we're not willing to have that conversation, I'm afraid we're not going to have that conversation. We have that conversation in Health and Human Services about how we're going to improve Health and Human Services from within. We have that conversation in corrections. But for some reason and I do not know why we don't have this conversation within our public education system. I know it is people and I know it's kids, but it's extremely important that we have that conversation because that is one of our most important assets in our entire state. I do commend Senator Linehan for having this conversation. I am still debating on the pull

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motion, but we will not have this conversation on the floor if it's not through this bill. And I do not agree with everything and I've said this to Senator Linehan, but there are components that I would like to see. There's components around making sure that a parent has some avenue of saying whether or not a student is held back or not so that there is a sort of a fail-safe mechanism. That there needs to be more to consider when we're talking about the training and support. There needs to be more to consider who is making the ultimate decision whether or not somebody is getting held back. But I'll tell you this does elevate the standard when we're talking about what we expect for our kids and what we expect in terms of the information we're giving our parents because I'll tell you this much. If a parent knew that their child was three grade levels behind in second grade... [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR VARGAS: ...or third grade, they would do everything in their ability to make sure that their child gets back up to speed because at least there's something we can do at that time. By the time it is eighth, ninth, tenth grade, you'll talk with any teacher I've ever talked with, it is tremendously hard to be able to close the achievement gap in reading and we need to do more. I'm glad that we're having this conversation. And I really urge senators to think about what we're discussing here and thank everybody for bringing their perspective to this really important issue. Thank you. [LB651]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Chambers. [LB651]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I'm going to tell you all something. You all are not smart. Kennedy, old man Kennedy told his sons, don't get mad; get even. I had a bill to outlaw hunting of mountain lions. The committee wouldn't release it so I had that bill drafted as an amendment and on Final Reading day, the last day of the session, I attached it, attempted to attach it to every bill on Final Reading. And if it was ruled out of order, I would move to overrule the Chair. And I was proceeding by forcing that debate and people didn't think I would do it. You all make threats that you don't carry out. I get even. I get my time. If I don't get my way, I'll get my time and I'll do it. You all are not relentless and they know it. So you can whine all you choose. An issue this important, nobody should think they're

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going to get a full fledged debate on it on a pull motion. That is unrealistic. I managed to pick other bills to talk about anything that I want to. I talked about what Spicer said about Hitler not gassing his own people on an A bill. I don't get you all's permission for anything. You all do. So you're getting what you deserve. Learn how to discuss what means something to you when you want to discuss it. But you're not going to do it. I've been through everything that you all can bring up. We didn't even have district elections of the school board. I got it after having it vetoed several times by a Governor but I'm relentless and I will not quit. So maybe what I'll do is teach you all something. I have a bill to outlaw hunting mountain lions, and it is stuck in that committee called Natural Resources. I will maybe have it drafted as an amendment, and what it does is gut the bill that I'm amending it onto and substituting this language. And after a while, they fail. They fold. And you know what made me relent? I was going through this and I believe it was Senator Smith who came to me, he said, Senator Chambers, I know how you feel, something like that; he said, but people's families have come today. And then he hit me where I can be hit, not in my heart, I don't have one, in my liver. There are children here who are made to think that they're going to watch a celebratory affair. I said, Senator, you approached me in the right way and I pulled my amendment off the remaining bills. But I was moving right down the list. And if I say I'll do it, that's what I will do. You all won't because you act on emotion and not your intellect. And as soon as the emotion is exhausted, you're through. You need to think through what it is you're going to do. Now I have some plans for you all for the rest of the session but I'm not going to tell you. See, the days, (singing) oh, the days dwindle down to a precious few, September, November. It's a long time from May to December. But I know how to count the months in a year. I know how to count the days in a session. I told you all to let me get this down to a 60-day session which you let me do. I told you what would happen in the last days. You haven't seen anything yet. Senator Harr has finally kind of taken the flame and he's showing you something, but an hour should mean an hour. When the hour is over if somebody called the question and the Chair gets the five hands, then no matter what anybody says the Chair should go ahead and say that the debate ceases. And if they say we want overrule the Chair, that motion should be ruled out of order. That's the way you handle things. You know how to anticipate what's going to happen, you plan for it; and if you are in the Chair, you are the engineer and you stop the train. [LB651]

PRESIDENT FOLEY: One minute. [LB651]

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SENATOR CHAMBERS: Did you say time? [LB651]

PRESIDENT FOLEY: One minute. [LB651]

SENATOR CHAMBERS: Thank you. Were I in the Chair--that's why I won't sit up there. You all couldn't stand to have somebody who really knows how to operate under these rules. The hour means an hour. Once that hour is passed, you know what you're really doing in effect? You are moving to overrule the Speakers' agenda. The hour is past. That should end it. That's what Hadley did to me. I didn't like it, but I accepted it. But the Chair should have done what the Chair should do--rule a motion to override the Chair out of order and take the vote on the motion that was pending, but that's me. I'm second guessing. You don't want me in the Chair. I wouldn't be in the Chair. You couldn't pay me to be up there. You all can't stand the truth. [LB651]

PRESIDENT FOLEY: Time. [LB651]

SENATOR CHAMBERS: You can't deal with the truth. Thank you, Mr. President. [LB651]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Harr. [LB651]

SENATOR HARR: I'm going to go ahead and move to--after listening to Senator Chambers--to withdraw my motion to overrule the Chair. [LB651]

PRESIDENT FOLEY: The motion is withdrawn. We're back on the question to cease debate. Those in favor of ceasing debate will vote aye; those opposed vote nay. Record, please. [LB651]

CLERK: 28 ayes, 3 nays to cease debate. [LB651]

PRESIDENT FOLEY: Debate ceases. Senator Linehan, you're recognized to close on your motion. [LB651]

SENATOR LINEHAN: Thank you, Mr. President. I would ask for your green vote, yes vote, on the motion to pull LB651. Thank you very much. [LB651]

