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Rough Draft

Floor Debate  
April 06, 2018

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[LB117 LB194 LB320 LB333 LB449 LB497 LB629 LB640 LB682 LB701 LB708 LB717  
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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for the fifty-sixth day of the One Hundred Fifth Legislature, Second Session. Our chaplain for today is Pastor Sarah Cordray of the Luther Memorial Church in Syracuse, Nebraska, Senator Watermeier's district. Please rise.

PASTOR CORDRAY: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Cordray. I call to order the fifty-sixth day of the One Hundred Fifth Legislature, Second Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

PRESIDENT FOLEY: Thank you, Mr. Clerk. Any corrections for the Journal?

CLERK: I have no corrections.

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

CLERK: Mr. President, lobby report as required by state law and agency report acknowledgment. That's all that I have this morning. (Legislative Journal pages 1443-1444.)

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PRESIDENT FOLEY: (Doctor of the day introduced.) Also I am reliably informed that today is the birthday of our Sergeant at Arms, Mr. Jim Doggett. Happy birthday, Mr. Sergeant at Arms. Members, we're going to proceed immediately to Final Reading. If you could, please be at your desks. We'll now commence Final Reading. The first bill is LB741E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor of dispensing with the reading vote aye; those opposed vote nay. Record, please. [LB741]

CLERK: 34 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB741]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB741]

CLERK: (Read title of LB741.) [LB741]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB741E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please. [LB741]

CLERK: (Record vote read, Legislative Journal pages 1444-1445.) 45 ayes, 0 nays, 4 excused and not voting, Mr. President. [LB741]

PRESIDENT FOLEY: LB741E passes with the emergency clause attached. Our next bill is LB760E. Mr. Clerk. [LB741 LB760]

CLERK: (Read LB760 on Final Reading.) [LB760]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB760E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please. [LB760]

CLERK: (Record vote read, Legislative Journal pages 1445.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB760]

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PRESIDENT FOLEY: LB760E passes with the emergency clause attached. The next bill is LB903E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor to dispense with the reading vote aye; those opposed vote nay. Record, please. [LB760 LB903]

CLERK: 39 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB903]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB903]

CLERK: (Read title of LB903.) [LB903]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB903E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please. [LB903]

CLERK: (Record vote read, Legislative Journal page 1446.) 46 ayes, 0 nays, 3 excused and not voting, Mr. President. [LB903]

PRESIDENT FOLEY: LB903E passes with the emergency clause attached. The next bill is LB909E. Mr. Clerk, the first vote is to dispense with the at-large reading. Those in favor vote aye; those opposed vote nay. Record, please. [LB903 LB909]

CLERK: 39 ayes, 2 nays, Mr. President, to dispense with the at-large reading. [LB909]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB909]

CLERK: (Read title of LB909.) [LB909]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB909E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please. [LB909]

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CLERK: (Record vote read, Legislative Journal pages 1447-1448.) 46 ayes, 0 nays, 3 excused and not voting. [LB909]

PRESIDENT FOLEY: LB909E passes with the emergency clause attached. The next bill is LB940E. Mr. Clerk. [LB909 LB940]

CLERK: (Read LB940 on Final Reading.) [LB940]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB940E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please. [LB940]

CLERK: (Record vote read, Legislative Journal pages 1448-1449.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB940]

PRESIDENT FOLEY: LB940E passes with the emergency clause attached. (Visitors introduced.) Our next bill is LB940AE. [LB940 LB940A]

CLERK: (Read LB940A on Final Reading.) [LB940A]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB940AE pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please. [LB940A]

CLERK: (Record vote read, Legislative Journal page 1449.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB940A]

PRESIDENT FOLEY: LB940AE passes with the emergency clause attached. Next bill is LB1008E. [LB940A LB1008]

CLERK: Mr. President if I might, with respect to LB1008, I have amendments that were filed from Senator Larson and Wayne, but I understand both would like to withdraw those. [LB1008]

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PRESIDENT FOLEY: Amendments are withdrawn. [LB1008]

CLERK: I have nothing further on the bill, Mr. President. [LB1008]

PRESIDENT FOLEY: Mr. Clerk, the first vote on this bill is to dispense with the at-large reading. Those in favor of dispensing with the reading vote aye; those opposed vote nay. Record, please. [LB1008]

CLERK: 41 ayes, 3 nays, Mr. President, to dispense with the at-large reading. [LB1008]

PRESIDENT FOLEY: The at-large reading is dispensed with. Mr. Clerk, please read the title. [LB1008]

CLERK: (Read title of LB1008.) [LB1008]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1008E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Record, please. [LB1008]

CLERK: (Record vote read, Legislative Journal pages 1450-1451.) 42 ayes, 4 nays, 2 present and not voting, 1 excused and not voting, Mr. President. [LB1008]

PRESIDENT FOLEY: LB1008E passes with the emergency clause attached. Our next bill is LB1091E. [LB1008 LB1091]

CLERK: (Read LB1091 on Final Reading.) [LB1091]

PRESIDENT FOLEY: All provisions of law relative to procedure having been complied with, the question is, shall LB1091E pass with the emergency clause attached? Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB1091]

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CLERK: (Record vote read, Legislative Journal page 1451.) 48 ayes, 0 nays, 1 excused and not voting, Mr. President. [LB1091]

PRESIDENT FOLEY: LB1091E passes. While the Legislature is in session and capable of transacting business, I propose to sign and do hereby sign the following legislative bills, LB741E, LB760E, LB903E, LB909E, LB940E, LB940AE, LB1008E, and LB1091E. That will complete our work on Final Reading for today, we'll get to Select File in just a moment. We'll move now to Select File. The first bill is LB841. Mr. Clerk. [LB741 LB760 LB903 LB909 LB940 LB940A LB1008 LB1091 LB841]

CLERK: Senator Wishart with respect to LB841, I have Enrollment and Review amendments. (ER171, Legislative Journal page 1392.) [LB841]

PRESIDENT FOLEY: Senator Wishart, you're recognized. [LB841]

SENATOR WISHART: Mr. President, I move the E&R amendments to LB841. [LB841]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments to LB841. Those in favor vote aye...excuse me, say aye. Those opposed say nay. The E&R amendments are adopted. [LB841]

CLERK: There's nothing further on the bill, Senator. [LB841]

PRESIDENT FOLEY: Senator Wishart. [LB841]

SENATOR WISHART: Mr. President, I move to advance LB841 to E&R for engrossing. [LB841]

PRESIDENT FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB841 advances. The next bill is LB776. [LB841 LB776]

CLERK: I have E&R amendments to LB776. (ER147, Legislative Journal page 1195.) [LB776]

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PRESIDENT FOLEY: Senator Wishart. [LB776]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB776.  
[LB776]

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. [LB776]

CLERK: Nothing further on the bill, Senator. [LB776]

PRESIDENT FOLEY: Senator Wishart. [LB776]

SENATOR WISHART: Mr. President, I move to advance LB776 to E&R for engrossing.  
[LB776]

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. LB776 advances. Next bill is LB738. [LB776 LB738]

CLERK: I have no amendments to LB738, Senator. [LB738]

PRESIDENT FOLEY: Senator Wishart. [LB738]

SENATOR WISHART: Mr. President, I move to advance LB738 to E&R for engrossing.  
[LB738]

PRESIDENT FOLEY: Members, you heard the motion to advance LB738 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB738 advances. Our next bill is LB738A. [LB738 LB738A]

CLERK: LB738A, I have no amendments to the bill. [LB738A]

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PRESIDENT FOLEY: Senator Wishart. [LB738A]

SENATOR WISHART: Mr. President, I move to advance LB738A to E&R for engrossing.  
[LB738A]

PRESIDENT FOLEY: Members, you heard the motion to advance LB738A to E&R for engrossing. Those in favor say aye. Those opposed say nay. The bill advances. LB1040.  
[LB738A LB1040]

CLERK: LB1040 does have E&R amendments, Senator. (ER167, Legislative Journal page 1367.) [LB1040]

PRESIDENT FOLEY: Senator Wishart. [LB1040]

SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB1040.  
[LB1040]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments to LB1040. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB1040]

CLERK: Nothing further on the bill, Senator. [LB1040]

PRESIDENT FOLEY: Senator Wishart. A record vote has been requested. We'll make the motion and we'll do a machine vote. Senator Wishart for the motion. [LB1040]

SENATOR WISHART: Mr. President, I move to advance LB1040 to E&R for engrossing.  
[LB1040]

PRESIDENT FOLEY: Members, you heard the motion to advance LB1040 to E&R for engrossing. There will be a machine vote. Those in favor vote aye; those opposed vote nay. This is a record vote. Have you all voted who care to? Record, please. [LB1040]



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CLERK: (Record vote read, Legislative Journal page 1452.) 33 ayes, 3 nays, 12 present and not voting, 1 excused and not voting, Mr. President, on the advancement of the bill. [LB1040]

PRESIDENT FOLEY: LB1040 advances. Our next bill is LB902. [LB1040 LB902]

CLERK: Senator, LB902, I have no amendments to the bill. [LB902]

PRESIDENT FOLEY: Senator Wishart. [LB902]

SENATOR WISHART: Mr. President, I move to advance LB902 to E&R for engrossing. [LB902]

PRESIDENT FOLEY: Members, you heard the motion to advance LB902 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB902 advances. LB117 has an amendment filed on it. We will pass over that bill. Next bill is LB751. [LB902 LB751]

CLERK: LB751, Senator, I have no amendments to the bill. [LB751]

PRESIDENT FOLEY: Senator Wishart. [LB751]

SENATOR WISHART: Mr. President, I move to advance LB751 to E&R for engrossing. [LB751]

PRESIDENT FOLEY: Members, you heard the motion to advance LB751 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB751 advances. LB1121. [LB751 LB1121]

CLERK: LB1121, I do have E&R amendments, Senator. (ER153, Legislative Journal page 1257.) [LB1121]

PRESIDENT FOLEY: Senator Wishart. [LB1121]

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SENATOR WISHART: Mr. President, I move the adoption of the E&R amendments to LB1121. [LB1121]

PRESIDENT FOLEY: Members, you heard the motion to adopt the E&R amendments to LB1121. Those in favor say aye. Those opposed say nay. The E&R amendments are adopted. Mr. Clerk. [LB1121]

CLERK: Nothing further, Senator. [LB1121]

PRESIDENT FOLEY: Senator Wishart. [LB1121]

SENATOR WISHART: Mr. President, I move the adoption of...excuse me, I move to advance LB1121 to E&R for engrossing. [LB1121]

PRESIDENT FOLEY: Members, you heard the motion to advance LB1121 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB1121 advances. Next bill, 1121A. [LB1121 LB1121A]

CLERK: LB1121A, Senator, I have no amendments to the bill. [LB1121A]

PRESIDENT FOLEY: Senator Wishart. [LB1121A]

SENATOR WISHART: Mr. President, I move to advance LB1121A to E&R for engrossing. [LB1121A]

PRESIDENT FOLEY: Members, you heard the motion to advance LB1121A to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB1121A advances. Items for the record, please. [LB1121A]

CLERK: Thank you, Mr. President. Your Committee on Enrollment and Review reports they've examined and reviewed LB1034, and recommend that it be placed on Select File; LB1034A, Select File. That's all that I have, Mr. President. [LB1034 LB1034A]

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PRESIDENT FOLEY: Thank you, Mr. Clerk. Members, we'll now move to General File, 2018, senator priority bill. Mr. Clerk.

CLERK: Mr. President, LB449, is a bill by Senator Chambers. (Read title.) The bill was introduced on January 17 of last year; referred to the Agriculture Committee. The bill was advanced to General File. The bill was discussed earlier this year, Mr. President. I have no amendments to the bill at this time. [LB449]

PRESIDENT FOLEY: Senator Chambers, would you like a minute or two to refresh us on LB449. [LB449]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is a bill which has been touched on from time to time during the session. What it does is to repeal what's known as the Black-Tailed Prairie Dog Management Act. I have been opposed to that law because of all of the unreasonable, even in some cases unconstitutional, provisions. This bill was brought by Senator Loudon around 2012 when I was not in the Legislature, and nobody really challenged it. In fact, Senator Bloomfield, who supported it, said that it was done as a favor to Senator Loudon because he was about to leave the Legislature. And since that time, I think the year may have been 2012, the bill has never been used. Never. But the fact that it's on the books and allows these unconstitutional actions to be taken against people's private property, it ought not stay there. So the purpose of this bill is to repeal that entire provision of law. Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: Thank you, Senator Chambers. Debate is now open on the bill. Senator Krist. [LB449]

SENATOR KRIST: Thank you, Mr. President. I think I have a... [LB449]

PRESIDENT FOLEY: I apologize, Senator Krist, just one moment, please. Mr. Clerk. [LB449]

CLERK: Mr. President, Senator Krist would move to recommit the bill to committee. [LB449]

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PRESIDENT FOLEY: Senator Krist, you're recognized to open on your recommit motion.  
[LB449]

SENATOR KRIST: I have some things to say this morning and I may go over five minutes. I don't intend to take the full ten minutes, but I'm doing this because if I do go over, I want to make sure that I have the time to say what I need to say. So, Senator Chambers, when I am done, I will pull this motion, just so you know. I had a fundraiser the other evening. I was not here for a few hours. Planned Parenthood was protesting in front of my fundraiser...Planned Parenthood. They told me...they had their t-shirts on that said--defund Planned Parenthood, because that's what Pete said that vote was all about on the budget. That's what he told the pro-life organizations around the state. I tried to explain to them that that's not what it was all about. So I want to put it on the record one more time here this morning. Call me a policy wonk, but when someone breaks the law and tries to buy drugs and execute people after this legislative body, or your predecessors, voted to eliminate the death penalty, he vowed to kill people and he vowed to buy the drugs that he needed to kill people and then his disregard for this body is total disregard for this body, his disrespect for this body and for the Constitution of the state of Nebraska put another item that violates the single-subject portion of our constitution into our appropriations budget bill. That man was advised on several occasions that it was potentially unconstitutional and he should withdraw it, send it to the standing committee because Senator Riepe would probably put it on the floor in his committee after a thorough hearing. We've had this debate before. But the miscommunication, the propaganda, and the things that are being spread about people who have lived their lives in this Chamber, and others, as pro-life, I will not tolerate. From conception to natural death and everything in between, I stood here late at night in a very long session, very long day and defended women getting the help that they needed in prenatal care. All women. All women. Two dollar of folic acid that would cure or at least curtail birth defects. When it came to defending people and finding waivers to provide Medicaid, Medicare, CMS products, I stood on this floor and defended that. You want to challenge my pro-life belief, I am now a Democrat and I believe I am closer to my pro-life belief there than I've ever been before because it's the everything in between that is so important to me. I voted for the 20-week law. Look it up. Google it. Figure out what it was. I will not be challenged on my beliefs and I will not be challenged on a single-subject violation of this constitution. I applaud those of you who did not vote for the budget and stood your ground and said it's important enough to me that

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I do not want to defund Planned Parenthood. Because you see, the audit report revealed that there might have been one miscoding opportunity, miscoding effect of funding an abortion. And now we're taking...potentially taking that care in terms of women's rights and women's reproductive rights away from 8,000 people who are being helped by a single...a single entity. Check the vote. The final vote for me was a very difficult...Final Reading vote for me for that budget was a very difficult time. But I knew that if we didn't pass that budget, once again, this Governor would reign royal and call back a special session and waste \$12,000 a day of taxpayers' money because he didn't get his way. I knew that if I didn't vote for that budget, over \$60 million would not have been put back in the budget in different ways to provide care for children and family services, for the DD providers, for the providers across the state. On my way out the door, I will be very proud of many votes that I have made, and there will be some dark votes. That one was one. But I can promise you that the propaganda that's being spread about many of you, Senator Wishart, Senator Pansing Brooks, others who stood their ground or didn't stand their ground but tried, tried as hard as you could to make sure that the right thing was done, I applaud your efforts. Sometimes you just have to get things off your chest and make sure that people understand. And I hope those same people that have written me the e-mails, who have called, who have protested understand, understand the truth. Thank you for listening this morning and I will pull that motion. [LB449]

PRESIDENT FOLEY: The motion is withdrawn. Senator Krist, you're actually first in the queue on this bill. I don't know if you wanted that time or not. [LB449]

SENATOR KRIST: Absolutely. Let's change subjects. Good morning, colleagues; good morning, Nebraska. I support Senator Chambers' efforts to repeal the bill. I've talked on this floor before...this statute. I talked on this floor before and I was there in 2012. I was misled. I did vote to put it back in place. We've heard many testimonies and I believe this is one particular county who has used...or tried to use this provision. The possibility of containing this animal as a varmint is out there. It's already well understood that it can be controlled. So I would support this effort and I ask you to vote green on LB449. [LB449]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Ebke. [LB449]

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SENATOR EBKE: Thank you, Mr. President. I rise in support of Senator Chambers' LB449. I think that we need to think seriously about some of the constitutional provisions. And I wonder if Senator Chambers might yield to a couple of questions. [LB449]

PRESIDENT FOLEY: Senator Chambers, would you yield, please? [LB449]

SENATOR CHAMBERS: Yes, I will. [LB449]

SENATOR EBKE: Senator Chambers, could you identify one or two areas of the constitution that you think are most relevantly affected by this? [LB449]

SENATOR CHAMBERS: First of all, an important thing that the constitution requires is to give a person notice before action by the state can be taken against that person. Although the current law says there are certain ways that the county board can give notice, it also says they don't have to give notice, and even if they don't give notice, then the individual is subject to all these enforcement provisions, which range from \$100 a day for noncompliance to being taken to court in a criminal action by the county attorney to having his or her property put into foreclosure, an assessment added to the tax that they are to pay. It will draw interest. And even all of that is not the end of what can be done to go against a person who has been complained against. Another item is where they want to say that the fine that a person would be assessed in this criminal action, \$1,500, will go into some fund to support this law. Well, the constitution says all fines would go to support the public schools. So that's an unconstitutional provision, and I don't remember every one of them, but I handed out a sheet this morning that will itemize the specific problems with the bill. [LB449]

SENATOR EBKE: Thank you, Senator Chambers. I was looking at...I like to play in the constitution from time to time and I was looking at the sheet that you handed out and I noticed number one where you mentioned an agent of the county board may enter property for the purpose of taking appropriate management activities at the owner's expense. What kind of agent of the county do you suppose that might be, Senator Chambers? [LB449]

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SENATOR CHAMBERS: Whoever the county would designate to be this agent would be allowed to go on the land. There is no identification or description in the statute itself. It doesn't talk about qualifications to do the kind of work that that person can do. They can damage your property, damage crops. You cannot get them for trespassing. They can use poison. And there is no limitation to how much of your property can be poisoned. But specifically there is nothing that describes or defines who this agent is or what qualifications he or she would have. [LB449]

SENATOR EBKE: So theoretically, this could be somebody who is armed, a wildlife agent or a sheriff or any other type of person. I think we might even be touching on third amendment issues there, quartering of troops, because we really don't know how long they might stay on your property and without your permission. That's said with tongue in cheek for the transcribers. Let me just say, I was looking through the state constitution, which I think is very relevant. In Article 1, Section 25 of the state constitution talks about the rights of property. There shall be no discrimination between citizens of the United States in respect to the acquisition, ownership, possession, enjoyment or descent of property. The right of aliens in respect to the acquisition, enjoyment and descent of property may be regulated by law. Seems to me, whether you like prairie dogs or not, and I understand that prairie dogs may be a nuisance on your property and you may do whatever you wish on your property, that does not, however, I don't believe, give the right of... [LB449]

PRESIDENT FOLEY: One minute. [LB449]

SENATOR EBKE: ...the right of somebody else to tell you that you cannot have prairie dogs on your property if you seek to. So I think this is a property rights issue. I don't like the notion that somebody can end up losing their property or going to jail because of a few prairie dogs. So with that, I urge your green vote on LB449. [LB449]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Chambers. [LB449]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, from the beginning I tried to present this in the context of private property rights. You do not own property absolutely. If the state feels that there is a public need to be met by taking your property for that

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purpose, there are specified steps that have to be taken, it's called eminent domain, and you have the opportunity to speak against that being done. But the main thing in that is you must be adequately compensated for it. That is not allowed under this prairie dog bill. This whole panoply of punishments, threats, assessments, and so forth start out with an unverified complaint by a disgruntled neighbor. The county does not have to investigate. The county does not have to determine whether these prairie dogs came from the one the neighbor complained against or property that abuts his or her property on the other side. The main thing that ought to be kept in mind on your property, you can do whatever you want to. If you have prairie dogs, you can keep them or you can poison them, or do whatever you choose. When it comes, however, to controlling prairie dogs, some people build a heavy stand of hedges at the property line. Prairie dogs like to have open space so that they can observe predators who might be in the neighborhood. Where you find a prairie dog town, you will find the grass no more than probably three quarters of an inch high because they want to see everything that's around. So if you plant the hedges, the prairie dogs will stay away. Others have used what is called a perch. Raptors or birds of prey will alight there because prairie dogs are their source of nutrition. The prairie dogs are aware of that perch, aware of these birds and will not come to that area. Prairie dogs, however, are known as keystone animals because they provide food for any number of other critters, from snakes, to owls, to the raptors I mentioned, even the black-footed ferret, which is on the endangered species list. This bill, this law on the books violates that provision because it says that anything done in one of these programs put together by the county would have to follow certain federal laws that relate to endangered species. That law is ignored by this bill that allows the county to poison the burrows where these ferrets live, to poison the prairie dogs which the ferrets may eat, and through secondary poisoning, be harmed. When it comes to legislation that winds up being on the law books, it should be clear, it should comply with the constitution, it should not play games with people. On the one hand it talks about general notice, which might be in a newspaper, particular or specific notice, which goes to the individual. Then it says--but that notice is not necessary. And even without that notice, all of these things can be done. You can do on your own property what you choose. But this law allows somebody else to be the triggering mechanism for the state in the form of the county to overreach,... [LB449]

PRESIDENT FOLEY: One minute. [LB449]



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SENATOR CHAMBERS: ...to do things that are totally inappropriate, that can damage property, and you cannot do anything based on trespass or damage to your property. There are laws in place now to settle any grievances that may exist between two neighbors. And I'm saying these things for the benefit of the record. Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Krist. [LB449]

SENATOR KRIST: Thank you, Mr. President. And in my haste this morning I forgot to mention two things. The first, my staff called and said I don't think you were very clear, the people who were protesting were not members of Planned Parenthood, they were protesting Planned Parenthood, they were a pro-life organization that were calling out my pro-life stance. The second thing is, I asked for a machine vote this morning...or a record vote on LB1040. So those of you who are pro-life know that if the life does begin at conception, and you really do believe that, when that life is taken away, it's a death certificate. And I want to make sure we want to put all the pro-life people on notice that what you voted for was a healing mechanism, but if you truly believe in what you say in pro-life, that's a death certificate. With that, I'll yield the balance of my time to Senator Chambers. [LB449]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Chambers, 4 minutes. [LB449]

SENATOR CHAMBERS: Thank you, Mr. President; thank you, Senator Krist. This bill means a great deal to me. It has caused me heartburn. In past years, I had this bill. It made it all the way to Final Reading. Then it was bushwhacked by a senator who had supported it all the way across. I don't know what goes on in the Legislature, but this bill has become a flashpoint for me. There is no justification to have this particular law that I'm attempting to repeal stay on the books. There is a man whose last name...well, I may read his testimony so I won't tip you off who he is, but he has come to every hearing on my legislation. He has pointed out that the farm community does not like it. He is the head of the Farmers Union...well, Mr. John Hansen. He has pointed out that there are neighbors who will use this to threaten other people. They have a dispute. So it is something that has led to contentious arguments without the bill itself ever being used, but it's a threat that can be brought against somebody because the law does not require a verification of a complaint. Once the complaint is made, the county board can start all of this enforcement

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machinery. Right now, if you have a neighbor who is using his or her property in a way that damages yours, you can go to court. That's what courts are for. If it is established that the person is violating your property and by so doing has damaged your property, damages will be required by the court to be paid by that neighbor who has misused your property or deprived you of the proper use of your property. If that person is recalcitrant, then an injunction can be granted also. If the injunction is violated, the court enforces its orders by means of contempt. If the person is found in contempt of court, then the person will be jailed. There is such a thing as criminal contempt. The person will be jailed until he or she complies with what the court has said. Now, that is the way that problems between neighbors have been solved, the way they should be solved. That's why laws are on the books. There is no justification for having an unconstitutional, on its face, provision in the statute. [LB449]

PRESIDENT FOLEY: One minute. [LB449]

SENATOR CHAMBERS: Now, you don't get many chances to get even with me. This is one of them. However, in getting even with me, you're demeaning the constitution, you're demeaning the laws. Even though the county says, because the statute puts it here, that this \$1,500 fine will go into a county fund to carry out the provisions of the Black-Tailed Prairie Dog Management Act, that is unconstitutional. The constitution says, and some of you don't read the handouts I give you, but there are marginal notes, a reference to the specific provision of the constitution that says all such fines go to fund the public schools...they say the common schools. You have unconstitutional language in the statute now. I don't expect this to be one of these kinds of laws...bills that I'm offering to generate a lot of interest on the part of anybody. [LB449]

PRESIDENT FOLEY: Time, Senator, but you're next in the queue. [LB449]

SENATOR CHAMBERS: Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: You're next in the queue, you may continue. [LB449]

SENATOR CHAMBERS: Thank you. But I want a complete record of what it is that I offered, the justification I gave for the enactment of LB449. And if, in spite of all that, it is not enacted,

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there is nothing...well, let me make a statement that's not completely true...there's nothing I can do about that. I cannot make you vote for this bill. However, the thing that is right ought to be done. The thing that's right in this case should be to strike unconstitutional language from the statute. Now, I don't know if Senator Groene has changed his mind, but he wrote an editorial as to why this bill ought to be supported and that he would support it, and he was concerned about private property rights. Senator Bloomfield, who when he was here, spoke in favor of a bill just like this for the same reason. He said, on your property do what you will, but don't come on my property and try to tell me what to do there. And he was also concerned about the fact that due process requirements are not met by the county. The law on the books now does not require them to grant due process. I heard Senator Wayne concerned the other day on a different bill about a subpoena being issued by the director of the crime commission without court involvement. This is where something beyond the mere entering of a subpoena is involved. People can come onto your property. They can damage it. They can spread poison without any court involvement, without giving you notice. So I do not intend to take a lot of time on this bill. If you'll support it, you'll support it. If not, you won't. But if you have any questions, I'm prepared to answer them. How much time do I have, Mr. President? [LB449]

PRESIDENT FOLEY: 2:20. [LB449]

SENATOR CHAMBERS: Okay. I handed out a little copy of something put out by people who are interested in conservation. And you see prominently featured is an image of prairie dogs at their prairie dog town. Prairie dogs are not hated by everybody. In fact, there's some locations, even in this state, where there are advertisement to try to draw tourists to see them. On your property you can do what you will. This bill is designed to stop others without any judicial authorization for coming on somebody else's property and doing things that ought not to be done. I gave a handout that lays out the entire law so you can read it for yourself. The sheet I gave you with ten individual points are to let you see all of the harmful things that can be done to a person. Having given you the entire statute, you can cross-check what the statute says with what I gave on that sheet. And if you find any discrepancy, call it to my attention. Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Baker. [LB449]

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SENATOR BAKER: Thank you, Mr. President. I'm going to go off topic just for the first part here. Every week I have a radio show, the Beatrice radio station and my staff and I put out a weekly newsletter. Then we always invite people to e-mail us, contact us. What I'm discovering is something that Senator Hansen pointed out earlier that we're receiving e-mails that are purported to be from our constituents. They say--as your constituent, and they have a name of a person who lives in District 30. But it turns out they're not from them at all. And if you look closely at some those e-mails, it will say via Votervoice.Net or something like that. So I object to that, I guess. And if people start paying attention to that in e-mails you receive, then people...whoever is paying people to put these things out might as well stop wasting your money because it's not going to have the affect that you think it does. I've been listening to Senator Chambers, and there's merit in some of the things he's saying, most of the things he's saying, if not all, about property rights. And I will yield the remainder of my time to Senator Chambers. [LB449]

PRESIDENT FOLEY: Thank you, Senator Baker. Senator Chambers, 3:30. [LB449]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, much has been said nationally and at the local level about undue governmental regulations. This bill is...this law is not just a regulation, it is an actual, in effect, criminal statute which allows you to be charged with a criminal offense because a neighbor is disgruntled. That is more than a regulation. That is an overreach, an intrusion, a deprivation of private property. I've heard much talk about property taxes. This allows, in effect, the confiscation of your property, first by depriving you of the use by poisoning it. Then if you don't pay these assessments, even if you don't know they're there, they will form the basis for putting your property into foreclosure. If you don't know about that, your property can be sold at a tax sale. Any amount that is not recovered in that sale will make you subject to a lawsuit by the county for a debt that you owe to the county, all of this because somebody filed a complaint that wasn't verified, and you all are not bothered by that? I know why you're not bothered by it, because I'm the one bringing the bill. But whether I'm the one who brings it or somebody you may have respect for would bring it, the facts would not change. The unconstitutionality of the law would not change. The invasion and deprivation of private property without due process of law would not change. The converting of a civil dispute between neighbors into a criminal action initiated by the county will not change. That's in the law, a copy

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of which I gave you. And I'm saying this again for the record, so whatever I may do after today will have a sound and firm footing and nobody will be taken off guard or be surprised. Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: Thank you, Senator Chambers. (Visitors introduced.) Continuing discussion, Senator Ebke. [LB449]

SENATOR EBKE: Thank you, Mr. President. This is the last time I'll talk on this, and when I get done I will yield the remainder of my time to Senator Chambers if he wants it. However, I think...friends, that we need to think about...and this is a great bill to discuss this, because it doesn't feel so heavily impactful to so many of us, but what is the purpose of government? Conservatives, I think, conservatives believe that the purpose of government is to protect life, liberty, the pursuit of happiness. Isn't that what we heard in the Declaration of Independence? John Locke suggested that the purpose of government was to protect life, liberty, and property. Don't we believe that? I sure do. Or is it that the purpose of government is to take and control every aspect of our lives, every piece of our property? Senator Chambers has talked about the difference between civil and criminal law. What we are doing is essentially criminalizing the use of one's own property in the way that they see fit. Civil law is very different. We can go to court, we can settle these disputes between neighbors in a court of law. But should your neighbor be able to use the force of government to force you to do the things that they wish? And that's the question, I think. So again, I believe that the role of government, the appropriate role of government, is to protect life, liberty, the pursuit of happiness, and property. I think my conservative colleagues have long believed that. They ought to jump in line on this one, vote green on LB449, and I yield the rest of my time to Senator Chambers. [LB449]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Chambers, three minutes. [LB449]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, the reason I will smile is because I've been here all session, practically every minute that the Legislature has been in session. I've seen such acrimonious debates and arguments about property tax. And yet, this invasion of property does not turn a hair. It's not my property. It doesn't happen in the district I live in. But the people in these other places where I don't represent them are entitled to have

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somebody speak for them. And if you all won't, because you dislike me, then you are cheating those people and robbing your own till. There's no way I would let somebody on this floor speak more strongly on behalf of the people in my district, people who are like me, than I myself would do. That's why I always...not always, but I'm saying repeatedly, this bill can be defeated. You'll keep that bad law on the books. Obviously, it is unconstitutional. It says that a \$1,500 fine that can be levied against you, and you don't even have notice that all this stuff is going on. What would you do if in the middle of the night, because a statute doesn't say when these people come, some people come on your property and start spreading poison, what would you do? You'd shoot them and you are in violation of the law because they were sent there by the county. And even though the county didn't give you notice, the law authorizes them to do this. So you don't know they're there right away. But you hear noise and you look out and they're trampling down your standing crop. [LB449]

PRESIDENT FOLEY: One minute. [LB449]

SENATOR CHAMBERS: What would you do? I know what you would do, you know what you would do. But because you have such contempt for me, you will let your constitution be savaged. This thing goes directly contrary to what, on other occasions, would be deemed almost sacred provisions in the law, protecting your property, your homestead, the place where you and your family reside, all of that can be invaded because somebody said prairie dogs on their property came from yours. It doesn't even have to be established that prairie dogs are on their property. It doesn't have to be established that if they are, they came from your property. It doesn't have to be established that they were there because they live on that property. And that doesn't trouble you all? [LB449]

PRESIDENT FOLEY: Time, Senator. [LB449]

SENATOR CHAMBERS: Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Blood. [LB449]

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SENATOR BLOOD: Thank you, Mr. President. Fellow senators, friends all, and the awesome fourth graders that are up in the balcony, when I was your age, that's when I decided I wanted to be a state senator, so it's never too early to start dreaming, guys and gals. I am hearing support of LB449, not just because of the property rights issue, but I want to talk about Nebraska's ecosystem and I really haven't heard that on the mike on this bill, and I think that's really important because a lot of you don't know that these prairie dogs were almost extinct in the '70s and they're very important to Nebraska's ecosystem. For one thing, they're a food source for badgers and coyotes, mountain lions, weasels, falcons, hawks, rattlesnakes. Senator Walz, it's the cycle of life, don't look so sad. (Laughter) But eradication results in extinction. Extinction of a native species. I mean, I've always had the theory that we need a Nebraska mascot dressed up like a prairie dog, I think it would do awesome at county and state festivals. But in addition to being a food source, they also...the way they graze it really impacts the plant life in Nebraska. Now, growing up on the farm, I was always told that prairie dogs are horrible, that cattle and other livestock would fall in their holes. But then, you know me, I'm fact based, I did my research, and it really is a pretty rare occurrence. Our livestock are more likely to get hurt on fencing and holes that have been washed away by the environment, such as rain and snow. So that's actually kind of an old wives tale. And as far as the farmers go, they're seeking out short grass prairies; they're not seeking out our corn fields, our wheat fields, our soybean fields. So I think that that's really important that we put this in perspective and we make educated votes, because the thing that I worry about is that when we create lies that really put our environmental issues at high risk, be it a prairie dog, be it our waterways, be it something like solar energy, you know, we got to do it based on facts. And the bottom line is that the prairie dog is an important part of our ecosystem. So we shouldn't be making it easier for people to kill them. We should be making it harder for people to kill them. So in addition to being an property rights issue, this is also an ecosystem issue. And with that, I would actually be happy to give any time I have left to Senator Wishart. [LB449]

PRESIDENT FOLEY: Thank you, Senator Blood. Senator Wishart, 2:15, if you care to use it. [LB449]

SENATOR WISHART: Thank you, Senator Blood. I am actually going to add a little bit more to your conversation about the benefits of prairie dogs in our ecological system. It's been really

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good to hear from farmers and ranchers in Nebraska, and especially those that serve in our Legislature about the importance of making sure that the landscape is healthy for their cattle. But I also think we have an importance to make sure that we remember that we're not removed from the balance of an ecosystem and the importance of different species in that ecosystem. Prairie dogs and bison have coexisted for thousands of years throughout the central grasslands of North America. Prairie dog burrows actually act as aquifers that prevent water from eroding land while helping to cool it. Prairie dog burrowing can be beneficial to the soil because mixing soil types and incorporating organic matter enhances soil formation. It also helps to increase soil aeration and decrease compaction. In short grass prairies, the number of plant species, particularly forbs, increase because of the digging and scratching activities of prairie dogs that disturb the soil. [LB449]

PRESIDENT FOLEY: One minute. [LB449]

SENATOR WISHART: These patches of bare soil provide excellent sites for additional forbs to become established. Prairie dogs can control noxious weeds, native invaders, which proliferate on overgrazed land. And prairie dogs also may reverse processes such as soil compaction caused by cattle grazing. So with that I strongly support LB449. Thank you. [LB449]