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PRESIDENT FOLEY: Thank you, Senator Linehan. Members you heard the debate. The question is the motion to pull the bill from committee. Those in favor vote aye; those opposed vote nay. Roll call vote has been requested. Mr. Clerk. Call of the house has been requested. Those in favor of calling the house vote aye; those opposed vote nay. Record, Mr. Clerk. [LB651]

CLERK: 38 ayes, 1 nay to place the house under call. [LB651]

PRESIDENT FOLEY: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Looking for Senator Baker. The house is under call. Senator McCollister, if you could check in. All members are present. There's been a request for a roll call vote on the question of whether or not to adopt Senator Linehan's motion to pull the bill from committee. Mr. Clerk. [LB651]

CLERK: (Roll call vote taken, Legislative Journal pages 1291-1292.) 30 ayes, 13 nays, Mr. President, to place the bill on General File. [LB651]

PRESIDENT FOLEY: The motion is adopted. I raise the call. Proceeding on to the agenda, Select File 2017 senator priority bill. Mr. Clerk. [LB651]

CLERK: Mr. President, LB578, Senator Wishart, I have E&R amendments first of all. (ER63, Legislative Journal page 1089.) [LB578]

PRESIDENT FOLEY: Senator Wishart for a motion. [LB578]

SENATOR WISHART: Thank you, Mr. President. I move the adoption of the E&R amendments to LB578. [LB578]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. [LB578]

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CLERK: Mr. President, Senator McDonnell had AM1172. Senator, I have a note you wish to withdrawal that amendment. And Senator McDonnell would offer AM1262. (Legislative Journal page 1292.) [LB578]

PRESIDENT FOLEY: Senator McDonnell, you're recognized to open on AM1262. [LB578]

SENATOR McDONNELL: Thank you, Mr. President. I am submitting AM1262 which gives the federal definition of capitation payments as well as designating the revenue from the intergovernmental transfer program created under the Ground Emergency Medical Transport Act shall be deposited into the Health and Human Services Cash Fund. I would like to thank Senator Riepe, the members of the Health and Human Services Committee, everyone in here that has participated and helped me with this bill based on ideas of ways to improve it. The amendment is going in that direction. So I would ask you to please vote green on amendment AM1262 and green on advancing LB578. Thank you. [LB578]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Debate is now open on the amendment. Senator Riepe. [LB578]

SENATOR RIEPE: Thank you, Mr. President and colleagues. First, I want to thank Senator McDonnell for his hard work and dedication to LB578. My office and his office have put in many hours to make this the best bill possible. This is a very technical bill and gets into the weeds for Medicaid and allowable reimbursements. On General File, I was present not voting on LB578. The reason I was present and not voting was my concern with whether CMS would approve the state plan amendment mandated by LB578. My office has been in contact with the director of Medicaid Managed Care for CMS at the national level, and it is because of that conversation that I must vote no for LB578. Pursuant to a CMS bulletin from July 29 of 2016 and the new rules effective March of 2017, CMS is not, I repeat, not allowing pass-through payments under Medicaid managed care plan contracts and capitation rates. There will be a ten-year phaseout period for hospitals and a five-year phaseout period for physicians and nursing facilities which use pass-through payments. CMS believes adding new pass-through payments like LB578 are inconsistent with the goals and objectives with the new managed care regulations. Additionally, CMS will not allow pass-through payments that conditioned the



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provider to participate in the intergovernmental transfer agreement. AM917 of LB578 on page 2, lines 26-27 requires all providers who would receive the enhanced reimbursement must also participate in the intergovernmental transfer agreement. The reason this violates Medicaid policy is because the condition of the supplemental reimbursement is based on the intergovernmental transfer, a quid pro quo. CMS stated supplemental payments need to be tied to utilization, outcomes, or quality measures. If it is not tied to any of these, it is not allowable pass through. Under 42 CFR438.6d, ground emergency medical transports would be considered a non-allowable pass through. I also have serious concerns about legal entities obtaining money to participate in the intergovernmental transfer program. In a Washington state fire chief's PDF handout, they recommended local entities take out short-term loans. I've also talked to the Lincoln fire chief and the expert, Senator McDonnell has been working with, from California. They stated short-term loans were an okay source of funds and that this supplemental reimbursement was, quote, unquote, free money. First of all, there's no such thing as free money. Federal money is not free money, just check out our \$20 trillion federal debt. Senator Halloran is our official keeper of the national debt and reminds us every morning. Additionally, CMS shared with my office that the federal government is moving away from the free money aspect of intergovernmental transfer programs... [LB578]

PRESIDENT FOLEY: One minute. [LB578]

SENATOR RIEPE: Thank you, sir. ...and only use them when tied to utilization outcomes or quality measures. Second, I have serious concerns with local entities taking out short-term loans to finance this intergovernmental transfer program, especially knowing the local entities will not be made whole. If you're not made whole, the local entity may be forced to raise taxes or ask for a bailout to cover these short-term loans. This is not good policymaking. There's too much risk in this intergovernmental transfer program. I plan on speaking one more time as to what I see as an alternative option for Senator McDonnell regarding intergovernmental transfers. Thank you, Mr. President. [LB578]

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator Kolterman. [LB578]

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SENATOR KOLTERMAN: Good evening, colleagues. Thank you, Mr. President. I rise in support of LB578 as well as AM1262. We heard this in HHS, and it came out six and one not voting, I believe. We heard a lot of testimony in support of this bill from the perspective of it's another way that we can allow our municipalities to bill and collect a legitimate fee. If Senator Riepe has some additional information, I hope that he shares that with us. In the meantime, I think that I'd like to compliment Senator McDonnell for bringing this bill, as well as the fire director for Lincoln. Makes good sense to me. I encourage you to support it. Thank you.  
[LB578]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Senator Riepe. [LB578]