PRESIDENT FOLEY: Thank you, Senator Wishart. Senator Schumacher. [LB449]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. After being here eight years, you realize you learn some things. And even though I pretty diligently tried to read everything that got to the floor, I think that none of us score 100 percent on that. In fact, we're maybe lucky if we do 90 percent, because in the final days of a session, or as a session begins to wind up, bills get combined, amendments get put on, discussion happens late at night, and stuff just happens. And this is one that I am rather ashamed of myself on because if I read it I must not have been thinking, because it really, really is pretty bad. And everything that Senator Chambers has pointed out as a technical flaw, a constitutional violation, a procedural non sequitur, it's all in there. I suspect if prairie dogs were really a big state-wide concern, we could probably come up with legislation to deal with them that would be in conformity with the standards that we normally expect of ourselves. But this thing isn't it. And I think Senator Chambers today, in



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probably one of the best-reasoned arguments that I've heard on the floor, certainly the best researched, the most focused argument that I've had the opportunity to see for the repeal of a bill, Senator Chambers has made that case today...perfectly rational, low toned, reasoned. I'm worried, particularly when I read his memo, and I read every one of these memos. I've got a file with these memos in it. And he starts out--ashes to ashes, dust to dust, such is in store for the just and unjust. I'm really getting worried. Senator Chambers, would you yield to a question? [LB449]

PRESIDENT FOLEY: Senator Chambers, would you yield, please? [LB449]

SENATOR CHAMBERS: Yes, I will, "Professor." [LB449]

SENATOR SCHUMACHER: Senator Chambers, are you feeling okay? [LB449]

SENATOR CHAMBERS: I feel quite well, thank you. [LB449]

SENATOR SCHUMACHER: Now I'm really worried. (Laughter) Ladies and gentlemen of the Legislature, I think Senator Chambers has done his homework on this one. I think if we're going to deal with prairie dogs, if they're really a big issue, we need to get a good law in place. And if they're not a big issue, we should move on to bigger and better things. And I stand in favor of LB449. [LB449]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Chambers, you're next in queue. This is your third opportunity. [LB449]

SENATOR CHAMBERS: Thank you. And as I stated, Mr. President, I'm not going to take a great deal of time on this bill that I'm offering, but because I believe in creating a record, I'm going to read the ten points that I shared with my colleagues, if they chose to read them. I'll read the entire thing. Pursuant to the Black-Tailed Prairie Dog Management Act, the following actions can be taken against a landowner on the basis of an unverified complaint by a disgruntled neighbor without an investigation, without a warrant, without any court involvement. Number one, an agent of the county board may enter property for the purpose of taking appropriate

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management activities at the owner's expense. Two, the expense shall become a lien on the property as a special assessment. Three, a fine of \$100 per day, up to \$1,500, for noncompliance can be levied. Four, the county board shall immediately cause notice to be filed of the management assessments against the property and the register of deeds office. Five, the county board shall certify to the county treasurer the amount of such expense which shall become a lien on the property. Six, the county treasurer shall add such expense to and it shall form a part of the taxes on the property and shall bear interest at the same rate as delinquent taxes. Seven, in the event of further noncompliance by the landowner, the county board shall notify the county attorney, who shall proceed against the landowner in a criminal proceeding. If convicted, the penalty shall be a fine...this is in addition to any fine levied by the court...in the event of noncompliance, the county shall notify the county attorney who will take this action. If convicted, the penalty shall be a fine of \$100 per day for each day of violation, up to \$1,500 for 25 days of noncompliance. Nine, satisfaction of the obligation in whole or in part by tax foreclosure proceedings shall not be the limit of proceedings. Ten, the expense may be collected by a suit for a debt due the county or by any other additional remedy otherwise available. Oh, and then I wrote a little blurb: Is this America, the land of the free and the home of the brave, where the constitution and laws shield citizens from unwarranted governmental oppression? I will tell you what I will do right now. Anybody who is listening to me, you show me violation of any law that starts out as a civil matter that has this much enforcement activity, that involves the assessor's office, the treasurer's office, the county attorney, the county board, and I'll give you \$1,000, whoever you are, show me any law, even a criminal law. Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Groene. [LB449]

SENATOR GROENE: Thank you, Mr. President. I stand in support of LB449 and it's not about prairie dogs to me, it's about private property rights. You know, really in our constitution it doesn't guarantee property rights, but through a quirk of fate, through another thing which I disagree with, the Supreme Court says you have privacy rights. On my personal property, I have privacy. If I want to raise coyotes, I want to raise specialty sheep, or if I want a few prairie dogs, that's my private right to do so. Now if you have a mean dog...if I want a mean dog, I can have a mean dog on my property. If that mean dog crosses my neighbor's property and he shoots it, he

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has a right to shoot it. If that prairie dog on my private property crosses onto my neighbor's, he can shoot it. I would not have supported this if Senator Chambers would not have been reasonable in committee and put back in to statute the federal...that the federal agent contracted with the county...we left black-tailed prairie dogs as one of the pests they could control. In my county, that's how we do it. My sheriff said he doesn't want to go on anybody's place and threaten them. He ranches to and he has some prairie dogs, he says he likes to keep a few around because he likes animal and he raises cattle. When they get out of control, he controls them. Our federal agent there that does this is a pleasant individual who goes out and visits with individuals and the problem goes away. There's other problems with this. When I get a speeding ticket, I go to court in front of a judge. There's no judge here a court. The county commissioners can issue the fine. I don't get to be judged by my peers. I get charged \$1,500. If I don't pay my back taxes, they auction it off at the courthouse; and if I don't have enough property to pay my taxes, that's not pursued. In this bill, if they sell my land and it doesn't pay for the fine, they can still go after me for the rest of it. No judgment by my peers, by county commissioners. This isn't right, folks. This isn't about prairie dogs, this is about private rights, privacy, private property. That bill stepped way over my rights as a free American. I talked to Senator Chambers, I said if the prairie dogs come on my land, I've got a brother and a nephew that would gladly come out and take target practice. I've got coyote problems. Those coyotes live on my neighbor's. I can't have any poultry at all, because they'll be gone. Can I call the county commissioners and tell them to forcibly go on that neighbor's land and shoot them coyotes? They can't. This is the only one. This is the only animal species that we do this to in the state of Nebraska. This isn't about Senator Chambers; this is about privacy, this is about personal property. This is about being judged by your peers before they take your land away from you or fine you. A lot of flaws in this bill...not the bill, excuse me, the present law. That is probably why 92 county commissioners, reasonable individuals, looked at this and said we're not going to do this, this goes against basic rights. So we've got one guy who doesn't take care of his varmints, we're going to enact local legislation that takes away personal property and privacy rights? Fines people without a court? [LB449]

PRESIDENT FOLEY: One minute. [LB449]

SENATOR GROENE: No, this needs to go away. Any personal feuds...I look at bills for what they stand and what the legislation does. Folks, I got a notice the other day when I got to my

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property and it had a red tag that the county assessor was out there walking all over my property without my...that riled me. That riled me up why I wasn't notified they were coming first. This is even worse. Thank you. [LB449]

PRESIDENT FOLEY: Thank you, Senator Groene. (Visitors introduced.) Continuing discussion on the bill. Senator Larson. [LB449]

SENATOR LARSON: Thank you, Mr. President. Will Senator Chambers yield to a question? [LB449]

PRESIDENT FOLEY: Senator Chambers, will you yield, please? [LB449]

SENATOR CHAMBERS: Yes. [LB449]

SENATOR LARSON: Your last time on the mike you said you'd give somebody that could show you a law that contained what specific things a thousand dollars if they could show you another law on the books? [LB449]

SENATOR CHAMBERS: Yes, it starts out as a civil matter, winds up being converted by the county into a criminal matter that can result in your property being taken. And if it's sold at a tax sale, then they can still go after you and file a lawsuit against you as owing a debt to the county. And in between all of that, the county attorney is siced on you to take you for a criminal charge. And it all started as a civil. If you can find me that, even with the disputes you and I have had, I will give you the thousand dollars because it will have improved my education as nobody else had ever done. [LB449]

SENATOR LARSON: Okay, I might have...I'll make sure it...it starts out as civil matter, but Chapter 2, Section 955 of the Nebraska laws deals with a law that was put in place in 1965 that's the Noxious Weed Act. I'll read through it a little more to make sure it is as you just described on the record. But I think I might hit those qualifications, from what you just described. So I appreciate that. And I guess, colleagues, that's my point...thank you, Senator Chambers. I guess that's my point. Is we've had a law on the books that is nearly identical, in many ways, like I said,

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I'll go through and double check, that deals with the Noxious Weed Act. And I hear species, we shouldn't eradicate a species. Well, colleagues, plants are species as well. By definition they are, too, a species. And as we move forward with this, I hear Senator Ebke give her Libertarian conservative argument for this. And I consider myself very Libertarian on many issues. And she asked what the role of government was. Well, to protect life, liberty, pursuit of happiness, property rights. When I define the role of government, my role of government is to protect individuals from other individuals. That is one of the facets of government, not to protect individuals from themselves, but protect individuals from other individuals. And that also means to protect individuals' land and their land rights from other individuals. And that was the purpose of the Noxious Weed Act in 1965. That was the purpose of the Black-Tailed Prairie Dog Act, because you have invasive species, whether that be the a black-tailed prairie dog or a weed species...we call them weeds, that is our own definition of them, they are still just species...from infringing on our land. So maybe if this advances to Select File, we'll have an amendment to just get rid of the Noxious Weed Act. Or how about we say cities cannot enact ordinances that mandate lawns being...their neighbors' lawns being mowed, or them controlling the weeds in their yards, because in essence that is what those city ordinances are for. [LB449]

PRESIDENT FOLEY: One minute. [LB449]

SENATOR LARSON: So yes, if this goes to Select File, you're going to see some amendments like that. Because we're going to hear Senator Chambers and Senator Ebke and Senator Groene talk about protecting an individual's property, I would make the counterargument of the true purpose of government is to protect individuals from other individuals. That is my basis of my pro-life stance. And by not having something like the Black-Tailed Management Prairie Dog Act, by not managing a noxious weed act, you are allowing another individual's decisions to blatantly harm my property, and my property rights. [LB449]

PRESIDENT FOLEY: Time, Senator. [LB449]

SENATOR LARSON: Thank you. [LB449]

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PRESIDENT FOLEY: Thank you, Senator Larson. (Visitors introduced.) Continuing discussion, Senator McCollister. [LB449]

SENATOR MCCOLLISTER: Thank you, Mr. Lieutenant Governor; and good morning, colleagues. I hadn't planned to speak on this issue, but some of the comments I've heard this morning, I think I will. I support LB449. I think it's a good bill. I think it's important to have due process on anything that government does. And, obviously, this will correct a wrong that was in statute, and it would be a good thing to change. Private property rights is another strong factor. I think we need to protect those property tax rights...property rights, and also the fact that due process would come into play as well. I think there's a big difference between noxious weeds and prairie dogs. A noxious weed will float through the air and could do that for a great distance; not so with prairie dogs. But their colonies are relatively small area. You can see those colonies and take appropriate action if they start to move into some important ground area. So I support the bill. I hope my colleagues will as well. I'd yield the balance of my time to Senator Chambers. [LB449]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Chambers, 3:40. [LB449]

SENATOR CHAMBERS: Thank you, Senator McCollister. And what Senator Larson just said will underscore why I say I speak for the record. Let me read from the hearing before the Ag Committee on this bill. My testimony to the committee: Some people realize that prairie dogs are what are called keystone animals because they serve a purpose. They are not invasive. They are indigenous or native to Nebraska. It is estimated there may have been 2 billion in Nebraska at one time; that over 90 percent of those have been wiped out. Unfortunately, Senator Larson, the model for this legislation was the noxious weed law. And the noxious weed is one which is not indigenous to the state. So the aim of that law is to totally eradicate those nonindigenous weeds on the property where they may be growing, or any other public area because they want to destroy these things completely. When you apply that to animals, especially animals which are not noxious, people may not like them, they do not fit the definition of noxious. And since the purpose of the Noxious Weed Act is to completely eliminate all the weeds, the purpose of this legislation would have to be to exterminate the prairie dogs. I anticipated that reference to the noxious weeds. People like Senator Larson, in trying to find a way to catch me in my words, as it

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was called when they did it to Jesus, take things out of context. They don't understand the issue. They think they found something, and they speak without knowledge. Anybody who has looked at this matter has drawn a distinction between noxious weeds and prairie dogs and have condemned the use of the noxious weed law as a model for this prairie dog management. Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Hughes. [LB449]

SENATOR HUGHES: Thank you, Mr. President; good morning, colleagues. I've been listening with amusement this morning of all the information that everybody knows about prairie dogs. I'm very glad to have Senator Stinner...the students from Morrill County in the balcony. I'll venture to guess that those kids up there know more about prairie dogs than the majority of the people here on the floor. They've dealt with them. They know what towns look like. They know the destruction that prairie dogs wreak in not only range land, but farmland. Senator Blood, the black-tailed prairie dog has never been endangered. I believe you're referencing the black-footed ferret who does live in prairie dog towns and I think they do feed on prairie dogs. Prairie dogs are the carriers of bubonic plague. We've all heard of that and the challenges that brings along. When you have a prairie dog town, there's a good chance you've got rattle snakes. It's not really about prairie dogs for me. They're a pest, they're a nuisance, they can be managed. To me this is one of the greatest laws ever. It has never been used. This is a law that this Legislature put in place and it has never been used. It's never had to be used. Because it was in place, it forced the adjoining landowners to solve the problem themselves. And I visited, after we had this first round of debate, I made some phone calls and I visited with those ranchers where this law has been used and they told me the story. They had an out-of-state landowner that wasn't taking care of his property. They started the process but did not have to complete it because he knew it had to be taken care of. This is a private property rights issue. I agree with Senator Groene, what he wants to do on his property is fine. But when it begins to encroach upon my property, devaluing my property, which is what prairie dogs do, then I have a problem. It's not any different, prairie dogs, noxious weed, city ordinances, if you have a home in town and your neighbor starts collecting junk cars, there are ordinances against that. That's why we have government. To say we protect ourselves from each other, maybe, in some instances. But it is private property rights. And if you don't take care of your property, then the enforcement of government is on your side

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to enforce those private property rights. Your neighbor cannot cause the devaluation of your property. That's what prairie dogs do, that's what noxious weeds do, that's what junk cars do, or whatever accumulation of rubbish in your next-door neighbor. That's why we have these laws. And fortunately, this law has and never been fully implemented. They've never had to go the full extent of the law to solve the problem. Just having it there as an incentive so the adjoining landowners...and there were several, there were not two...I think there were four landowners that were involved in this. One of the gentlemen that I visited with, whose property was involved,... [LB449]

PRESIDENT FOLEY: One minute. [LB449]

SENATOR HUGHES: ...was not happy, but he understood. He said I had guys from Louisiana and Oregon and Idaho coming to shoot prairie dogs. I got some really nice blueberries because those gentlemen would come and hunt prairie dogs. They don't come and hunt anymore because we've had to irradiate them because they were spreading over too many acres. And they don't spread in just prairie. I've told you before, I've lost wheat crop, corn crop in areas because they filled up the neighbor's pasture and they look for room to go. You know, I've killed prairie dogs miles from any town because they send out scouts looking for more places to go. They're very prolific; they're a rodent, and they're everywhere. They're not in cities because you pave over everything and you wouldn't tolerate that. You have animal control units that come take care of those things when you have skunks and badgers and racoons. [LB449]

PRESIDENT FOLEY: Time, Senator. [LB449]

SENATOR HUGHES: Thank you, Mr. President. [LB449]

PRESIDENT FOLEY: Thank you, Senator Hughes. (Visitors introduced.) Continuing discussion, Senator Groene. [LB449]

SENATOR GROENE: Thank you, Mr. President. I stand here...this is odd...I agree 100 percent with Senator Hughes and I agree 100 percent with Senator Chambers. Prairie dogs are a pest. If not controlled, they rapidly reproduce and destroy farm ground, pasture ground; they do. But I



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disagree with Senator Larson. There is a mechanism in place that works very well and is used all the time. That is the Animal and Plant Health Inspection Service of the United States Department of Agriculture in the management and control of coyotes, bobcats, foxes, and other predatory animal...I'm reading from the statutes, listed in Section 23-358 in this state, that are injurious to livestock, poultry, and game animals, and the public health. Black-tailed ferret, dogs, and other injurious commensal and field rodents, and nuisance birds, and other nuisance wildlife in accordance with the organized systematic plans of the Animal and Plant Health Inspection Service of the United States Department of Agriculture for the management and control of such animals, supervision of the program shall be by the local representatives of the Animal and Plant Health Inspection Service of the United States Department of Agriculture. That works very well in Lincoln County. It works. We have a statute here that the proponents says has never been used. We have a statute here that's used all the time and it's more private property friendly, it's more neighborly, and it works. You open doors because you get mad at your neighbor and a bill gets passed. That takes away rights. I'm not going to support bills or legislation like that or present statutes. We have mechanisms in place that work, work statewide. The coyote problem I told you I had, I could have called the county and they would have come out and they would have talked to me and my neighbor and it would have been solved. This is...I don't know what you call that kind of legislation, get even vengeance, I'm going to prove a point. My ranchers come to me, you're not going to support Chambers, I read your article. I said, well, no, what's Chambers got to do with it? I said, did you know...he said we've got to control prairie dogs. I said, yes, we do. How do you do it? Oh, we call the Animal and Plant Health Inspection Service. I said that's still statute. We are not repealing that. Oh, we aren't? No, I said, this is a deal where your neighbor could complain about you and you could be off somewhere and all of a sudden the sheriff shows up and it goes through a process and you're going to get find. Oh, I didn't realize that. The mechanism is still there in place. Senator Hughes stole my thunder on the black-footed ferret. But the reason they became extinct is because we poisoned too much, we tried to eradicate the prairie dog which basically came close to eradicating the black-footed ferret. We are stewards of our wildlife. We do not eradicate. We manage. We'd be stewards of it. A few prairie dogs, when I see them, don't bother me at all. A lot of them do, and then we control them. That's being a steward. That is how we should do the assets the Good Lord gave us on this earth. We don't pass laws that eradicate. We'd be stewards. [LB449]

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PRESIDENT FOLEY: One minute. [LB449]

SENATOR GROENE: Thank you. [LB449]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Harr. [LB449]

SENATOR HARR: Question. [LB449]

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. Senator Harr. There's been a request to place the house under call. The question is shall the house go on call? Those in favor vote aye; those opposed vote nay. Record, please. [LB449]

CLERK: 22 ayes, 2 nays to place the house under call. [LB449]

PRESIDENT FOLEY: The house is under call. Members, please return to your desks and check in, the house is under call. All unauthorized personnel please leave the floor. The house is under call. Thank you. Senators Hilkemann, Clements, and McDonnell, if you could please return to the floor and check in, the house is under call. Senator McDonnell, if you could please return to the floor and check in, the house is under call. Senator Harr, we're lacking Senator McDonnell, we could proceed or wait. All right. There's been a request to cease debate, and we'll need a roll call vote in regular order, Mr. Clerk. [LB449]

CLERK: (Roll call vote taken, Legislative Journal page 1453-1454.) 32 ayes, 6 nays, Mr. President, to cease debate. [LB449]

PRESIDENT FOLEY: Debate does cease. We're still under call. Senator Chambers, you're recognized to close on the advance of LB449 to E&R Initial. Senator Chambers waives close. The question before the body is the advance of the bill. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB449]

CLERK: 25 ayes, 9 nays, Mr. President, to advance the bill. [LB449]

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PRESIDENT FOLEY: LB449 advances. I raise the call. Items for the record, please. [LB449]

CLERK: Mr. President, bills read on Final Reading this morning were presented to the Governor at 9:43 (re LB741, LB760, LB903, LB909, LB940, LB940A, LB1008 and LB1091.) An amendment to be printed to LB117 by Senator Hilgers. And Mr. President, Enrollment and Review reports the following bills as correctly engrossed: LB497, LB629, LB682, LB701, LB708, LB717, LB732, LB733, LB742, LB749, LB766, LB786, LB799, LB812, LB815, LB840, LB847, LB848, LB859, LB885, LB889, LB982, LB983, LB1000, LB1003, LB1012, LB1030, LB1036, LB1038, LB1052, LB1070, and LB1110, all reported correctly engrossed. Mr. President, an amendment to be printed by Senator Watermeier to LB861. That's all that I have, Mr. President. (Legislative Journal pages 1454-1456.) [LB741 LB760 LB903 LB909 LB940 LB940A LB1008 LB1091 LB117 LB497 LB629 LB682 LB701 LB708 LB717 LB732 LB733 LB742 LB749 LB766 LB786 LB799 LB812 LB815 LB840 LB847 LB848 LB859 LB885 LB889 LB982 LB983 LB1000 LB1003 LB1012 LB1030 LB1036 LB1038 LB1052 LB1070 LB1110 LB861]

PRESIDENT FOLEY: (Visitors introduced.) Proceeding now to General File, 2018 senator priority bill. Mr. Clerk.