SENATOR RIEPE: Thank you, Mr. President and colleagues. I appreciate Senator Kolterman's comments. I know that communities, particularly smaller communities, are looking for every source of funding that they can to support their emergency programs, as well as their critical access hospitals. However that said, CMS has assured us that they will not approve any new intergovernmental transfer agreements. So whether LB578 passes or not passes it's rather a moot point. Talking with CMS, however, I believe there is another way for Senator McDonnell to approach this topic of helping out our local EMS providers, but that would entail using intergovernmental transfer programs to increase the minimum fee schedule for a class of providers, which is not the way Senator McDonnell has set up LB578. To do this, my request to Senator McDonnell is to hold the bill over the interim so we can continue to work on this complex legislation to make sure the state-plan amendment submitted by the department has a better chance of being approved. If Senator McDonnell decides to continue with the bill, I will strongly request that the body support AM1262 to provide the correct definition for capitation payments. I also would like to address the fiscal note because the bill intends to not have a General Fund impact. The fiscal department needed a way for the eligible providers to transfer amounts to the department for the submission and implementation of the state plan amendment. The only way this can be done is through a designated cash fund, otherwise there'll be a General Fund impact which would be in direct conflict with Section 4 of AM917. An amendment is needed to address this issue. Again, I will be voting red on the underlying bill LB578, as I do not believe this is a good, sound policy. There's no such thing as free money, short-term loans for local entities are to risky and it is clear from CMS the state plan amendment mandated in LB578

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will most likely not be approved as drafted. I want to thank Senator McDonnell and his staff. I think we had a very good working relationship as we discussed the complexities of this bill. And I would yield any remaining time that I might have to Senator McDonnell. [LB578]

PRESIDENT FOLEY: Had you completed your remarks, Senator Riepe? [LB578]

SENATOR RIEPE: I'm finished and I'd like to yield any time I have to Senator McDonnell. Thank you, Mr. President. [LB578]

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator McDonnell, there's two minutes remaining. [LB578]

SENATOR McDONNELL: Thank you, Mr. President; and thank you, Senator Riepe. And I will continue to work with Senator Riepe. And I appreciate your support on AM1262 and LB578. [LB578]

PRESIDENT FOLEY: Thank you, Senator McDonnell. Senator Chambers, you're recognized. [LB578]

SENATOR CHAMBERS: Mr. President, members of the Legislature, this is the time of the session that I like. Things are haywire, and as Elmer Fudd would say, they are screwy. I want to tell my colleague, who has been talking back there, remember you will "reapie" what you sow. Sometimes when a bill has gotten this far, like Senator McDonnell's bill, it's not complicated to me, so I probably don't understand it. So I'm going to be in that naive position now that I was at the beginning and I support his bill. And I don't even know what Senator Riepe was talking about. I don't know if he know whats he's talking about. But probably after all that said to and dust up that we had, some of my brain cells have taken a vacation telling me what they were saying before made no sense. This makes even less sense. We supported the bill. We ought to support it now. That's what would be acceptable and expected if you're dealing with logical people. The people on the floor right now are not paying any attention to anything. You all don't even know what happened on that last bill. You know what, people were not voting for that bill. They were voting to teach lessons. Now, since the Speaker supported bringing the bill out, he's

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obligated to schedule it. As late as it has come before us, he is obliged to schedule that bill of Senator Linehan now. And if he doesn't, then he puts you all in a trick bag. Or did he trick himself? Because I want to see how you all are going to do on a bill that comes out this late, and I understand it has an A bill on it. That doesn't mean anything to you all. And I'm going to listen to you talk about education. Then whenever some of you all use a double negative, when you use a split infinitive, and you talk about better education I'm going to say--oh, like you have. When your subject doesn't agree with the predicate--oh, like you have. When you're the chairperson of a committee, call the Education Committee and you pronounce words--oh, like you mispronounce words. Children in the third grade ought to be held back, and you're older than the hills and you don't pronounce words right. What kind of nonsense is that? But that's the way you all want to play the game? That's the way we're going to play it. And you all are going to see what it's like to deal with a grown man. And now we're in the latter days and you have all these budget bills to deal with. I have not made deals with anybody. I can still offer amendments on every section in every budget bill, and how are you going to stop me? You going to vote cloture before you get to the cloture vote? You going to call the question? Call the question. You going to vote against my motion? I won't be voting and I'll move to reconsider. I'm going to teach you all something. I'm going to teach you the Kennedy principle--don't get mad, get even. We're going to be out of here June 2. You think if you all make ugly faces at me I can't deal with your ugly faces for a week, two weeks, three weeks, four weeks when I've been dealing with you since January? I'm not like you. Don't judge me by what you are. Don't judge my manhood by your manhood. You sit around here grinning, skinning, think you got everything your way. Well, it may seem that that's the way you had it, so here's the challenge I will make, but before I make it I'd like to ask Senator Briese a question if he would yield. [LB578]

PRESIDENT FOLEY: One minute. Senator Briese would you yield, please? [LB578]

SENATOR BRIESE: Sure, go ahead. [LB578]

SENATOR CHAMBERS: Senator Briese, would you like to make a small wager? [LB578]

SENATOR BRIESE: No, I would not, thanks anyway. [LB578]

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SENATOR CHAMBERS: You don't even know what the wager is. [LB578]

SENATOR BRIESE: I don't need to know, thank you. [LB578]

SENATOR CHAMBERS: Thank you, Senator Briese. Members of the Legislature, I am not angry. I don't have to be angry to do what I'm going to do. I'm going to be your teacher. You said that if children don't know how to read by the time they reach third grade, hold them back. If you all don't know how to legislate after these months, shouldn't you be held back? But I can't hold you back, so I've got to teach you, and I've got to persuade you. What's the first thing up tomorrow? Doesn't make me any difference. It's a bill. Does it have more than one section? [LB578]

PRESIDENT FOLEY: Time, Senator, but you're next in the queue. You may continue. [LB578]

SENATOR CHAMBERS: Thank you, Mr. President. But I want to keep the heat on the Speaker. The Speaker must schedule Senator Linehan's bill. I don't care how many budget bills you all have. I don't care what you think is important. The Speaker felt that it was more important than all of that to get that bill out here. Now Senator Kolterman is going to vote for it. We've got a list of everybody, and I'll do you all like Santa Claus. He whistles and shouted and called them by name, now Dasher, now Dancer, now Prancer, now Vixen, on Comet, on Cupid, on Donner and Blitzen and I'm going to read the roll. When the roll is called up yonder, you'll be there. You made the vote. You knew it was recorded. And I'm going to read your names from time to time and I'm going to watch how you vote on that bill. You voted it out here. It's more important than your budget bills. And are you going to vote for the A bill? If you don't, you're a hypocrite. You can talk about education on other bills if you want to. I don't even know what the bill is. I know what the bill is, but I don't know what Senator Riepe is talking about. But look at all the things that I'm talking about on Senator McDonnell's bill. You don't have to have the particular bill that deals with the subject you want to talk about. And I'm going to tell you what disappointed me, as though you care. When Spicer made those comments, derogating the Holocaust, I thought my remarks might stir somebody up on this floor to say something about it, in addition to me, but it didn't. So you let people know something about Nebraska. You talk about this as a caring state. You talk about it's a generous state. You talk about the Nebraska way. When I hear that I feel like

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vomiting. I know what the Nebraska way is. It's the most hypocritical thing you can find. You know what makes me feel best of all? Except that I don't believe like you all do, the fact that Jesus told the Governor over there, that spoiled brat, and that's what he is, but you all are afraid to see what he is because he gave some of you all some money. He bought you out for that. Jesus told Ricketts--a camel will go through the eye of a needle easier than you'll get in heaven. That's what Jesus told Ricketts. Do you all pray for the Governor every day? You should. Jesus said that a camel can go through the eye of a needle easier than Ricketts can go to heaven. Do you think I'm judging him? No, I'm going by what Jesus said. You all love Jesus. You believe in Jesus. You just don't practice what he preaches. And now late in the evening we have Senator Riepe standing up, and I'm probably one of the three or four people who listen to everything he said, and it was garbled. First he seemed to say yes, then he seemed to say no. Then he seemed to say maybe so. It's like the way they try to let you know what a diplomat is. If you're a diplomat, if you say yes, that means maybe. If you say maybe, that means no. If you say no, you're not a diplomat. I'd like to ask Senator Riepe a question if he'll respond. [LB578]

PRESIDENT FOLEY: Senator Riepe, will you yield, please? [LB578]

SENATOR RIEPE: Yes, I would. [LB578]

SENATOR CHAMBERS: Senator Riepe, you said that Senator McDonnell ought to hold this bill, and you and he will talk about it over the interim. Is that what you said? [LB578]

SENATOR RIEPE: Something to that sense, yes. We've had a good working relationship and we just want to...we have from the very beginning tried to give him the best bill that we possibly could. (Inaudible.) [LB578]

SENATOR CHAMBERS: And you think you have something that will make his bill better? [LB578]

SENATOR RIEPE: Well, we think that we can try to work through that. We're working with CMS. We've made calls within the last few days. [LB578]

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SENATOR CHAMBERS: Who is this "we" you keep talking about? [LB578]

SENATOR RIEPE: Well, legal counsel, legal counsel to the department...to the committee.  
[LB578]

SENATOR CHAMBERS: Is it the legal counsel of the department or of the committee? Which one or both? [LB578]

SENATOR RIEPE: It's of the committee. She's a Creighton grad. I know you'll appreciate that.  
[LB578]

SENATOR CHAMBERS: She's a what? [LB578]

SENATOR RIEPE: A Creighton grad. [LB578]

SENATOR CHAMBERS: A Creighton grad, what's that supposed to mean? [LB578]

SENATOR RIEPE: Well, I know you're a Creighton grad, so. [LB578]

SENATOR CHAMBERS: And what does that mean to anybody around here? It doesn't mean anything to you. [LB578]

PRESIDENT FOLEY: Time, Senators. But you're next in the queue, Senator Chambers, you may continue. [LB578]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, Senator Riepe, thank you. I got an education like I got in spite of Creighton, not because of Creighton. They wouldn't even call on me in my law classes because I challenged the teachers. I was a grown man when I went there. They liked to bully those young, white scared kids because the professor who not only had been to law school a long time ago, he should know a lot about the law. So what does it take for somebody who is that seasoned in the law to bully and embarrass somebody who's green? So I didn't even go to class. So how did I pass every course without failing? I knew

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that the examination had to be based on what was in the textbook, so read the textbook and I knew more than what was asked on the exam in the form of questions and that's how I passed all the classes. And I read every question, and I answered the question the way it was asked, and that's what I did. Everybody at Creighton thought I was going to flunk out. I was the only black person in the classroom, and in the school, as a matter of fact. I think they resented the fact that I did so well, because the point was reached when they wouldn't let me register, and it took years for me to get back to Creighton law school. I didn't flunk out. They refused to let me come back because I passed all the courses without going to class. And when I was allowed to finally come back, the teacher told me, the dean, I didn't have to go to class, but I'd have to pass the exams. I said, that's easy. And that's what I did. Took me years to get my law degree, and after a point was reached, I didn't get the law degree to practice law, I got that law degree from Creighton because when I start something some place, if I didn't finish there I'd never have a law degree. I could have gotten a law degree in any law school in this country, any one. But I started there and I told that dean, who wouldn't let me back, if I don't get it from Creighton, I won't get a law degree. I started here and this is where I'll get the degree, which ultimately I did. But I decided to go a different path than practicing law. So here I am in the Legislature. And about this school, I was humiliated and embarrassed when I was a small child in school by a white teacher, and then I learned how to recognize my letters because of a white teacher who would stay over the lunch hour with me. In those days they didn't have lunchrooms, you went home to eat lunch. And I didn't go home to eat lunch. I asked this teacher would she teach me what these letters were in the alphabet. I didn't know the alphabet. Look at me now. Don't tell me what a black child cannot learn. Don't tell me that. They couldn't break my spirit then, and it cannot be broken now. And I don't know what it was in me as a child that made me determined to learn, and I was laughed at, I was mocked in the classroom, and the teacher let those white kids laugh at me. But it didn't stop me. And look at me now. I'd match my mind against anybody's mind. I listen to you all speak English. And somebody will ask me, don't you understand English? I say, yes, when I hear it spoken. What is the national language of America? Third grade English. Listen to your leaders! Which one in here would you want your child to imitate when it comes to speaking you all's language? White people's English. It's not English English. It's American English. You all don't speak it well. You don't have to. You make fun of people here who come here from another country; say learn English. Like you? I have to hear all of this stuff, and I watch it. [LB578]