CLERK: Mr. President, Senator Larson would ask unanimous consent pursuant to Rule 6, Section 3(f) to indefinitely postpone LB1103. [LB1103]

PRESIDENT FOLEY: Senator Larson, the motion, as you filed it, is unprecedented. You're well within your rights to file a motion to IPP the bill, which would in effect allow you to jump in front of the prime sponsored bill, but the way that you phrased your motion by unanimous consent is unprecedented. So, you may amend your motion. [LB1103]

SENATOR LARSON: To IPP. [LB1103]

PRESIDENT FOLEY: The motion is amended. And Senator Larson, you're recognized to open on your motion. [LB1103]

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SENATOR LARSON: Thank you, Mr. President. I understand the need for property tax relief. It is an issue that I'm sure Senator Friesen, myself, Senator Hughes, many of our...many of us hear about over and over. And I understand the want to go through the school funding mechanism to ensure a minimum amount of base aid. I don't think I would choose this model. I think every student should be worth the same, but I understand that the TEEOSA formula is complicated, one that I know Senator Groene and the Education Committee worked a lot on. But in the end as I see LB1103 and the amendments coming down the pipe that give LB1103 the funding mechanism, I see a significant tax increase. And I'm just not sure that is where we want to go. Now, I know Senator Erdman is pushing a ballot initiative. I'm sorry, Senator Erdman, I probably won't sign that ballot initiative. I doubt I'd sign Senator Morfeld's ballot initiative either. There are ways to fix, or ways to work within the property tax system...or work to fix that. TEEOSA is one of them. Is this the way that I think we should fix TEEOSA? I don't think so. I would rather put a specific amount of money into TEEOSA, divide the number of students, and disburse evenly. I understand that there will be significant loss in many schools and maybe some of my urban colleagues--not that I'll be here--would oppose that. That is the only true and fair way to do that. The Nebraska Constitution says that it is the state's responsibility to provide a K-12 education for every individual. I have made the argument on the mike many times that that is not happening. The state provides a K-12 education for those equalized school districts and the property taxpayers of each other school district provides their education for the unequalized school districts. I do think the state is failing in that. I just don't think LB1103, and the amendments that are coming to fund LB1103, is the right answer. Now, how did the schools get to the point that what I described, what I would like? It would probably take a lawsuit because I don't see this body taking action on it. Do I think the unequalized school districts should band together? Yes. Will they? I don't know. So as we continue through this debate, move forward, we'll see what LB1103 has, if it has the votes, if Senator Briese has the votes on the floor. I was always very open with him that I'd oppose his bill on the floor, and that's what we're doing here. So we'll talk about MO331. I'm sure we'll talk about a reconsideration motion, and then Senator Friesen will be able to introduce his bill, and I think Senator Brasch has the next motion, and then another reconsideration motion, then Senator Smith and another reconsideration motion, so LB1103 will be here for a while. I understand the need. I disagree with the method. Thank you, Mr. President. [LB1103]

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PRESIDENT FOLEY: Thank you, Senator Larson. Senator Watermeier, you're recognized.  
[LB1103]

SENATOR WATERMEIER: Thank you, Mr. President. Good morning, Nebraskans. Well, we finally arrived at a point in time in which we can have an honest debate and honest conversation about school funding and how school funding is actually done in Nebraska. And I really appreciate the effort that Senator Friesen has gone forward through with on LB1103, also the effort made by Senator Briese on LB1084 and the amendment that he's offering here, but I'm a little disappointed in the amendment to indefinitely postpone before the introducer gets to talk on his own bill. I'm very disappointed in that action. I'm going to yield the rest of my time to Senator Friesen as soon as I get done here so he can be prepared, but I believe it's time for Nebraska to consider ways that we fund our schools. Every student in Nebraska deserves our support. Constitutionally, we're required to do that, but to what level? I think it's high time we bring this argument forefront. If we don't get anything done this year, it needs to happen this summer, and I would highly encourage all of us to be involved this summer. I'm going to be going around to the chairman and we're going to be talking about everybody's issues, so be prepared this summer to be involved. But directly on LB1103, I have fully supported this idea when it surfaced four or five years ago. There is no better way to ensure that we get state dollars and we're so far behind the list as far as across the country about the support that we give our students in Nebraska. It's high time that we support all of our students. The poverty, the rural, the urban, it doesn't matter. So with that, I would yield the rest of my time to Senator Friesen.  
[LB1103]

SPEAKER SCHEER PRESIDING

SPEAKER SCHEER: Senator Briese, 3:15. I'm sorry, Senator Friesen, 3:15. [LB1103]

SENATOR FRIESEN: Thank you, Mr. President. I guess I expected nonetheless from a senator who doesn't show up in committee hearings to be able to add their input now at the last minute. It's kind of disingenuous at best. We'll deal with that later. Go ahead and kill the bill. I don't care. Nobody, honestly, wants to address the property tax issue head on, and that includes the Governor, and all of you. We've danced around this issue for four years. I plan on coming back,

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and I'll continue the fight, so go ahead and kill it. We'll have fun the rest of the session. But if we don't start having an honest discussion of how we're going to fund schools, we're never going to address our budget issues that are coming forward. We're not going to be able to address the Advantage Act when it comes up next year, so we might as well get started this year. If you want to just try and kill plans, if that's the idea, I mean, everybody did their best to hold it in committee and then you do your best to try and kill it now, let's just leave one option out there. Well, I will tell you this, I will vote against LB947 as written. I won't hesitate a second. It doesn't do anything. And if we want to try and do this and try and get property tax relief, let's have an honest discussion. Let's actually get to a vote and let's talk about it. This is BS when you pull this kind of crap, but go ahead, I'm fine with it. But I'm not going to talk about that anymore, let's just talk about the bill. And as I get more time, I will go into more detail and what the bill does, and I have allowed Senator Briese to jump ahead of my amendment which would have funded it, and... [LB1103]

SPEAKER SCHEER: One minute. [LB1103]

SENATOR FRIESEN: ...I appreciate his efforts. He's worked long and hard and had his bill blocked in committee to allow the attempts by the Governor and everyone else. The vote trading that goes on here is disgusting. He should have had a chance to get it to the floor. With that, I'll yield the rest of my time to Senator Briese. [LB1103]

SPEAKER SCHEER: I'm sorry, you cannot yield time that was yielded to you. Thank you, Senator Friesen and Senator Watermeier. Senator Briese, you are recognized. [LB1103]

SENATOR BRIESE: Thank you, Mr. President, and good morning, colleagues. Well, here we go. And we can sit here, we can talk about motions to recommit, we can talk about motions to bracket, we can talk about motions to IPP, or we can talk about what's important to Nebraskans, and that's property tax relief. And as we discuss this, we need to remember and consider that in all likelihood, this is probably the last train out of the station this session. If you want property tax relief, let's pay attention to the debate here because this is probably it. Survey after survey have demonstrated that Nebraskans want us to focus and prioritize property tax relief. Surveys tell us that Nebraskans want a fair and balanced tax structure and for me there's only one

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responsible way to deliver meaningful and substantial property tax relief that Nebraskans deserve, and that's the concept embodied in LB1084 and the amendment that will be coming to LB1103. This amendment raises new revenue. It directs it to property tax relief and it places soft caps on the ability of local taxing authorities to raise property taxes. It's an amended, revised version of LB1084, and I have outlined what this amendment does in a handout we distributed to you earlier. I'll note that my efforts last year on LB312 and LB1084 this year centered on sales tax exemptions and exclusions. And I will note that AM2808 does not seek to eliminate any sales tax exemptions or exclusions. This was done to simplify and streamline what we're doing here and to bypass the legion of lobbyists and special interests that will show up when you talk exemptions and exclusions, but tax exemptions and exclusions must be on the table. That's why I've introduced the legislative resolution calling for an interim study to evaluate these items for a possible bill next year. And I believe based on the outcome of that interim study, we need to consider eliminating some exemptions and exclusions, expanding our sales tax base, and then bringing the sales tax rate down. So let's talk briefly about AM2808. AM2808 first raises the sales tax rate by one cent. It will raise the cigarette tax by \$1.50. It reinstates the alternative minimum tax, it repeals the personal property tax exemption, and it will impose a surcharge on our high income earners. It will direct these revenue sources to increase the funding of K-12 education, specifically 30 percent allocated income tax which is an offshoot of Senator Friesen's bill from last year, a \$500 per pupil aid amount similar to what Senator Harr proposed in LB1108. Restoration of last year's LB409 cuts which is essentially a one-year outlay and it puts the balance in the Property Tax Credit Fund. But it can also be designed to provide some work force development components. It's my intent to include some of those components in an amendment on Select File. These outlays I've described are accompanied by a property tax spending cap and I've described that cap on another white paper I distributed. This cap is intended to help ensure that additional state dollars directed to K-12 ensure property tax relief. And components of that cap are still subject to some consideration still influx, but that's the general outline of the cap. That's probably what will be on Select File and that cap is an important part of what we're trying to do here. Finally, the bill calls for a Department of Education study to examine school financing in Nebraska. So let's talk about what we're trying to do here. Colleagues, U.S. Census Bureau data indicates we're nearly last in the country in the percentage of K-12 education funded by the state. If we're going to deliver... [LB1103 LB1084 LB1108]

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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR BRIESE: ...the property tax relief...thank you, Mr. President...Nebraskans are demanding, that percentage has to change. We have to reduce our reliance on property taxes to fund K-12 education and that's what AM2808 attempts to do. Some outside the glass and some in here will object to the revenue components of this bill. Now, I'll admit, there's something in here for everybody to dislike. But I can almost guarantee you that the average Nebraskan will support this concept. Polls in my district show that, statewide polls show that. And I believe that this amendment simply reflects everyday Nebraskans beliefs on this issue. I'll talk about the individual components later, but first consider what this amendment does. It is the most responsible proposal, it will deliver immediate and substantial property tax relief, it identifies funding sources, it provides a property tax asking cap to ensure that relief. But perhaps most importantly, we need to realize that not only do we have a choice to make here, so do Nebraskans. They have a choice. [LB1103]

PRESIDENT FOLEY: That's time, Senator. [LB1103]

SENATOR BRIESE: Thank you, Mr. President. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Briese. (Visitors introduced.) Continuing discussion, Senator Smith. [LB1103]

SENATOR SMITH: Thank you, Mr. President, and good morning, colleagues. We're going to be taking a while on this bill, so there's plenty of opportunities to get up and to talk about property tax and explain this bill in more detail, and so I would hope that...to hear more from Senator Friesen and from Senator Briese. And I think that was one of the questions I had was, what was the intent of the funding of this bill and I think Senator Friesen and Senator Briese have addressed that, that it is AM2808 which is a very, very significant tax increase. Senator Friesen did mention that no one wants to address property taxes, and he knows good and well that that's not true. We have other options available to us this session even yet to address property taxes. We



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did not get into this situation overnight, and colleagues, we're not going to get out of it overnight. If we're going to be responsible and avoid putting burdensome taxes, more taxes on our families and businesses, it's going to take time to get out of this and we need to do it responsibly. Don't expect it to happen overnight. LB1103 came out of committee with a substantial fiscal note in AM2808, makes several changes...makes several additional considerable changes to the original bill in order to fund it. In reality, LB1103, with AM2808, is a \$486.7 million increase, and those are Senator Briese's numbers. That gets us almost halfway to funding the ballot initiative and it gets us almost halfway to funding Senator Erdman's bill, LB829. That's a tax increase. You read through the handout that Senator Briese gave to us, you read through the bill, it looks like it's written by a bunch of Washington, D.C. tax and spend bureaucrats. I cannot believe the language that he's put in there and he's expecting us to swallow that. These are tax increases, friends...tax increases. Take a look at the bill. Look at page 33 of the amendment, AM2808, starting on line 27. I'll be talking about that particular language a little bit further in this debate. I'm looking forward to an explanation of that and an explanation of how that does not raid the Property Tax Credit Fund. We're talking about property taxes here? This bill has been cobbled together to satisfy a lot of folks that want to spend a lot more money and that's how we're getting there with a coalition behind this. This is disappointing, disappointing. Not only does the bill fail to provide real long-term property tax relief, it diminishes the attempt at relief the state already provides. And then we go through the sales tax increases. One-cent sales tax increase. Sales tax, of course, we know is the most regressive of all taxes and we're going to go through a little bit more as to what impact that's going to have. Cigarette tax increases. Ought to be ashamed. Ought to be ashamed. There's a study that was published in 2012 that... [LB1103 LB829]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR SMITH: Thank you, Mr. President...found American smokers making less than \$30,000 a year spend approximately 14 percent of their annual income on cigarettes compared to those earning more than \$60,000 who spend only 2 percent of income on cigarettes. Shame on you for going after the lower income earners to pay for your property tax. Let's do it responsibly, let's do it reasonably. There are options before us. Thank you, Mr. President. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Friesen. [LB1103]

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SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So I'm going to talk about my original intent in LB1103, and so I won't be talking a lot about Senator Briese's amendment because I just did that out of courtesy to allow him at least a chance to talk about his bill. LB1103 was originally intended to work with those school districts who don't receive equalization aid. They've lost all of their state aid over the years, so we have schools now that their state aid is less than 1 percent. And other schools who have state aid which makes up over 50 percent of their total budget and so right now, we'll have 67 school districts which receive over \$850 million in state aid and we have 178 school districts who receive none in equalization aid. And what my bill did was attempt to bring together these two differing amounts by providing that each school district would receive no less than 25 percent of their basic funding needs in the TEEOSA formula. The basic funding in the TEEOSA formula is a component of what is needs minus resources. And so within the needs portion of the formula there's a component called basic funding. And so that's the portion that I'm saying that the state should be responsible for to every school district is 25 percent of that basic needs should go to every school in the state as a portion of state funding. That was my attempt. The fiscal note on that was around \$197 million, and that would bring every school district in the state to at least 25 percent of their basic funding needs by the state. And so we would be reaching out to all of those 178 school districts that receive no aid, and we'd also be touching some school districts who also receive some equalization aid but has not reached that 25 percent level. That was my initial goal is to get to that 25 percent level. I was going to fund it with a half percent increase in the state sales tax and that would be really close to being able to fund 25 percent. We might have been at 24 percent if we're going to use exact numbers, but I was willing to just fund it with whatever money could be brought into that. And again, I'm very flexible with the funding amount. I know I could start it with less and work it up, and I agree with Senator Smith that we did not get here in one year, and I don't expect to fix it in one year either. I was going to go with modest proposal to move forward to get this funded up to 25 percent. I could take a couple of years, but I think my initial goal, and I think the goal of the state when we look at overall policy of how we should fund K-12 education, I would like to see the state contributing up to 75 percent of every school district's basic funding needs in the state. And with that, if that amount, and we could argue over that amount whether it's 75 percent or 80 or some other number, the state could honestly say that it is being responsible for the free instruction of our K-12 students. We could use property taxes to fund the rest of the programs that they want to have out there. I do think we need to put some

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sort of lids or spending controls on so we don't get back into the same situation we're in now, but that can be addressed, I think, at a different time. It shouldn't be a component of this. From what I understand and the analysis that we've done is that school districts that this money is going to right now could not consider this any new spending money. [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR FRIESEN: They're either up against a spending lid or budget authority lid so that they would have to reduce property taxes dollar for dollar. And that's what I would expect and I would welcome any amendments that make sure that they do that. This is meant to be property tax relief. And so LB1103 started out as a very simple bill working with Matt Blomstedt from Department of Education, we came up with this number. And so I think it was a very responsible way to approach how we fund K-12 and provide property tax relief in some fairness throughout the state in how we fund K-12. Thank you, Mr. Lieutenant Governor. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Crawford. [LB1103]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. I rise in opposition to the motion to indefinitely postpone. I think this is a very important conversation and I think it's an important conversation to have in terms of how we fund education across the state and how we address property tax relief. And I just want to thank both Senator Friesen and Senator Briese for their work throughout the interim and the summer and meeting with people and pulling together alternatives and pushing those and working with folks to try to pull these alternatives together for conversation and debate on the floor. And I'm grateful that we have an opportunity to have some of that debate here even near the end of the session. And I just think it's important that we make sure that we think about what our alternatives are and what it is that we keep hearing people tell us that they want to see. And I keep hearing people tell us they want to see more secure funding for education and that we want to provide property tax relief and that our property taxes...excuse me, that our taxes are out of balance. And so this is part of that important conversation and I think it's important that we look for alternatives that help us to address those issues and I appreciate Senator Friesen and Senator Briese for bringing those alternatives to the forefront for discussion and I'll yield any of my remaining time to Senator Briese. [LB1103]

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PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Briese, 3:30. [LB1103]

SENATOR BRIESE: Thank you, Mr. President, and thank you, Senator Crawford for that. I do want to comment on a couple of things that I heard. I heard someone suggest I ought to be ashamed of myself for wanting to raise the cigarette tax. Well, like I said before, not everybody likes every component of this bill, maybe I don't like every component of this bill, but when we have the 40th highest cigarette taxes and the fifth highest property taxes on ag land in the country, something is out of whack there. What I'm ashamed of is having the fifth highest property taxes on ag land in the country. I'm ashamed of having the sixth or seventh highest property taxes on our urban homeowners. But as I was saying earlier, we have choices to make, but so do Nebraskans. This summer, this fall they have a choice whether to fund and support the ballot proposal or to stand aside. And they may have a choice in November whether to vote for or against that proposal and in making their choices, rest assured, Nebraskans are going to consider what we do in this body today and in the coming days on AM2808. Our debate and vote on AM2808 will tell Nebraskans whether we as a body have the will to present them with significant and substantial property tax relief. Our debate and vote on AM2808 will tell Nebraskans whether they need to take matters into their own hands. So Nebraskans are watching and I would encourage Nebraskans to watch. And someone talked about the idea of a tax increase earlier and that was brought up the other day. It's brought up again and I'm glad they brought it up. So let's talk about tax increases and look at some examples. A tax increase is imposing a statutory requirement on our schools to fund special education for our children slowly and then slowly paying a smaller and smaller share of that cost from the state level and forcing our local entities to increase property taxes to make up the difference. You ask, what's he talking about here? How does that work? Nebraska Revised Statute Section 79-1127 requires schools to provide for special education. The state was once statutorily required to fund 90 percent of these costs. The statutory requirement dropped to 90 percent for level three services and 85 to...80 to 85 for lower services. Then those that came before us in this body saw fit to eliminate those requirements and now it's simply whatever we appropriate. And guess what? We now provide reimbursement for only 48 percent of the excess special education costs. And while special education cost increase at a rate of about 5 percent... [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

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SENATOR BRIESE: ...a year for our local school districts, I notice in our budget General Fund allocations to special ed are increasing at a rate of 1 percent per year in FY18 and FY19 and only 1.3 percent the year before that, 2.5 percent the year before that. Colleagues, any way you slice it, I described a state-imposed property tax increase. This bill is simply an effort to reverse that. This bill is not a tax increase. Another example, a tax increase is taking away tax dollars we have committed to the funding of K-12 education and essentially forcing property taxpayers to make up the difference. So you ask, how does that work? Well, in 1990 we passed...or they passed LB1059. LB1059 required a 20 percent income tax rebate...income tax rebate. [LB1103]

PRESIDENT FOLEY: Time, Senator. [LB1103]

SENATOR BRIESE: Thank you, Mr. President. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Brasch. [LB1103]

SENATOR BRASCH: Thank you, Mr. President, and thank you, colleagues, for your attention to this matter today, but I do stand opposed to LB1103. Indefinitely postpone it, I think that's something that we should consider, strongly consider. I am in strong support of property tax relief. I have been since day one. And let me tell you, in 2012, I introduced LB1109 that provided property tax relief for agricultural land that was flooded along the Missouri River, a catastrophic event. In 2013, I introduced LB145 to change ag land value and horticultural land value from 75 to 65. In 2015, LB350 and LB351, I coupled it to change ag land value and to bring back the 20 percent funding for schools that we had seen earlier with an earlier body of legislation. LB1059, I think, was the number. I'm not certain right now. 2016, LB1037. Change property tax provisions relating to agricultural land and horticultural land. 2017, to adopt the Agricultural Valuation Fairness Act. During the year when our economy and years when our economy in this state was the strongest, my pleas, town hall meetings, tax modernization committee, fell on deaf ears. When we had money, we all rallied behind fixing the infrastructure. We have a market. We need to get our produce and our commodities, we need those roads. We applied cash there. We applied cash where it was needed. We are very nervously looking at a cash reserve and when you look at what this bill does, TEEOSA, I had multiple conversations with Ron Withem and others in education when I introduced LB351, and they took two years

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studying and building and creating that TEEOSA formula and it was...it needs to be studied now. We're not going to do this in the 11th hour of session. We need to have a deliberate plan. And everything that we've already done, if you want to talk about education spending and the property tax history that in the 25 years since TEEOSA was implemented, both state aid of which TEEOSA is the largest single part and property taxes have continued to increase while the number of students in Nebraska has grown very little, very disproportionately to what we've been giving and what education has been taking. And in 1991 when TEEOSA was implemented, the state invested back then, this was big money, \$311 million in schools and schools did decrease their property taxes, but only by approximately \$37 million, very disproportionate. But three years later, despite the increases in TEEOSA of 23 percent, property tax spending by schools exceeded, it grew by all prior years, by \$50 million. They took the aid, they dropped it temporarily, and then, boom, it was a gold rush. And in 1999 the state invested an additional dollars in education spending to the tune of \$125 million, a 27 percent increase and they saw property tax spending going down only by \$700,000. And then... [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR BRASCH: ...in the year 2000, tax spending grew by over \$25 million. This bill does nothing to control that spending. This bill does nothing to bring TEEOSA formula to solve these solutions. There is nothing here to solve the problems, and it will not provide property tax relief, but increases for the people who can least afford them. And that includes my ag neighbors, brothers and sisters. Be wary. All that glitters is not gold. Thank you, Mr. President. Thank you, colleagues. I will have more to say. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Krist. [LB1103]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. And again, good morning, Nebraska. Senator Smith talked about other options. I presented a vote card on LB947 to the Speaker that shows that there are at least 24 people that don't want it to come back and they will not provide cloture for that vote. Plus or minus four or five that are probably still wheeling and dealing on something that they would be bought for or bought off with and I am not begrudging them for standing their ground. The vote trading that Senator Friesen spoke to is

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alive and well in this Legislature. This indefinitely postpone motion by Senator Friesen accurately captured the absent senator who is very little in that committee and other of his responsibilities. It is apropos. It's expected. We should remove the indefinitely postpone and put all the options up on the board. All the options need to go up on the board so we can talk about them. In ten years that I've been here, we've talked about foundation. We couldn't get...Speaker Scheer had a bill in front of education when I was on the Education Committee to look at foundation funding which basically is the fundamental purpose of Senator Friesen's original LB1103, that is all kids across Nebraska getting a proportionate amount of state aid to pay for their education. I would argue that 25 to 35 percent is too low. I would argue that we are in this mess because we have...Senator Brasch put money in places when times were good that we probably shouldn't have. We should have fully-funded TEEOSA if that was the mechanism that we were going to use. I've had conversations with Matt and in those conversations we know exactly how much it cost to educate a child all over the state from fifty-three or fifty-five thousand dollars in some areas to eight and nine thousand in other areas. What am I talking about? I'm talking about maybe fifty to sixty percent of that proportion, of whatever we're paying, coming from the state. Why did that happen? Because in the past ten years when times were bad, we have robbed Peter to pay Paul and that's why we're in this situation. Didn't happen overnight, it happened over a period of time. But to stand up here and say we are going to fix it next year or we didn't get here overnight so we can't fix things overnight, is by itself disingenuous. There are three things we should have put on the schedule immediately as soon as it was heard in committee. And that was from the Revenue Committee, everything that had to do with tax deductions...tax...remodeling our tax system and funding, properly funding education immediately so we could put those pieces up there and talk about it. This Legislature, and I was part of it for the last ten years, has done nothing to approach even in the semblance of trying to lower property taxes. It has allowed the problem to perpetuate and you all have your opinions, and I'm sure you're going to stand up and say, well, we did this, we did this, you know, and Senator Brasch did. She tried to put a few bills out there that were nickel-and-diming us back into some good shape. We've done nothing fundamentally to rebalance the three-legged stool. And I will say it again and I'll continue to say it, there was a point at which we were giving 30 to 40 percent of our income tax funding education. Look at what we're doing now with income tax. Less than 3 percent. That's one of our fundamental problems. [LB1103 LB947]

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PRESIDENT FOLEY: One minute. [LB1103]

SENATOR KRIST: Well, we're not going to have that discussion again and there will be more in November than just voting up or down on a referendum. There will be a vote up or down on leadership. With the proper leadership, we can change this tax structure. Some of you will be in a position to be reelected. If you can honestly stand up here and vote for indefinitely postpone, or a bracket motion or anything else, I'll tell you where the shame goes, Senator Smith and others, the shame goes on us for putting yet again another year aside. By my calculations, if we spend 14 hours a day in the remaining days here, which we won't, we have 56 hours left, 56 hours of debate that we could honestly talk about these issues. You make the choice. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Bostelman. [LB1103]

SENATOR BOSTELMAN: Thank you, Mr. President. I yield my time to Senator Friesen. Senator Friesen. Yield my time to Senator Friesen. [LB1103]

PRESIDENT FOLEY: Yes, thank you, Senator Bostelman. Senator Friesen, 5:00. [LB1103]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So, I'm going to go back to where the problem first started and is when TEEOSA formula couldn't recognize the tremendous spike in ag land prices. You know, and this could have happened to residential homes, it could have happened to commercial properties. For whatever reason, it could have happened to any of the different taxing properties that are out there but it happened to happen to ag land. I did not expect to ever see an increase like this in ag land in my lifetime, but it happened. And the TEEOSA formula couldn't adjust to that. And no one was willing to address it while it was happening. It was a huge tax shift upon ag land. It was a \$1.2 billion shift. And so when that was happening, no one here stood up and said, oh, there's a tax shift happening, we can't have that. And now when we try to shift it back to where it was at one time, oh, we can't have a tax shift, that's wrong. We can't have a tax shift, that just doesn't work. Well, we had a tax shift. Colleagues, it was a \$1.2 billion tax shift and I'm looking at \$192 million to help fund that. It's a small step in getting back to where we belong. And so it's an example of where we put something in place and it runs on auto pilot and the only time we seem willing to touch it is when the state runs short of



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funds and then we start to tweak the TEEOSA formula. But we don't address the problem and we don't ever restore those cuts. We just nip around the edges whenever we have money and we choose where to place our dollars. Right now, we are not funding K-12 education where we should. To me, K-12 education, it says in our Constitution, it's...we are responsible for the free instruction of our K-12 students and yet we spend more on higher education than we do on our K-12. And so I'll just list some of the schools here that right now what their state aid is as compared to their basic funding. And this is the basic funding component, not their total needs formula, but their basic funding. So like Ainsworth Community Schools get .99 percent of their basic funding in '17-18 of their school needs. Amherst Public Schools gets 31 percent. Ansley Public Schools gets .59 percent. Arcadia Public Schools gets 27.98 percent. Bellevue Public Schools, 66.99 percent of their basic funding needs is provided by the state. And then we drop to schools like Bertrand, 1.75 percent, Calloway Public Schools, .63. We can go down this long list. I've got every school listed here. We're getting a drop in the bucket. It doesn't even pay to send the check. And yet, 27 percent schools get all of our state aid, the basic funding. And that to me has been wrong from the start. The TEEOSA formula has a component in it that addresses foundation aid. It has several components in it that we have not fully funded. The allocated income tax is one. I tried to do that last year. It's just an \$80 million fix, which is a minuscule amount, but at least you're getting your own money back from your income taxes you pay. But I forget that we don't pay income taxes in the rural areas. The allocated income tax is fair enough. It was meant to be in there. [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR FRIESEN: It was meant to be funded at 20 percent. We capped it at 2 percent. There is a foundation aid component in there and it's not funded at all. Never has been, I don't think. But what I call basic funding is the responsibility of the state to fund at least some portion of every school district's needs in the state which I think we have a strong responsibility to do. Thank you, Mr. Lieutenant Governor. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Friesen. Senator Pansing Brooks. [LB1103]

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SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I rise today to, number one, stand against the motion to indefinitely postpone. I didn't like it when it happened the last time with Senator Smith's bill. I don't like it this time. I think it's bad form. I hope that we don't have to jump people's ability to be able to introduce a bill as they would choose. So, I hope we can pass over this and get moving on to the discussion of the bill, LB...the amendment and the bill, LB1103. So I am rising today to discuss one of the provisions in this bill and this amendment that I fully support, an increase to the earned income tax credit to help working families. I introduced LB69 last session which provided for a more robust increase in our EITC from 10 percent to 20 percent of the federal credit allowed. This session I discussed with Senators Briese and Friesen this issue and they agreed to include a modified version of LB69 in their tax proposal. They had proposed an increase to 13 percent and I asked them to raise it to 15 percent because I was concerned about some of the more regressive tax...sales tax elements in the amendment. The increase to 15 percent would definitely help offset those elements so that the working poor are not adversely impacted. I want to thank Senators Friesen and Briese for agreeing to the 15 percent. I also want to thank them for their commitment to property tax relief and working to ensure that our state works to fulfill its obligation to fully fund public schools. The EITC is one of the most effective antipoverty programs in the country. It guarantees added spending in our local economies and creates residual benefits for our state's revenue base. The earned income tax is a refundable credit, meaning that in order to receive it, the taxpaying family must file a federal return establishing eligibility and then claim the credit. In December 2016, the Legislature's special Intergenerational Poverty Task Force released its report which highlighted some startling statistics. In 2015, 18.1 percent of Nebraska's families with children under five years of age were in poverty, 18.1 percent. Single mothers had a poverty rate of 38 percent compared to a 5.8 percent rate for married couples. The report highlights the study from the National Center for Children and poverty that shows 42 percent of children born to parents in the bottom 20 percent of the economic distribution remain at the bottom as adults. At the other end of the income distribution, 39 percent of children born to parents at the top stay at the top. As a result of these findings, the Intergenerational Poverty Task Force recommended a two-generation approach to poverty that improves child well-being while increasing family economic security. The task force recommended an increase in the earned income tax credit because these investments work. A study from the Aspen Institute found that children in low-income families that received an additional 3,000 a year...\$3,000 a year earned 17 percent more as adults than

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children and families that did not receive that added income support. The earned income tax credit helps poor, working families who are struggling to get by. In Lincoln, the center for people in need provides an annual Face of Poverty report that offers important demographics about the working poor. In the last Face of Poverty survey, 63 percent of respondents indicated that they had a job at the time of the survey. [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR PANSING BROOKS: The survey also shows that 65 percent of respondents earn less than \$1,250 a month for a family of four. For a family that size, \$1,250 does not go far. These are people living paycheck to paycheck. They're trying to stay afloat and provide for their families. When we put money into the hands of these wage earners, they spend it in our local economy. Iowa offers a credit of 15 percent, bright red Kansas 17 percent, Minnesota 25 percent. To make a difference in our state's tax system and to ensure fairness in equity, the Nebraska taxpayers must have a bipartisan approach like this. The Senators, Briese and Friesen, have understood. Other efforts seem to be tone deaf to the need for that bipartisan effort. And I want to thank them, but the inclusion of the EITC gives recognition of the fact that many whom we serve have needs that should be considered in these tax proposals. And AM2808 is not perfect, but it doesn't demand my way or the highway. [LB1103]

PRESIDENT FOLEY: It's time, Senator. [LB1103]

SENATOR PANSING BROOKS: Thank you. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Blood. [LB1103]

SENATOR BLOOD: Thank you, Mr. President. Fellow Senators, friends all, I stand very opposed to Senator Larson's motion, and in support of Senator Friesen's bill, and hope to stand eventually in support of Senator Briese's amendment. I wish Nebraskans could see what happens in this Chamber when Senator Larson brings an IPP forward. For the farmers, if any of you have banty roosters, that's exactly what's going on here. He walks around like he's the cock of the walk, and quite frankly, it's one of the banty hens. I'm sick of it. This is a good bill. This motion

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is inappropriate. Shame on Senator Larson. And so let's start shaming some people unfortunately right now because I'm sitting here listening to words coming out of senators who I respect, the words coming out of their mouth, but I can't believe they're saying on the mike today. When somebody calls my good friend, Senator Briese, a tax and spend bureaucrat, that is someone who makes policy at the expense of other...of people's needs. He is doing the opposite. I would like to see every senator right now sitting on that three-legged stool that Nebraska has because you'd be all falling on your bums right now. That three-legged stool is not balanced. One of the things that I was so disappointed in when I became a state senator was how I heard how we are going to be doing evidence-based budgeting. Evidence-based budgeting is so important to the state of Nebraska and we all need to participate in it. And coming from a community that had big financial problems before I became on the city council, I knew how evidence-based budgeting could save a community or a state's budget. And then I found out that as senators, we don't participate in strategic planning. Do you know what that's like? That's like taking a trip without GPS, without a map. It's signing a lot of checks but you are not all on the same page, and this is a really good example of it, by the way. We're not on the same page. We're not all going in the same direction. So what happens when we have budget issues? I'm going to talk over the loud voices to my left. When we have budget issues, you know what happens? We cut. We cut, we cut, we cut. That is not how you do a business for those who say run the government like a business. I heard Senator Murante on the radio this morning saying that he wants to be elected to higher office and he wants to run it like a business. Well, guess what, Senator Murante? The state is not being run like a business right now as the state senators. We don't have a strategic plan. All we do is cut. All we do is tread water. And every year I hear senators, prior to me, bragging about how they balance the budget. We're not balancing anything. We're digging a hole and digging a hole, taking credit for what a great job we do, but we are not planning for the future. And we are headed for a lot of trouble. And I respect the heck out of Senator Friesen and Senator Briese and I know we don't always agree, but we still respect each other and these are great bills that are trying to help Nebraskans. And to be said otherwise on the mike is outright lie. And then when I hear, you're going to raise taxes on cigarettes and poor people won't be able to smoke. Well, I don't see these senators that are saying that, worrying about the 39 clinics for poor people that are going to be shut down so they couldn't get services. You weren't worried about them getting ovarian cancer. You weren't worried about them being treated for rape and sexual assault, and I find that hypocritical. And let's talk about taxes on cigarettes because you know what the