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PRESIDENT FOLEY: One minute. [LB578]

SENATOR CHAMBERS: And I've been around you all for 43 years of my life, around you all. Most of my life has been spent around white people. I never had a black teacher in my life, and it was an uphill struggle all the way. They tried to hold me back. I was a challenge because I was uppity. And you know what makes a black person uppity? When you look them in the eye and you won't take low and you will not shuffle. You will not scratch when you don't itch. You will not laugh when something's not funny, and you will not apologize for your existence, and you will not apologize for the people of whom you are a part. And you know what I used to tell these white people? Were I blacker I could be prouder. They going to make fun of my color, then you stay out of the sun and stop trying to get like me. You're going to make fun of my hair? Then don't frizz your hair up. You going to take everything about me and try to make me ashamed of it... [LB578]

PRESIDENT FOLEY: Time, Senator. [LB578]

SENATOR CHAMBERS: ...then you're going to steal it and try and copy it. Was that my third time, Mr. President? [LB578]

PRESIDENT FOLEY: Yes, it is, Senator. [LB578]

SENATOR CHAMBERS: Thank you very much. [LB578]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator McDonnell, you're recognized to close on AM1262. He waives close. The question before the body is the adoption of the amendment. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB578]

CLERK: 29 ayes, 1 nay, Mr. President, on the adoption of the amendment. [LB578]

PRESIDENT FOLEY: AM1262 is adopted. [LB578]

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CLERK: I have nothing further on the bill, Mr. President. [LB578]

PRESIDENT FOLEY: Senator Wishart. [LB578]

SENATOR WISHART: Thank you, Mr. President. I move to advance LB578 to E&R for engrossing. [LB578]

PRESIDENT FOLEY: Members you've heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB578 advances. Proceeding on the agenda: members, the next bill is a Final Reading bill. If you could all proceed to your desks, please. Mr. Clerk, you're recognized. [LB578]

CLERK: Mr. President, with respect to LB427, Senator Erdman would move to return the bill for specific amendment, AM1166. [LB427]

PRESIDENT FOLEY: Senator Erdman, you're recognized to open on AM1166. [LB427]

SENATOR ERDMAN: Thank you, Mr. Lieutenant Governor. This is my first attempt to do such a thing and I believe that is an order that I bring this bill back. I believe we have to bring it back to Select File before we can amend the bill. Senator Vargas has brought this bill, and I understand his concern and his "stick-to-it-ness" to get this bill pass. It makes a lot of sense for his district and for those people that have spoken to him about this. My people in my district don't see the need for it, as I've said in the past. They seem to be able to manage what they need to do on their own, and they don't need government intervention. And so when we bring this up, and I would encourage you to vote green to bring it back to Select. I do understand that it is 8:35 and the only thing standing between you and going home is this bill and our discussion thereof and so I will make it short and sweet. I believe that the amendment speaks for itself, and my goal with the amendment, if we get that far, is just basically to have it apply to those counties where those school districts need this regulation...or this adoption of policy, and so that's what the amendment does, if we get that far. But in the sake of time, I would ask you to vote green to bring LB427 back to Select File. Thank you. [LB427]

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PRESIDENT FOLEY: Thank you Senator Erdman. Senator Vargas. [LB427]

SENATOR VARGAS: Good evening, colleagues. I echo Senator Erdman's comments that I know that we're the only thing between you and a little bit of a break before we start again for a full day tomorrow. First, I want to make sure it's very, very clear. I'm asking you to vote no on AM1166, (Senator) Erdman's amendment, and the reason is very simple. I think we've had a very full, fair dialogue on this issue about why we should be supporting pregnant and parenting students. This bill came from data. The ACLU did a survey surveying all of the public schools in Nebraska. Through this public records request we gathered more information on the inconsistencies and policies supporting pregnant and parenting students. These inconsistencies did not exist in just one county. They didn't exist in just one city. They existed across the entire state of Nebraska. And the good thing about these inconsistencies is they highlighted positive outliers and what we actually were doing really great to support pregnant and parenting students. But it highlighted inconsistencies where we weren't. It showed where we had best practices; it showed where we didn't have policies in place. And the one thing that remains true is Nebraska as a whole continues to have a higher teen pregnancy rate than the nation...a higher teen pregnancy rate than the nation. And we're seeing this issue continue to arise. We've seen the data that shows that 70 percent of women that drop out of high school is because of teen pregnancy. We see the intergenerational impact of not being able to finish our high school degree and what impact that has on your ability to turn income and to have a life-long earnings that is comparable to those that do complete their high school education. Colleagues, I am asking you to vote no on Erdman's amendment. I believe we've had a full conversation on this issue. This is a full-state Nebraska issue, something that we can do to better support a really high-risk population, and do it in a way that still honors the autonomy of local districts by setting a very basic foundational standard of the type of policies that we know is going to create the type of environment to support of pregnant and parenting student to be able to finish high school and go on to lead a very healthy and full lives. And that is what I'm asking you to do. So with that, I ask you to vote no on AM1166, Erdman's amendment, and to continue to uphold the fair dialogue we've had on every single amendment and to ensure we're doing everything we can to support pregnant and parenting students in a way that doesn't have a fiscal impact; in a way that honors all of the proponents on every single one of these full hearings we had, and something that came out.