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cost to taxpayers is for Medicaid for people who smoke? \$162.3 million, Nebraskans. How about productivity losses? Those people that are constantly leaving their desk to go outside and smoke in Nebraska? That costs people, business owners... [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR BLOOD: ...\$605 million. And how about the annual healthcare costs because this effects your pocket too, \$795 million. So what a bunch of brouhaha. I have great respect for Senator Briese and Senator Friesen. Keep up the good work and keep fighting this fight. Thank you, Mr. President. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Blood. (Visitors introduced.) Continuing discussion. Senator Watermeier. [LB1103]

SENATOR WATERMEIER: Thank you, Mr. President. Good morning again, Nebraskans. I think we're going to have a good debate on this today and hopefully until 3:30 or so, like this afternoon. I think back to when I was elected in 2012 and I came in the body in 2013. In January of that year, Governor Heineman introduced a couple of bills that kind of turned the body upside down, LB405 and LB406, and they dealt with sales tax exemptions. And I forget the exact numbers, but I think were collecting \$2.4 or .5 billion a year, but were exempting almost three billion. Ag is a big part of that. We have some exemptions that we qualify for, and every one of those exemptions have been earned for. Manufacturing has some that's been qualified for. But the state of Nebraska is different today than it was in the '30s and '40s. Certainly, we're an agricultural state and the fact that we rely on the economy of it, but the dollars that have generated government dollars are quite different. We are really truly more of a service industry state than we really want to admit. Ag will generate the gross dollars in certainly in the property taxes, and ag will generate the dollars in the livestock and crop industry, but the service industry is what drives and needs the services of the county roads, fire, and school, NRDs. Indirectly, LB405 and LB406 in 2013 was ahead of its time. It went down in flames. I remember very well at that time, I think it was Senator Ashford and Senator McCoy that introduced it along with the Governor. It went down in total flames. Maybe that was by design because it certainly wasn't sold to the ag industry, wasn't sold to the manufacturers, wasn't sold to the school districts. It set

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everybody on edge because it was going to put up for sale, put up for conversation all the exemptions that we have in the state. And I think we're going to finally come full circle and have to go over that conversation again. And I would encourage us all this summer to remain vigilant and I'm going to encourage us all to get together a couple of times in the summer, and we need to knock this out, talk about it, keep it right in front of us and be focused on this issue because this school funding issue is not going to go away. We've got to talk about it, and what's really a priority in the state of Nebraska. So with that time, Mr. President, I'll yield the rest of my time to Senator Friesen. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Watermeier. Senator Friesen, 2:30. [LB1103]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. You know, in my...ever since I ran for election, I have told people that I'm willing to raise taxes to fix the property tax problem. I ran unopposed. I'll say it again. I'm willing to raise taxes to fix the property tax problem, and if you want to talk to me about it, I'm more than happy to discuss that. I'm willing to raise taxes, but it's going to be for property tax relief. If you want to paint me as a spend and tax and spend liberal, go ahead. I'm running unopposed again. We have got schools who have over the last four or five years have continued to lose their equalization aid. York Public Schools is one. They lost the last of theirs, I believe about two years ago. They're at their \$1.05 limit. They've cut staff, they've cut some programs, and they're going to, at some point in time, have to decide whether they want to do a levy override. LB1103 would help them out considerably. It would lower their levies quite a bit under the \$1.05 and allow them to... [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR FRIESEN: ...continue with their programs and not have to have the levy override limit. I exceeded. They have farmers in that area, ag landowners in that area are paying well over \$100 an acre in property taxes. Across the fence in centennial school districts, it's at \$40. Huge disparity in the profit margins from one person to the next because of what school district they live in. That is unacceptable to the number one industry in the state. We can no longer let that disparity be there. We have to start funding our schools in a different manner. And so far, none of

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the bills out there help do that. We have to address this and if all we want to do is try and repurpose money that we have now, it always hurts someone. [LB1103]

PRESIDENT FOLEY: It's time, Senator. [LB1103]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Friesen. Items for the record, please. [LB1103]

CLERK: Yes, Mr. President. Enrollment and Review reports LB953 and LB807A to Select File. New resolution, LR482. It's offered by Senator Riepe. It will be referred to the Executive Board, Mr. President. Just an announcement. The Rules Committee, Mr. President, will meet at 2:30 underneath the south balcony. The Rules Committee at 2:30 underneath the south balcony. Name adds: Senator McCollister would like to add his name to LB738; Senator Larson to LB989. (Legislative Journal pages 1457-1461.) [LB1103 LB953 LB807A LR482 LB738 LB989]

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

PRESIDENT FOLEY: Members, you heard the motion to recess until 1:30. Those in favor say aye. Those opposed say nay. We are in recess.

RECESS

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good afternoon, ladies and gentlemen. Welcome to 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. Do you have any items for the record?

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CLERK: Mr. President, I do. Enrollment and Review reports LB1065 and LB1065A to Select File. That's all that I have, thank you. [LB1065 LB1065A]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Members, we're going to pick up right where we left off this morning. First in the queue for the afternoon is Senator Halloran. [LB1103]

SENATOR HALLORAN: Thank you, Mr. Lieutenant Governor. I'd like to yield my time to Senator Briese, if he wishes. [LB1103]

PRESIDENT FOLEY: Senator Briese, 5:00 if you care to use it. [LB1103]

SENATOR BRIESE: Thank you, Mr. President, and thank you, Senator Halloran, I appreciate that. We're talking earlier about tax increases, and again I'm glad the people brought up the notion of tax increases. Another example is taking away income tax dollars we've committed to funding K-12 education, and essentially forcing property taxpayers to make up the difference. So you ask, how's that work? In 1990, LB1059 was passed. LB1059 required a 20 percent income tax rebate to be sent directly to each school district. The Legislature capped these dollars at a set amount in 1996 with LB1050, and now pursuant to Nebraska Revised Statute 79-1005.01, the allocated income tax is a mere 2.33 percent. So as we the state reduced the allocated income tax component of state aid from 20 percent to 2 percent, who was required to make up the difference? Our property taxpayers. That is a state-imposed property tax increase. AM2808 will simply attempt to reverse that tax increase. AM2808 is not a tax increase. Earlier Senator Brasch made a few comments here, I'd like to address, and Senator Brasch indicated that she's in strong support of property tax relief. And I agree, Senator Brasch, you are and I applaud your efforts directed towards property tax relief over the years. That's appreciated. The difference is simply that, you know, you and I have a different approach to property tax relief. Senator Brasch also indicated that we need a deliberate, well-thought-out plan for funding K-12 education, and I agree wholeheartedly. That's why this bill calls for a study by the Department of Education, a comprehensive study of education funding and finance in Nebraska going forward. And that study is going to look at a lot of things, and part of that study can include an examination of Senator Groene's education-funding formula. It could look at Senator Friesen's formula as found in LB1103. It can look at Senator Wayne's ideas for education funding, but that is what we need,



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a comprehensive study on education funding, but in the meantime, while we're waiting for that, Nebraskans need property tax relief. And I...and Senator Brasch also indicated that...or suggested there's nothing here to control spending, and I think there is some material distributed by the Chamber of Commerce saying there's nothing we're doing here to control spending. We're not controlling taxes. I beg to differ. That's why we have a tax-asking cap component to this bill. The tax-asking cap is a key component of any effort to inject new revenue into education. We've developed a cap here that I believe will help to ensure that increases in state aid will yield property tax relief, but at the same time we do have to allow for growth. This cap accomplishes both goals. So what does it do? It first limits the annual increase in property tax-asking authority to the greater of 2.5 percent. The increase in the consumer price index, student growth or growth in LEP students, or poverty students as a percent of total enrollment. And this amount is then decreased by an amount equal to the net increase in nonproperty tax dollars or conversely the taxing authority has increased by the net decrease in those dollars. So in other words, if state aid to education is increased, the ability to levy property taxes is decreased. But these limits can be exceeded by a super-majority vote of the school board, or a public vote at a special election. As now set up, this cap in the amendment will sunset in two years, but this is put...the sunset provision is put in place with the understanding that we conduct a study relative to education funding. So for those folks that are weary of injecting new dollars into education, this cap is designed to alleviate those concerns. And again, the concept of a cap is not... [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR BRIESE: ...an easy...thank you, Mr. President...is not an easy thing. You have to allow for growth, inflationary pressures, and things of that sort. But this cap that we've developed comes as close as we could to try to accomplish those goals. And I think I said earlier, there could be an adjustment to that cap, but I think the cap as proposed provides a template for the future. We'll know more in two years. And as I look at...on my computer here what's been filed, you know there's numerous motions filed towards this bill. We have one to indefinitely postpone. We have one to bracket. We have one to recommit to committee, and I think there's another one here recently filed, and I object to trying to thwart and smother discussion on property tax relief and property tax reform for Nebraskans. We need to move on to discussing the amendment, discussing the bill, and do what we were sent down here to do. [LB1103]

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PRESIDENT FOLEY: Senator Briese, that's time, but you're next in the queue, you may continue. [LB1103]

SENATOR BRIESE: Thank you, Mr. President. Question. [LB1103]

PRESIDENT FOLEY: The 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. Senator Briese. There's been a request to place the house under call. The question is, shall the house go under call? Those in favor vote aye; those opposed vote nay. Record, please. [LB1103]

CLERK: 23 ayes, 0 nays, Mr. President, to place the house under call. [LB1103]

PRESIDENT FOLEY: The house is under call. Senators, please return to your desk and check in. The house is under call. All unauthorized personnel please leave the floor. The house is under call. Waiting for Senators Murante and Wayne. Senator Briese, we're lacking Senator Wayne at this point. We could continue to wait or we could proceed. All unexcused members are now present. The question for the body is whether or not to cease debate. Senator Briese, you could accept call-in votes. Senator Briese will authorize call-in votes. The question is whether or not to cease debate. Record, please. [LB1103]

CLERK: (Roll call vote taken, Legislative Journal page 1462-1463.) 26 ayes, 8 nays, Mr. President, on the motion to cease debate. [LB1103]

PRESIDENT FOLEY: Debate does cease. We're still under call. Senator Larson, you're recognized to close on your motion. [LB1103]

SENATOR LARSON: Thank you, Mr. President. Obviously, we're moving towards the time, and I understand that some were upset that this was filed before the bill was introduced. I took my lesson from Senator Harr with LB947. He was a very good teacher in that, so I appreciate Senator Harr letting us know on that important bill that was where we were going and took my lesson there, and sure we'll see how this turns out and we'll move forward with LB1103 and the process that's going to play out. Thank you, Mr. President. [LB1103 LB947]

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PRESIDENT FOLEY: Thank you, Senator Larson. The question for the body is whether or not to indefinitely postpone the bill? Those in favor of the IPP motion vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB1103]

CLERK: 6 ayes, 25 nays, Mr. President, to indefinitely postpone. [LB1103]

PRESIDENT FOLEY: The IPP motion is not successful. I raise the call. Mr. Clerk. [LB1103]

CLERK: Would you ask Senator Larson to come up, please? [LB1103]

PRESIDENT FOLEY: Senator Larson, could you come to the desk, please? Senator Larson, did you have a point of order? [LB1103]

SENATOR LARSON: I believe I have a motion on the desk that is in order. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Larson. I will confer with the Clerk as to what that motion is. Mr. Clerk, please read the motion. [LB1103]

CLERK: Mr. President, I believe the motion Senator Larson is referring to asks to pass over pursuant to Rule 6...pass over LB1103 pursuant to Rule 6, Section 3(d). [LB1103]

PRESIDENT FOLEY: Senator Larson, I'm going to offer you a couple minutes to explain to the body why you believe this motion is a priority motion. [LB1103]

SENATOR LARSON: Thank you, Mr. President. I make MO332 to pass over LB1103 pursuant to our rule book. The motion to pass over is a motion to lay aside, or according to Masons, the motion to lay aside or temporarily pass over a bill or measure in the course of consideration on the calendar. Continuing into Masons, this motion is an incidental main motion. These motions, although they have procedural elements, have the principle characteristics of main motions to pass lay over and pass on the calendar, can be taken up when there is nothing...when there are no other motions before the house and there are no other motions before the house currently. Therefore, MO332, and I can go a little deeper into it if...I guess I have a few minutes, since

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there's no other business before the house. You can do other motions such as reconsider, resend, adjourn sine die fix, fix a time of which to recess. All of those would be ahead of my motion and an incidental main motion, and Masons on page 151, paragraph 34, to lay aside or pass on calendar is listed as an incidental main motion, and with nothing else being before the house, this motion is in order and a priority motion. [LB1103]

PRESIDENT FOLEY: Thank you for that, Senator Larson. Let me confer with the Clerk. It's the ruling of the chair that the motion is out of order. Senator Larson, you're recognized. [LB1103]

SENATOR LARSON: I move to overrule the Chair. [LB1103]

PRESIDENT FOLEY: There's been a motion to overrule the Chair. Pursuant to the rules, the senator may speak first and last, may open on his motion, then close. Every other member can speak one time only and you may not yield time. Senator Larson, you're recognized to open on your motion to overrule the Chair. [LB1103]

SENATOR LARSON: Thank you, colleagues. In our Rule Book, Rule 6, 3(d) it says: During the consideration of bills on either General or Select File, any member may move that the bill be passed over once and if the motion is carried by a majority of those voting, the bill shall be passed over and shall retain its place in file. That's where we're at. We're on General File and all it takes is a majority of those voting to pass over. According to Masons, so that's our rulebook, this is a valid motion that is in our rule book. So it comes now as when can this motion be made because we are a body of rules, so when can this motion be made? The President said this is not a time in which this motion can be made. We weren't given why he didn't feel like this motion could be made, but let's go into Masons. Incidental main motions. The following motions, although they have procedural elements have the principle characteristics of main motions and take precedence in the same order. These motions are usually called incidental or specific main motions to distinguish them from substantive propositions, which they rank in precedence. Any main motion or question is in order during the appropriate order of business when nothing is before the house. These motions take the same rank. So these motions take the same rank as main motions. That's very important. No one is...no one is in order when another is before the house. So essentially now that I had this before the house, none of these other incidental main

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motions can be in order, and anyone is in order in the proper order of business when no other business...when no business is before the house. So we have no other motions before the house. Therefore, this order, this motion is in order. There's no amendments before the house. There's no motions before the house. And according to our Rule Book, we are on General File, in which this motion can be made, and there's nothing else there. Colleagues, I can understand that you might not like me. You might not like this motion, but the motion is in order. The rule book, our rule book, doesn't discuss it. It just says we can make this motion. Now, if you're going to say that this motion can't be made now, if you're going to sit with the chair, you might as well just get rid of this motion out of our Rule Book because then, when else are you going to use it? It is very clear when incidental main motions can be made. I understand that it hasn't happened, but that is why we have a rule book. That is why we fall back on to Masons when these types of things happen. So I understand you may support LB1103, but that doesn't mean that this motion isn't in order. And what this motion is, if you go back into Masons...it's on 151 of Masons, but it's in Section 494, this specific motion. And we can get in...if you want to read it, we can get into whether or not we want to debate that motion next. But, colleagues, the motion is in order judging by our rule book. I see a rush to the rule books, a rush to Masons, but the question here is, it's not whether you like LB1103, it's not whether you want the bill to pass, the question before us right now is whether the motion is in order. And, colleagues, yes, the motion is in order by our rule book and by the definition of Masons in terms of incidental main motions. And colleagues, if we had had a motion to adjourn sine die, that motion would have been in order. That's a main, incidental motion. If we had had a motion to rescind, that is a main incidental motion. It would have been in order. Colleagues, all of those motions would have been in order, so why isn't this one in order? It is. And it's just a motion to pass. If the motion fails, then we'll move forward. So, again, I understand that many of you might want to vote against me just to vote against me, but you're setting a terrible precedent by saying that the rules don't matter, that we shouldn't follow Masons, that we shouldn't follow the rule book, because that's what we're doing here today. What does a Rule Book matter if we're not going to follow it? What are the list of motions that we follow in Masons matter if we're not going to follow the rules? I think I've said it before. This isn't Nam, we have rules, and it's our job to follow those rules. It's our job to look at the Rule Book, to go into Masons to understand what main incidental motions are, or subsidiary motions are, and apply them correctly. Our President did not apply those rules correctly today. So, again, I understand...Senator Briese, he's probably going to stand up and say

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why this motion is out of order, but in the end that's what individuals are going to do because they support the bill, and that is devastating to the institution of this body if that's what we're going to say, we follow the rules, we follow the motions. That's where we are. That is the truth behind it. Are we going to follow the Rule Book? Are we going to follow Masons? Are we going to go through the natural order of progression that we're supposed to go through, or are we just going to do whatever we like? Because if that's the case, if we're just going to do whatever we like, then fine. Just do whatever you like. I won't be here next year. We might as well set a...have a rules...Rules is meeting at 2:30 under the balcony, we might as well just get rid of the Rules Committee. Sorry, Senator Hilgers, let's just get rid of it because it doesn't matter. Rules don't matter. So that's the true question. Do the rules matter? Do you care about what's in Masons? Do we care about the subsidiary motions, the main incidental motions, the main motions? That's the...those are the questions that you have to ask yourself. If you don't, that's fine. Don't vote to overrule the Chair. But some day, colleagues, you may be in this position of having a motion that is valid in an attempt to do something that you would like to do on a bill and be overruled just because people don't like what you're doing. That's not right. Thank you, Mr. President.