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Thank you very much. I appreciate the dialogue. Please vote no on Erdman's amendment and then vote yes on LB427. Thank you very much. [LB427]

PRESIDENT FOLEY: Thank you, Senator Vargas. Senator Chambers. [LB427]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I will be very brief. The other day I invoked the name of Abigail Adams. She was the wife of John Adams, and she wrote some of the most insightful letters of any that I've read written by male or female. But at the time she wrote her letters, women were virtual servants instead of wives, as envisioned in the "Bible," the helpmate, "help meet." But at any rate, she had written in one of her letters, and I'll paraphrase very briefly: While you're off forming a government and passing laws, don't forget the ladies. How can it be that ladies who have no part whatsoever to play in the laws that are being passed that will have a bearing on them, how can it be that they are expected to obey and respect these laws in which they had no hand in enacting? Young women are not represented on this floor. It might be very easy for a man to say, this is not needed, but what I think we should try to learn how to do is consider if there's that one person. I hear so many times on various issues, if it saves one life, if it rescues one person. No man can understand what it means to be pregnant out of wedlock in a little town; doesn't know what it means to be pregnant out of wedlock anywhere, even if it's a man who put a young woman in the family way. And it's very easy for men to say this service, this consideration, this attempt at allowing somebody to retain a modicum of dignity, modesty, and self-respect is not needed, because it does not impact on him. And now I'm not talking about Senator Erdman because he's the one who made the motion, I'm talking about men in general. I am a man. I understand men, and I know what men will do. And other men know men. And that's why the expression came into being, "A man ain't nothing but a man." And sometimes that amounts to pretty poor stuff. If I were to err, I would err on the side of compassion, respect, and consideration that I would want extended to my own daughter. And sometimes we get caught up so much in the rural-urban split, if you want to call it that, unfunded mandates, if you want to call it that, that ideology pushes everything else off the table. If there's one young woman who can benefit from this action then I think it's worth our doing it. I hope we will vote against Senator Erdman's motion, no matter how well intended, and do what we know is the right thing to do. Or if we don't know that it is the right thing to do, we would know it's the right thing... [LB427]

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PRESIDENT FOLEY: One minute. [LB427]

SENATOR CHAMBERS: ...to do if it dealt with our own daughter. Thank you, Mr. President.  
[LB427]

PRESIDENT FOLEY: That was one minute, Senator. [LB427]

SENATOR CHAMBERS: Oh, you said one minute? [LB427]

PRESIDENT FOLEY: Yes, sir. [LB427]

SENATOR CHAMBERS: I think I'll leave well enough alone. [LB427]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Bolz, you're recognized.  
[LB427]

SENATOR BOLZ: Thank you, Mr. President. Respectfully, Senator Chambers, I can't let the record illustrate that young women's interests aren't represented on this floor. Senator Vargas is doing so, and many of the rest of us do so every day. Not only in our actions and our legislation, but also in our partnerships, and for the pages that are looking back at me, for the young women who might be watching on the television, there is a place for you in politics. There are people fighting for you in politics. I'm one of them, and I'll do my best to keep doing that. Thank you, Mr. President. [LB427]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Ebke. [LB427]

SENATOR EBKE: Thank you, Mr. President. I wonder if Senator Vargas would yield for a few questions? [LB427]

PRESIDENT FOLEY: Senator Vargas, would you yield, please? [LB427]

SENATOR VARGAS: Absolutely. [LB427]

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SENATOR EBKE: Senator Vargas, does this bill require any affirmative action aside from a policy? [LB427]

SENATOR VARGAS: No, it does not? [LB427]

SENATOR EBKE: Okay. That's my only question. Thank you. Here's the deal. As a member of a school board for 12 years we didn't necessarily like it when we were told that we needed to establish policies for something. But you know, a policy actually helps the school board and it actually helps the administration because it prevents disparate actions being taken in different instances. And I appreciate all of my colleagues who say, you know, we treat our own well. Well, that may be true, but it may also be true that you treat your own well differently when one is the principal's daughter and one is the daughter of the cowboy. I don't know. And so I think it's important. It's important for everybody to have a policy in place. It doesn't say what the policy has to be. Correct, Senator Vargas? Nod your head. Thank you. And I think it's important that every school have a policy. When I was on the board the big kerfuffle about concussion policy came out. And, you know, it really helped, because it relieved the temptation to put the guy who was the star player back in before he tested appropriately. It prevented...it allowed the coach or the principal to say, no, we can't put your son in because he is not...he isn't testing right yet. It relieves a lot of question. And you can say when you're faced with a situation, here is the policy. It's all it is. We're going to treat everybody the same way. This is our policy. It's a way of protecting those who are in positions of management and the board. So I think it helps everybody. I have no problem with Senator Vargas's bill, and I thank him for bringing it. I urge your red vote on returning to Select File and your red vote on AM1166. [LB427]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Chambers. [LB427]

SENATOR CHAMBERS: Thank you, Mr. President. With all my talk of being precise, I did not make myself clear. What I meant about young women not being represented on this floor, I meant in terms of being on this floor themselves to tell us how they feel and what they are going through. And there will not be one on this floor doing that. Now you can talk to the pages somewhere else. So next time I will try to make it much clearer in terms of what I mean. But I meant exactly what I said. I think if we had the young women themselves on this floor, able to

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vote and participate, we would get a different picture of the life that they're confronting than we get when men, however well-intentioned, might try to do that. But I'm glad that Senator Bolz made her comment because others may have misunderstood what I said because I was not clear. I did not mean to say there are not senators on this floor who attempt to see to the interests of young girls who cannot serve in this Legislature. I hope that's clear now. Thank you, Mr. President. [LB427]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Wishart. [LB427]

SENATOR WISHART: Senator Chambers, would you yield to a question? [LB427]

PRESIDENT FOLEY: Senator Chambers, would you yield please? [LB427]

SENATOR CHAMBERS: Yes, I will. [LB427]

SENATOR WISHART: Senator Chambers, what age would you define would be young for a young woman? [LB427]

SENATOR CHAMBERS: Well, now if you ask it like that, anybody younger than I am. (Laughter) [LB427]

SENATOR WISHART: Thank you. [LB427]

SENATOR CHAMBERS: That's why I said girls, though, I meant to. [LB427]

PRESIDENT FOLEY: Thank you, Senator Chambers, Senator Wishart. Senator Groene. [LB427]

SENATOR GROENE: I read the language of the bill and there is "shalls" and "must" in that bill. It just isn't a policy. It shall do this. They shall change this. They shall put in and they must. It's in the language. It's not just a policy. And I disagree with Senator Ebke. A concussion policy is one student and one decision if they can play football. It's not lining up babysitting for them. It's

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not lining up tutors. It's not lining up other forms to do their homework. There's a little bit of a difference here. And just an ironic comment--in my LB595 about putting in the policy an umbrella policy I was told no. All the districts do their own thing. They know what they're doing. The experts are in charge. We don't need an overview policy in place by the state government on school discipline and removing a student from the classroom. But suddenly now, in this case, we do need a policy. So where are we at, folks? Where's our character? Where's our standards? Just remember that. Senator Erdman is doing what he believes. He has told me, and I have gotten the same calls from rural school districts, we have policies; we have not forced any student out of school because of their parentage situation. He is doing what his district wants. So I might bring LB595 back, and I'll see how the folks go here and expect the same that we are just going to put into policy an umbrella over the districts to help them, to help them with just the policy. Thank you, Mr. President. [LB427 LB595]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Halloran. [LB427]

SENATOR HALLORAN: Thank you, Mr. President. Would Senator Vargas yield to a question? [LB427]

PRESIDENT FOLEY: Senator Vargas, would you yield please? [LB427]

SENATOR VARGAS: Yes, happy to. [LB427]

SENATOR HALLORAN: Thank you, Senator Vargas. Do you think that the schools in rural Nebraska have an issue that this would resolve? [LB427]

SENATOR VARGAS: Do I think that the schools in Nebraska... [LB427]

SENATOR HALLORAN: Yes. [LB427]

SENATOR VARGAS: Have an issue... [LB427]

SENATOR HALLORAN: Rural Nebraska. [LB427]



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SENATOR VARGAS: The public records request and interviews tell us that there are inconsistencies across the state. So both urban and rural areas across the state, there are some school districts that have policies and some that do not; some that have best practices. [LB427]

SENATOR HALLORAN: I guess that wasn't the question I asked. I'm looking for something evidentiary that would suggest that we have an issue in rural Nebraska in taking care of young ladies with this issue of dealing with pregnancy and nursing. [LB427]

SENATOR VARGAS: I'm happy to give you more of the results of the survey after this that show that there are inconsistencies in school districts all across the state. [LB427]

SENATOR HALLORAN: Inconsistency and policy, I understand that. Are there instances, evidence showing or suggesting that this is an issue? I know the policy is not there. [LB427]

SENATOR VARGAS: Yes, based on the survey, there are issues. We had testifiers come and say that there are issues across the state. [LB427]

SENATOR HALLORAN: From what...can you list... [LB427]

SENATOR VARGAS: We had medical professional come in support, we had social workers come in support. We had educators come in support. We had administrators come in support. [LB427]

SENATOR HALLORAN: It's my time, sir. Senator, can you give me some examples of what school districts in rural Nebraska testified on that behalf? [LB427]

SENATOR VARGAS: What schools in rural Nebraska schools came to testify? [LB427]

SENATOR HALLORAN: Yes. [LB427]

SENATOR VARGAS: Actually, we didn't have any rural Nebraska schools testify in opposition to this bill. [LB427]

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SENATOR HALLORAN: Okay. Thank you, Senator. I think that Senator Erdman's amendment is very appropriate. I think just like you would wish to impose...you wouldn't want any of us in rural Nebraska to impose some legislative mandate upon your schools. I think it's just only appropriate that we limit the legislation to the areas where the issue's the biggest. We can make this statewide if you want, but it's an imposition in many instances, and I think it's unnecessary. Thank you. [LB427]

PRESIDENT FOLEY: Thank you, Senator Halloran. Senator Crawford. [LB427]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. I rise in opposition to AM1166. Colleagues, we have pregnant and nursing students in our schools that are not in Douglas and Lancaster County. I am from Sarpy County, so I would...our school, our students would not be included in this effort if this amendment were to pass. The amendment says only those counties that have primary or metropolitan municipalities would be included. So we would be deciding that it is important to have these policies only in Douglas and Lancaster County. So that excludes Sarpy County, Hall County, many of our other counties that have...that are not rural, that have populations of students who are facing these challenges. I also want to speak, and I really appreciate Senator Ebke's comments as a school board member, I want to speak again as a parent about the importance of the return to learn protocol, and how important that has been to my son who does not play football, and so it was not an issue of whether he got to go back in to play football again. And the return to learn protocol in Bellevue public schools, again, is not just about playing sports, it's about how you return to class, how you make up your assignments, how your absences are considered. And I know that Bellevue public schools...I know they care about me and I'm sure they would try to do the best for my son, but having that policy in place meant that we didn't have to agonize over all those choices and work out and negotiate solutions to all those things, there was already something in place, and we didn't feel like we had to ask for special permission because that had been considered. And, again, in this...for this bill there's an...there's going to be an effort in the state to think about what are some best practices...what are the best practices in a framework and schools will get to decide how they want to interpret that in their district and decide what that looks like. And having that proactive policy in place will make it possible for a shy student who already feels uncomfortable about the situation that they're in to come forward and ask for assistance, to come forward with their parents. And their parents are