[LB1103]

PRESIDENT FOLEY: Thank you, Senator Larson. (Visitors introduced.) Members, we have a very extensive speaking queue in front of us. We're going to preserve that queue just as it is. I'm thinking that many of you may want...or some of you may want to speak simply to this question of whether or not to overrule the Chair. If you want to speak to the question whether or not to overrule the Chair, simply raise your hand, and as I see you, I will recognize you, you can speak one time, and when we dispense of that, then we'll come back to the queue. Senator Krist.

[LB1103]

SENATOR KRIST: Thank you, Mr. President. As a matter of clarification for those things that are already filed and in front of me, us, today, I was wondering if the Clerk could verify, besides this particular item, what would be the next item that has been filed in line? [LB1103]

CLERK: Are you asking me what's been filed, Senator, I'm sorry? [LB1103]

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SENATOR KRIST: Yes. If we...besides this particular motion, which is out of order, what would be the next item we would go to? [LB1103]

CLERK: Senator Friesen would be allowed to open on his bill followed by the committee amendments. There is an amendment, as most of you know, by Senator Briese. There are priority motions that have been filed but I've been asked to hold on those until Senator Friesen presented his bill. [LB1103]

SENATOR KRIST: Okay, colleagues, my...thank you, Mr. Clerk. My point is simply this. Senator Briese tried to push the wake-up call for all of us a little earlier calling the question on a stall tactic, an IPP motion. This is why we haven't been able to get anything done in the ten years I've been here on property tax relief and taxes in general because we've not had a discussion on this floor about substantive matters. And what's in front of us should be an opening from Senator Friesen for his bill and then we should have had an opening from Senator Briese...sorry, Friesen and then Briese on the substance matter that we need to discuss. So once again, we're talking about some dilatory motion that is going to delay us from getting to the actual dialogue of the substantive matters in front of us. I think it's wrong, but I also agree with the Chair, and to the senator in question to be talking about following the rules and preserving this legislative process and this Legislature, I find comical, if not outright laughable. We need to vote to uphold the Chair's ruling on this, and we need to move forward with all haste and have a discussion on the substantive matters in front of us. Thank you for listening. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Krist. Other hands that I saw raised were Senator Hilgers. Senator Hilgers, you're recognized. [LB1103]

SENATOR HILGERS: Thank you, Mr. President. I just want to speak briefly to Senator Larson's motion that he has offered, and the reasoning under which he is underlying the motion and why it's a priority motion, and this is how I sort of see the analysis right now and I haven't reached a conclusion, but I think we've identified, and I've had a conversation with Senator Wayne, what exactly this issue will ultimately turn on. So, Senator Larson is right in a couple ways. One is that this does...it is a motion in our Rule Book in Rule 6. That is true. It is also true that we do look to Masons when certain questions are not answered. That is also true. However, the

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converse of that is also true which is when our Rule Book does speak, we don't look to Masons. And so the question, I believe, is going to ultimately be answered by Rule 7, Section 3, which is what we often refer to as our priority motion rule, and I think the language is important. It says, when a question is under debate, no motion shall be considered except one of the following, which motion shall take precedence in the order stated. None of the motions that are referenced are the one that Senator Larson has referenced or has put on the board. So, the real question here is, when a question is under debate. When a question is under debate. If we are debating a question, this motion is out of order. If we're not debating a question, then arguably...and I haven't looked at the Masons section that Senator Larson has referenced, arguably it is in order and we would...we could take it up. But the conversation I briefly had with Senator Larson is that he believes that it not...we are not debating a question because we're not debating the bill. Would Senator Larson yield to a question? [LB1103]

PRESIDENT FOLEY: Senator Larson, would you yield, please? [LB1103]

SENATOR LARSON: Yes. [LB1103]

SENATOR HILGERS: So your argument is that...is that right that your argument is we're not...because we're not debating the bill, we're not debating a question. [LB1103]

SENATOR LARSON: Exactly. The introducer has not been...has not introduced the bill yet, nor has the title been read is my understanding, therefore, we are not...how did you phrase it? We are not under the question. How did you phrase that? [LB1103]

SENATOR HILGERS: Debating a question. [LB1103]

SENATOR LARSON: Yeah, we are not debating a question. We are...since none of that has happened, the question has not happened yet, therefore, this motion is in order via Masons, because I would actually say if we had read that, then you could say that almost that it wouldn't be a priority motion as you analyzed, but we aren't debating LB1103 yet. [LB1103]



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SENATOR HILGERS: Thank you, Senator Larson. I appreciate that rationale. I'll tell you that I disagree insofar as you're equating question with bill. I mean, I think in other instances, including Rule 6, Section 9, we talk about the question after Final Reading of a bill. I think question is much broader than just the bill. It's hard for me to see that we're not debating a question. We haven't been debating a question but I will continue to listen to this on debate. I am, I think, second in the queue on the substantive matter and I also look forward to talking about the property tax issue here, I hope, pretty soon. Thank you, Mr. President. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Hilgers. I saw Senator Smith's hand raised and then Senator Wayne. We'll go to Senator Smith, then Senator Wayne. [LB1103]

SENATOR SMITH: Thank you, Mr President. And colleagues, I stand in support of Senator Larson's interpretation, and, you know, Senator Krist made a point that this was a stall motion, and every time someone rises to speak on this microphone, it's a potential stall motion, whether you're talking about a bill or you're debating an issue or you're filing a motion, those are all potential stall motions. Look around this Chamber and look at the number of rule books that are out, and if for nothing more than people getting engaged and understanding the rules of this Legislature, that's a good thing. I believe that, you know, Senator Larson's interpretation is well-founded. I support that motion, and I don't want to speak any further on this. I do want to speak further on the underlying bill, but I support Senator Larson. Thank you. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Wayne. [LB1103]

SENATOR WAYNE: Thank you, Mr. President. As we...rules are fun sometimes, the review. The question, I think this is what Senator Hilgers and I are struggling with is Rule 7 says that when under a question...when a question is under debate and the question is, are we in a question, or at least under a question? And I think the answer is, yes, and Masons doesn't apply in this particular predicament because if you look at rules, Rule 2, Section 1, the only time Masons applies is when it's not specifically outlined, or the situation is not specifically outlined in our Rule Book. In this case, I think it is outlined that only certain priority motions are priority motions. So at this time I'm inclined not to support Senator Larson's motion. I think it's not appropriate at this time. I think it's, at a minimum it should be taken up, or at least on the agenda,

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if it was to be taken up, but I'm going to continue to listen, but I'm not inclined to support Senator Larson's position at this time. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Wayne. Were there other senators wanting to speak to this matter of overruling the Chair? If not, we'll move to Senator Larson for a close. Senator Larson, you're recognized to close on your motion. [LB1103]

SENATOR LARSON: Thank you, Mr. President. Colleagues, I think what you have to realize is there's a simple...obviously, we're in the weeds of the Rule Book, and the question is, no pun intended, whether or not we have started the question. Now, let me lay this out for you. How many senators in here, and we never do it formally like I'm offering to do here, but we ask the Speaker or the President to pass over our bill. That happens all the time. We ask the Speaker to pass over the bill, and that is announced either by the Clerk, or our Speaker will say, we are going to pass over that. Now, that is allowable in the rules. Maybe we haven't been taking the voice vote that is necessary to do that under our rules because we should be at least doing a voice vote, if not a board vote, to get the majority of those voting to pass over. But maybe...I'd assume that's why that motion to pass over is there, so we don't have to make a motion to change the agenda. Now, I know the Speaker can change the agenda, but every other time that that has happened on the floor, I think that we just say, I'd like to pass over it, and we do. Whether that's before the bill starts or in the middle, and if it's in the middle...if there's already questions up there, and we make that motion and we move past it, then that wasn't in order. Every other time we did that in the past, but it's happened before the bill and our President and our Speaker and our Clerk has let us do that. Now, I understand that now is a controversial time to do that, but now it's not allowed. So it's allowed when it's not controversial, but when it's controversial it's not allowed. There's no consistency. And if you're going to say that it's allowed in the other times because we haven't come to the question yet, the bill hasn't started being debated yet, then we aren't on the question. Senator Friesen hasn't opened on the bill. I don't believe the title has been read. How can we be on the question if neither of those two things haven't happened? The title hasn't been read. How can you be on a question of something that hasn't been read? Now I understand that it gets to come on the board, visually we see that, but parliamentary-wise it hasn't happened. So are we going to go kindergarten visual, yes, yes, I see it on the board, or are we going to follow parliamentary procedure of what is the correct way to go about this? I have a

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feeling I know where this is going to end up, but I would strongly disagree and be saddened by the precedent that that will start. Like I said, we have the visual, yes, we've started the question, but by parliamentary rules have we truly started that question? [LB1103]

PRESIDENT FOLEY: [LB1103]

SENATOR LARSON: I don't think so. How can you start something if it hasn't been read across? You can't. It's not before us yet. Thank you, Mr. President. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Larson. The question for the body is whether or not to overrule the Chair. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB1103]

CLERK: 3 ayes, 29 nays to overrule the Chair. [LB1103]

PRESIDENT FOLEY: The motion is not adopted. Senator Friesen, you're recognized to open on LB1103. [LB1103]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. We finally get to my bill. So now I'm going to continue to talk about school funding, K-12 funding, and I'm hoping that down the road we can have this really good discussion, finally, about property taxes. And the problems it's causing and, finally, I think, a solution to fix it. We have the property ballot...or the ballot initiative going forward to fix property taxes with a 50 percent of your common levy refundable tax credit. It's not my favorite way to fix it. I don't think it's the responsible way to fix it at this time, but if this Legislature doesn't have the guts to do it, then the people will need to speak and tell us to do it. We have avoided this conversation for four years. You could say 30 years. Since I've been here, we've avoided it for these four years. This is really the first time we've had a bill, I think, on the floor where we're actually talking about a bill on property taxes and school funding. Again, my bill is very modest compared to the shift in funding that has gone to schools. We now have 70-some percent of schools who receive no equalization aid whatsoever from the state, and yet, we spend \$850-some million in equalization aid which goes to 20-some percent of schools. And I'm not saying that some schools don't deserve what they're getting, I'm just saying that

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there's schools out there that deserve more than they're getting. You have schools that are funded less than 1 percent of their basic funding needs comes from the state. Then you have other schools that are well over 50 percent of their funding, their basic funding comes from state aid. To me that discrepancy is what's causing us problems. If we had funded schools from day one with General Fund dollars and never done property taxes to fund our schools with, we wouldn't be comparing levies, somebody being at \$1.05, somebody being at 40 cents, somebody being at 60 cents. Instead, we'd be looking at how do we properly fund our education? Is it properly funded? Is it adequately funded? And now we have urban schools looking out in the rural areas and say, well, you guys are only at 60 cents in your levy and we're at \$1.05, you don't need anything, you don't deserve anything, and yet our tax dollars are subsidizing that. And we have a real need in the rural areas for some tax relief right now. For the past 100 years, we've had a population shift into the eastern parts of the state, and it's going to continue to happen if we don't turn this around. And high property taxes are one thing that is causing some of this. It's just hard to sustain a business when you have a tax level like this. And I can put it in real simple terms. You can take a very simple grain farmer if he's growing corn, if you take and add his property tax obligation for an average-sized farm, the property tax obligation he has, and you add health insurance that he has to purchase for himself, and you have just taken up 22 percent of his gross revenue to fund those two things. That isn't the business model that anyone can sustain in any business. We're out of whack. We're trying to compete...our number one industry is trying to compete with Iowa where taxes are \$20 an acre. Missouri, they're at \$8 an acre and we're at \$50 to \$100 an acre. That is our competition, and now we're supposed to compete on the international level when we're fighting over NAFTA, the TPP, China trade negotiations. We are going to be in trouble if any of these things happens. And right now, the ag economy is taking a big hit, and yet we continue to increase the property taxes that we're subject to. And 68 percent of it in my county is school districts, and unless the state meets its obligation to fund at least some portion of the basic funding needs of a school, we're going to continue to see this increase. We have property taxes overall increasing anywhere from 3.5 to 4.5 percent a year. So when you want to give me a 2 percent refundable tax credit, that's not a tax break. You're slowing down my increase. We have a tax problem, and we're not going to address it if we do not raise some dollars. Whether this was the right number in Senator Briese's bill, or funding LB1103 in mine, or at some other number, we need to pick a number. I'm open to suggestions. I've always said I've been open to working with the Governor. I'm open to working with anybody that honestly wants

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to address our property tax problems. So far, we don't seem to have that ability to do that yet. We talk about a lot of things here. We talked about property taxes. Have we done anything? Not really. We've put a little bit money in the Property Tax Credit Relief Fund. That's something. But we are having a crisis, and it's how we fund our K-12 education, and who has to pay that bill. And so when I continue to look at how we're going to address this, I'm open to any suggestions. I'm open to any levels, but at some point we have to come up with a number. We have tried modeling in numerous different ways taking the Property Tax Credit Relief Fund, and when I do that, I either hurt an urban district or I don't help the rural districts. So I've said I won't do that. So I'm committed to raising funds for LB1103, whatever it takes. It gets fully funded at 25 percent of basic funding needs, which is what I call a modest \$190-some million dollars out of a \$1.2 billion shift that's happened over the last ten years. So I think it's a very modest solution yet, but I think it's a viable solution, and I'm not afraid to say that I'm willing to raise some taxes. And if we don't want to address property taxes, then that's a question that should be answered. But we can't address this without raising some funds. We've all...we've been cutting our spending. We've been cutting budgets these last two years. We've tried to be responsible. We've held state spending down, but we have not done anything in the last two years for property taxes. And our property tax costs continue to go up for the urban as well as the ag districts. The same problem is happening in the urban areas now with land slowly dropping, that tax shift is coming back your way. So you've got young people that you're trying to attract back. They're coming in and buying a house, and if their property taxes would go up at the rate mine did, ten years ago, they would lose their house because of property taxes. We need to address how we fund K-12 and the state needs to accept more responsibility in that effort. We can talk about spending efficiencies, making some cuts somewhere, but that's not part of this discussion. We can have that discussion some other time. Right now, I just want to see the shift happen so that it gets back to where it should be. I'm not asking for more. I'm not asking it be done in one year. Senator Briese's proposal doesn't even accomplish it in one year. If you look at LB1103 on its own, it would still take a lot of years to accomplish even if we continued funding it. [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR FRIESEN: Thank you, Mr. Lieutenant Governor. So if we fully funded LB1103 to where my intent was to go, it would end up costing around \$1.1 billion. That's where we would

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be funded at 75 percent of every school's basic needs, and at that point I think that shift that we've had would be corrected, and the state would finally be accepting its obligation for K-12 funding. Thank you, Mr. Lieutenant Governor. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Friesen. Mr. Clerk. [LB1103]

CLERK: Mr. President, the first amendment to the bill, Senator Friesen, I have AM2439 with a note, Senator, that you wish to withdraw that and offers a substitute AM2808 by Senator Briese. (Legislative Journal page 1404.) [LB1103]

SENATOR FRIESEN: Yes, that's correct. [LB1103]

SENATOR SMITH: Object. [LB1103]

PRESIDENT FOLEY: Objection has been heard. Senator Friesen, at this point it would be appropriate if you would make a motion. [LB1103]

SENATOR FRIESEN: What was that? [LB1103]

PRESIDENT FOLEY: In order for that amendment to be substituted, you now must make a motion to do so and it must...it would have to go to a vote. [LB1103]

SENATOR FRIESEN: I say... [LB1103]

PRESIDENT FOLEY: I'm sorry, Senator Friesen. [LB1103]

SENATOR FRIESEN: Repeat what you asked me. [LB1103]

PRESIDENT FOLEY: Would you come to the desk, please, Senator Friesen? Senator Friesen, you're recognized for a motion. [LB1103]

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SENATOR FRIESEN: I would move that we substitute Senator Briese's amendment for mine.  
[LB1103]

PRESIDENT FOLEY: Thank you, Senator Friesen. The motion is to make a substitution of AM2808, Senator? Is that the one you wanted to...? [LB1103]

SENATOR FRIESEN: Yes, sir, that's the one. [LB1103]

PRESIDENT FOLEY: AM2808. Mr. Clerk. Members, what's up for debate is whether or not to substitute AM2808 for the amendment that Senator Friesen had filed. We're going to proceed to debate that by using the queue that's in place. Senator Hilgers, you're first in that queue.  
[LB1103]

SENATOR HILGERS: Thank you, Mr. President. This might be my only time, opportunity to speak, so I'm not going to speak on this particular motion to substitute. I'm going to speak as to the merits of the issues before us which I see are two. One is, LB1103 which is Senator Friesen's underlying bill as well as LB1084 which is, I guess, the motion to substitute would substitute that bill into this particular amendment or substitute the amendment. I have problems with both. I mean, I think fundamentally I believe we're taxed too much here in Nebraska. Our property taxes are too high, as Senator Briese knows, Senator Friesen knows. Our income taxes are too high. Our wireless telephone taxes are too high. Everything is overtaxed here in Nebraska. So, fundamentally, when I ran for office when I hear from any constituents and they talk about economic anxiety, they're talking about jobs, wages, and taxes. Their ability to feed their family, save for the future and help do what's best for them, their family, their communities. And I think when we take more of their dollars, I think we ought to do it very rarely, it would mean increase that tax burden. We ought to do it very thoughtfully, and the way that I sort of approach this problem of property tax burden and some of the rising costs of the local spending that we have, is sort of very similar to how any business owner or any family might approach a particular issue. I think it's a very simple or straightforward decision tree, that albeit in this particular context, is complex to apply, but it's a pretty simple decision tree. I mean, first you want to determine what is it exactly that we're trying to do? What is our mission? First-class education is part of it, protecting our water rights is part of it. But what are we trying to do is the first