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going to know that the school district has given some thought to how to make this work. The teachers will have already considered in the abstract without it being about Susie or Samantha, what should we do for our students who are in this situation? And having those proactive conversations will prepare them to take better care of their students who are in this situation and not only their students in the situation, colleagues, but this is absolutely critical for those young babies that we're bringing into the world here. Breast feeding is absolutely critical for their health and their future. So, colleagues, this is so much more important and across the state than just Douglas and Lancaster County. And asking schools, having the schools work with us and trying to provide some guidance, hopefully, to them on what some of those policies might look like and making sure there are accommodations for breast feeding are critical things to do for our students and young babies all across the state. So I urge you to vote no on AM1166 and yes on LB427. Thank you, Mr. President. [LB427]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Craighead. [LB427]

SENATOR CRAIGHEAD: Thank you, Mr. Lieutenant Governor. I wonder if Senator Erdman would yield to a question? [LB427]

PRESIDENT FOLEY: Senator Erdman, would you yield, please? [LB427]

SENATOR ERDMAN: Certainly would. [LB427]

SENATOR CRAIGHEAD: Thank you. Do you know approximately in your district how many young women get pregnant out of wedlock? [LB427]

SENATOR ERDMAN: I do not. [LB427]

SENATOR CRAIGHEAD: I don't either and I don't know how many get pregnant in Omaha, but I think you get pregnant the same way in Omaha that you do in Alliance or any place else. Okay? I think this is a bill that should be statewide. I don't think it should be limited to just Douglas and Lancaster County. I mean if we're going to do that, we might as well add Sarpy because that's the fastest growing county in the state. But pregnancy is pregnancy, it doesn't matter where you live.

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And so I am going to suggest that people vote red on AM1166 and green on LB427. Thank you.  
[LB427]

PRESIDENT FOLEY: Thank you, Senator Craighead. Senator Erdman you're recognized to close on AM...excuse me, on your motion to return the bill to Select File. [LB427]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Let me start by saying this, first of all, I don't disrespect young ladies. And I don't disrespect what happened to them if they get pregnant. This policy that Senator Vargas is asking us to do can be accomplished by the school board now. The school boards can now write a policy to do exactly what Senator Vargas is requiring them to do. Those districts, those school districts in my district, the ones that I've spoken with, and there have been several, and there have been some in other rural areas that are not in my district, have this happen to them and they figured out how to handle it. This morning, I made a comment about what they do in Harrison, Nebraska, without any help of the government, without any help of anybody telling them that they should allow home-school young people to graduate with their graduating class, and how to figure things out on their own, they can do that. Maybe that's unique to western Nebraska people. I don't think it is. I don't disrespect young ladies, but what I'm telling you is this, and I've asked Senator Vargas this question before, the school boards now can write a policy to their wishes, how it fits them the best, and move forward with this. And I ask Senator Vargas, why don't you go to those school boards and ask those people that set on the school board to write a policy. If it is important to you in your district, in Sarpy County, go to your school board and ask them to write a policy to take care of the young pregnant mothers. Why should we as a legislature tell them what to do; they can do it on their own. Go to the school board and say, hey, we have these young ladies that aren't being treated right, we'd like you to write a policy to take care of them. They being the school board elected by you will listen to what you have to say and they can do that. So what I'm asking is make this applicable to those who think they need it the most. And in my district, those people said we have it figured out, we can do this. And I don't need to instruct them on how to do it. So I ask you to vote to return to Select File. We're getting the cart before the horse. Everybody is asking to vote against AM1166, The first thing we must do is have it returned to Select File. So now we've been at it 30-some minutes and I didn't intend it to go that long, but that's what it

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is. So vote green to return it to Select File, and then we will have a discussion about AM1166.  
Thank you. [LB427]

PRESIDENT FOLEY: Thank you, Senator Erdman. Members, you heard the debate. The question is to return the bill to Select File. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, Mr. Clerk. [LB427]

CLERK: 11 ayes, 28 nays, Mr. President, on the motion to return. [LB427]

PRESIDENT FOLEY: The motion is not adopted. Members, we're on Final Reading. I'll ask the Clerk to please read the bill. [LB427]

CLERK: (Read LB427 on Final Reading.) [LB427]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB427 pass? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please. [LB427]

CLERK: (Record vote read, Legislative Journal pages 1293-1294.) 31 ayes, 7 nays, 10 present and not voting, 1 excused and not voting, Mr. President. [LB427]

PRESIDENT FOLEY: LB427 does pass. While the Legislature is in session and capable to transacting business, I propose to sign and do hereby sign LB427. Speaker Scheer, you're recognized. [LB427]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Colleagues, just wanted to update you, as I told you my calendar was on a tentative basis, and I just want to let you know I did make a change for tomorrow. Tomorrow morning first thing we will be doing LB415 rather than on Thursday. And then LB647 will back that up. There will be a few other things intermixed in there and then at approximately 3:30, we will return to the budget and try to move forward on some of the budget items tomorrow as well. So just wanted to make sure that I kept you abreast

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so that you weren't surprised if you read it either tonight or tomorrow. So thank you very much. Have a good evening. Get some good night sleep. Thanks. [LB415 LB647]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Items for the record, Mr. Clerk.

CLERK: Amendment to be printed to LB651 by Senator Linehan; and Senator Murante to LB451. [LB651 LB451]

Mr. President, Senator Bolz would move to adjourn the body until Wednesday, May 3 at 9:00 a.m.

PRESIDENT FOLEY: Members, you heard the motion to adjourn, all those in favor say aye. Those opposed say nay. We are adjourned.