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question. The second question is, what does it cost to get there? What do we need to spend to get there? And as part of that we need to understand where are our tax dollars going? The dollars that we're currently collecting. And understanding, are they going to our mission? Are they going to things that they ought not to go to, so as part of that discussion from a state perspective, thinking about unfunded mandates. Right? What impact does that have on our local property tax burden, thinking about how many taxing authorities we have. Do we have too many? Seems to me that we probably do. And how does that drive the property tax problem that we have? The problem that Senator Friesen has noted, and I agree with the problem with our state aid formula insofar as over 100 of our school districts aren't receiving state aid for a constitutional obligation that we have. Those are real problems, and they're real questions that we ought to address. But the last question is, how do you raise the money to meet the mission that you've set? But I think those go in a particular order. You don't start, in my view, going towards the dollars and how do you raise them first. You need to understand what is it going to take to get there, and how are you wasting money, and how can you streamline things? In other word, if I'm in my own particular family, if my wife and I if we're struggling to pay our bills, the first thing we don't do is just go out and grab the credit card. We understand what we're spending our money on and where we can do better, where we can spend our money more wisely and what priorities we have and what things we can cut our dollars on. We don't go straight to the credit card. So here, I completely understand where Senator Briese's coming from on LB1084. I deeply appreciate the work that he has done. I know he's worked with a number of stakeholders. I know he hears, like I do, from my constituents, the problem of property tax. But in my view, the question has to be answered in a particular order. And the first...and we are skipping to the last part of this particular analysis. We're skipping to say, let's put more money into the system without understanding where it's going, where we're wasting money, where the inefficiencies are. And the problem is that when we start to do that, one, we've added an additional tax burden on our citizens, which I believe is unfair. But two, when you don't solve those first-end problems, we're going to be back here in a couple years from now. If we're not understanding the drivers or the cost increase... [LB1103 LB1084]

PRESIDENT FOLEY: One minute. [LB1103]



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SENATOR HILGERS: Thank you, Mr. President...we're not understanding and appreciating the cost drivers, if we're not actually making priorities, if we're not cutting where we could cut at the local level, then we will be...we are more likely than not and almost certainly going to be back here some day. And then what do you do then? You raise more taxes, force more people to think about leaving the state of Nebraska? In my district there are a number of retirees on fixed incomes, many of whom are thinking about leaving the state because they're taxed too high. Let's have a conversation about the local spending, how we can make it work better and be more efficient. How we can remove some of those burdens, but let's start there. Thank you, Mr. President. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Hilgers. Mr. Clerk. [LB1103]

ASSISTANT CLERK: Mr. President, I now have a priority motion. Senator Brasch had moved to bracket the bill until April 18. [LB1103]

PRESIDENT FOLEY: Senator Brasch, you're recognized to open on your bracket motion. [LB1103]

SENATOR BRASCH: Thank you, Mr. President, and colleagues, we have a situation happening here. And I'm not going to reread every single property tax reduction bill that I have attempted to. I've attempted to go into education and trying to work with my colleagues both urban and rural. It's been done before I was even here. And I feel like this bill basically, you know, we're being led down a path to believe that something great is about to happen for property taxes in our rural communities. I highly doubt it with this bill. It's basic economics 101. If you look at what the underlying bill here, the proposal to raise taxes, to lower taxes, it's not there. Every time you raise someone's taxes, at the end of the day the consumer, we, the people, will make up the difference. We want to end sales tax exemptions on so many things, and guess what, ag producers, I'm one of you. We will probably see it first. If you look at the little chart we have when you first came here on who the senator is and where they're from, and you take a look at rural senators and urban senators on where they're from, I've counted at least 22 or more nonag senators. So at the end of the day when you decide to erase the board, start at the beginning, take away exemptions, raise sales taxes, and you look at a drastic going from 0 to 60 or 60 to 0, I

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think there's going to be collateral damages. And I'm just so afraid it is going to be rural Nebraskans, like myself. I live and feel your pain. We live and feel your pain. In our district, it's happening. But the property taxes that we tried to shift and to realign eight years ago, it didn't get any traction. And now you believe that by increasing, you know, these taxes, removing exemptions, I do believe at the end of the day, sad to say, and I...not sad that I won't be here, but the people who are going to fill these seats next year in this body are going to look at how will that shift take place? And I believe it will take place where the majority, and I learned this going to...toe-to-toe with the NRDs, where the majority of people live, that's where the wherewithal follows. When you have a minority of individuals, 1 percent of the population is rural in our state. One percent and when it comes to going to the polls or going to the floor, I believe we have a huge, steep, uphill climb on this, and that's what's been happening, year after year. And plus for our 19 rural senators, or whatever number we have, in my experience we've all been like herding cats. This group thought that first there was the gang of 12 and then the gang of ten and numbers shifted and who knows, you know, what the next body will see, but we couldn't get together on one page. Now, getting together on one page saying remove exemptions, tax services, let's do everything we can so it will come back to property tax, which will solve the problem, I believe if we would have done something, what I did was too little too late is what I've been told. Well, I believe if you do a little and eventually you'll get to the place where we need to be, and if...perhaps we would have done this when the then Appropriations Chair, Lavon Heidemann, and those before him, Senator Kremer, was trying to make corrections in the system, no one followed their course. So I don't expect anyone to follow my course here, but in my eight years I have not voted for a tax increase, and I do believe that eventually this will all come back to agriculture. And as Ag Chair, I cannot see that we will be able to get ourselves out of the ditch on this one. And you look at everyone that's going to be affected this. We tried to work with, and I've said it before, we have the Tax Modernization Committee. We met multiple times in joint committees with the Department of Revenue, with the Revenue Committee, with the Education Committee, with the Appropriations Committee. We met with others ongoing, specialists, experts, town halls, trying to solve something that eventually always pushes away at the end of the day for the needs of agriculture. It just doesn't make sense to me. You know, where were the people in here then voting for 75 to 65? I couldn't get it out of committee. I was then...I believe, Speaker Hadley was Revenue Chair, and you could...he said, my bill wasn't the only bill that wanted property tax relief. There were others, I believe Senator McCoy. There were countless

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others that asked for the same thing, and now what we're saying is we're going to grow our tax base, grow the tax base by simply digging deeper into the pockets of the people we serve to pay for all this at the end of the day. I believe a study comes before increasing taxes to know what we need to ask for. And again, I have not seen historically where any time we've fed TEEOSA, that it has made a permanent fix in the increasing of property taxes. It has gone up. The facts, the figures are there. The history's there. The dynamics of rural Nebraska and of the urban, the metropolitan side, you know, Omaha and others is, yes, we can work well together, but when it comes to doing the math and doing the votes, that's why this is moving ahead is because the farmers are going to end up paying for it. The end of the day we will, guaranteed. We always have, we always will. You think when you take away an exemption we're not going to be paying for that? You think by increasing our taxes we're going to be attractive to others to come to Nebraska when we're already taxing veterans and our retired people, our seniors, more than others in our surrounding states? Yes, we are, you know, next to states that tax less, but we tried to introduce a bill last year, I did, LB338, where we would adopt taxes for income based, but no, you couldn't get people behind that either. But now everybody, you know, wants to join in and let's increase taxes here. Let's...sales taxes, exemptions, and you're not recognizing that's out of your own pocket, that's out of the pockets of the people you serve. Taxing services is...services are income. So you're paying an income tax and another tax. When we need to address property tax, we need to reduce spending. And we just have not made enough cuts yet. And when you look at the taxes you pay on your statement, individuals need to look at where is that money going. We tried to reduce spending. We had a bill also to cut...restrict people to 3 percent, but, no, you couldn't get the community colleges to go behind it. No, you couldn't get municipalities to go behind it. No, you couldn't get the...you know, and you look at every one of those taxing entities, and they only want more. So that's why I object to this bill... [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR BRASCH: ...because I love agriculture. Because I know at the end of the day the numbers aren't there for us to end out on top, and that's why I do support the slow and steady 10-year plan to where we get into a better situation with our cash reserve, and we can do more. And I challenge this body to do more, but don't do more taxes. Thank you, Mr. President. [LB1103]

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PRESIDENT FOLEY: Thank you, Senator Brasch. Mr. Clerk. [LB1103]

ASSISTANT CLERK: Mr. President, the Rules Committee will meet now under the south balcony. [LB1103]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Proceeding to debate. Senator Baker. [LB1103]

SENATOR BAKER: Thank you, Mr. President. I oppose the bracket motion, and I support LB1103 as well as the impending AM2808, which has elements from LB1084 on which I was a cosigner. I don't know how I'm categorized, but I'm categorized as one of the urban senators and one of the rural. I think I probably have one foot in both of them. I represent part of Lincoln, but also represent all of Gage County and a good part of southern Lancaster County. Most of my career was spent in areas that I would describe as rural. We all pay taxes. We pay sales taxes, we pay income taxes, we pay property taxes if we own any property, and even those who don't are probably impacted by property taxes if they're a renter and that's going to be reflected in their rent. So it's a question of proportionality. How do we want things ideally be paid, in what balance between sales, income, and property. What do we hear from people on the campaign trail? You know, listen to the people who are running for reelection or those who are running for open seats, and what are they going to say almost invariably, they believe the biggest problem is property taxes. There's a party-line slogan that goes that a tax shift is a tax increase. That's not necessarily true. I think Senator Friesen alluded to that. If you'd increase two of those things and reduce one, and the net balance is zero, you know that could be considered to be a neutral measure. Since early 1990s people in Nebraska have talked about the three-legged stool with regarding the funding for public schools. That idea of a balanced-legged stool was, really has never been achieved. It was an ideal, a goal to move toward, but whenever any kind of adversity came up, whether it was the dot.com versed in the early 2000s, the recessions later in the first decade of this century, things fell apart as far as moving toward the three-legged stool. Reference was made in earlier testimony about, hey, we've increased TEEOSA, and yet school spending continued to increase. Remember, there's two kinds of caps. There's a property tax lid and there's a spending authority lid. I've seen years when there was zero basic allowable growth rate. Some districts are backed up against a property tax cap. Some are backed up against the spending lid, and some backed up against both. So what happens in which there was not 2.5 percent growth,

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basic allowable growth rate, and then that went off and people had money. What happened? Well they've been deferred spending. You know, repairs. I said, we'll have to put that off for a year. Purchasing school buses. I know the school district just south of here that has 24, 71-passenger buses. They run out the routes every day, plus a number of special ed, smaller vehicles. So you can't go very many years without purchasing a bus until you've got a real problem. Things like advancing in technology, oftentimes will be put on hold. Textbook purchase would be deferred. What I like about LB1103 as amended by AM2808... [LB1103 LB1084]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR BAKER: Thank you...does not wreak havoc with regards to the funding for our public schools. Other tax relief measures have been introduced this session. One would drastically reduce state revenue, and the other makes the assumption that tax cuts will bring on such prosperity that our state revenues will increase and pay for the tax cuts. I don't see either of those proposals working. You know, if I were to look at this cynically, I would say that the real goal here is to drastically restrict local spending. And we looked at our budget process looking at what the Appropriation's Committee did, there's not much left to do in cutting spending at the state level. We dipped into the cash reserve, so the bulls eye is on local spending. Few people have been honest enough to admit that openly. Senator Linehan has alluded that. [LB1103]

PRESIDENT FOLEY: Time, Senator. [LB1103]

SENATOR BAKER: Senator Hilgers did. [LB1103]

PRESIDENT FOLEY: Time, Senator. [LB1103]

SENATOR BAKER: Senator Brasch did. Did you say time? [LB1103]

PRESIDENT FOLEY: That's time, Senator. [LB1103]

SENATOR BAKER: Thank you. [LB1103]

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PRESIDENT FOLEY: Thank you, Senator Baker. Senator Kuehn. [LB1103]

SENATOR KUEHN: Thank you, Mr. President, and thank you, colleagues. Here we are on day 56, our second day of actually discussing the property tax issue, which by the way was on day 53. I continue to be amazed and frustrated and annoyed by the fact that for this year we can get a budget to the floor by day 40, arguably, the most complex piece of legislation and the most complex policy issue that requires the greatest amount of diligence and work by a committee that meets five days a week. We can get to the budget to the floor by day 40, but here we are in my fourth year in the final days of a session trying to cobble together some sort of property tax plan that nobody likes, has enough for everybody to hate something. Nobody's really in love with it, and then the rhetoric starts. So we're back to the same old game. So just like any good strategist on the field, you run out the clock and you force the hand. You hope to force an error of the opponent. You hope to force a play that will give you just a little bit of an advantage so that you can achieve and advance your own individual parochial interests at the cost of somebody else. So if it sounds like I'm not saying a lot other than platitudes, it's because I'm not. Because I don't have anything to say in terms of support or opposition. We all know there's plenty of people in the queue to talk for the next 45 minutes. We'll never vote on this bracket motion, so frankly it's a waste of breath to take a position on it. It will disappear. We'll all go home frustrated, and nothing will happen again. And so we trot out the same old axioms that we heard a few days ago which is, this is the last train out of town for property tax relief. I don't understand why. Everybody walked into this session knowing that property taxes were the number-one concern of constituents, rural and urban. Why it took this long to get anything to the floor, why these weren't the first hearings scheduled, why these weren't the first things advanced to the committee, and mine is working on our state budget, this wasn't one of the top priorities we were all collaborating on again is absolutely beyond my comprehension. And there's blame to go around. There's blame within this Chamber. There's a lot of blame outside the glass. I'm tired of getting e-mails from constituent groups that say, well, a vote against this is a vote against property tax relief. I've been around cattle for 43 years and I know BS when I see it, and I'm tired of it. Vote for this is a vote against schools. Really, come on. We don't get anywhere because we go down to bumper sticker, political platitudes and try to outgame each other on a vote that may or may not be for this political constituency or group. And we look at policy breach, quite frankly, the stuff coming out of Platte Institute is just about as bad and biased as the stuff coming

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out of Open Sky and I don't know who the heck to believe. It's all garbage. We're not talking to each other. We're not putting aside our own individual parochial interest. I'm a farmer, I pay property taxes, too, but I also use emergency services. I also want a good school. We act like money is the equivalent to everything, and nobody is listening to what Senator Linehan is talking about the fact that our kids are coming out of high school and they can't do basic math and read. I don't have to deal with this on the legislative level anymore, and there's a part of me that is really relieved to look at the calendar. I know that I only have to listen to this for five more days. But the people of Nebraska expect something, and so I'm sitting here on my high horse with the advantage point of having nothing to lose, and I am preaching, and I'm aware of it, but I hope to God that we are able... [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR KUEHN: ...to look and come together as a body. I know it's not going to happen in the next five days, but maybe over the interim, maybe going forward, people will quit trying to represent their individual constituencies and buckle down and solve a really big problem because we're losing senior homeowners, we're losing farmers. Our schools aren't adequately funded in some aspects. In some aspects they're lavish and wasteful, and all we're doing is defending our little piece of turf. Voters don't have confidence in us anymore and they shouldn't because we're not doing our jobs. So let's talk for the next 40 minutes. Let's all be frustrated. We'll all go back to our corners and we'll have an election. But I hope when the session starts in 2019, the first ten days show a lot of bills with a lot of solutions and this body is willing and able to move forward on them. Thank you, Mr. President. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Kuehn. Senator Linehan. [LB1103]

SENATOR LINEHAN: Thank you, Mr. President. I'm against LB1103. I do have great empathy for what Senator Friesen is trying to do. I have, for the last year and a half, looked at how unfair I believe the TEEOSA formula is. It does send, ship money to the big schools, and many of the smaller schools who seem to be fiscally responsible are getting short-shifted, they are. But I don't know how we're going to address the property tax problem or school financing from here when we also believe in 100 percent local control. We're talking about here is 75 percent of the funding

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coming from here, but we're going to let the people we send the money decide how they're going to spend it. That's irresponsible. You can't pay...who would go in business with somebody and say, don't worry. I'll pick up...I'll give you 75 percent of your budget but you don't ever have to check in with me. I can't...I won't ever tell you what to do or suggest anything or ask for any accountability, I'll just send you 75 percent of your bill. Now nobody's going to do that, and we shouldn't even be talking about it. The only way we're going to control property tax, we have to have a big discussion. The state's going to pick up the bill, then the state is going to have to have something to say about how we're spending the money, and that's a hurdle we're going to have to work with the education community to overcome. They love the idea the schools that are getting 50 percent of their budget, and yet tell us to get lost when we have some suggestions at how they're doing their jobs. And we have to talk about how much money we're spending. I'm going to read our bordering states and how much they spend per student. Colorado, this is from 2015, the U.S. Census data. It's not from a think tank. It's not politically motivated. It's just facts that we can all Google on the Internet and get. Colorado, \$9,245. Iowa, \$10,944. Kansas, \$10,040. Missouri, \$10,147. South Dakota, \$8,937. Nebraska, \$11,946. So even our next highest state, we're a \$1,000 more per student. A thousand dollars more per student times 300,000 kids is \$300 million. Go down another step. Two thousand dollars more per student than our bordering states. Two thousand dollars times 300,000 dollars, \$600 million. Now, how can we stand here even talk about raising taxes, a lot of taxes, half a billion dollars, and we're not addressing the spending side. And I know that Senator Briese has got a cap, but even by their own descriptions, an Open Sky is a soft cap and we've tried caps and they don't seem to work. I just...we can't just keep throwing money without any accountability, without looking around at other states, what are they doing. How can South Dakota...we talk...you hear all the time, well, it's so high per student because we don't have many people. Well, really? Last I checked, South Dakota had a lot less people than we do and they're spending less than \$9,000...now there probably are more now. This is 2015 data. But they're spending almost \$3,000 less per student than we are. [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR LINEHAN: And I looked at NAEP scores. Maybe somehow NAEP scores being National Assessment of Progress and Education, maybe somehow we're doing lots, less better. No. We're all basically in the same ballpark. We have to get a handle on spending and we have to



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have a real conversation if we're going to pick up this much of the tab, which I understand and agree that we need to look at, but not if we don't have any controls on spending. Thank you, Mr. President. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Linehan. Senator Smith. [LB1103]

SENATOR SMITH: Thank you, Mr. President. I just want to make a couple of comments here regarding Senator Kuehn. He made a comment about why didn't we have these bills up earlier? If you go back and look at the committee amendments, or the committee statements on LB947, LB829, LB1084, which this is a component of LB1084. In the Revenue Committee, we put all those priority revenue bills up early. They didn't have the votes to get out of committee. LB947 did. So they did come up early in committee, so. And if Senator Kuehn is frustrated after four years, Senator Kuehn, you ought to try it after eight years. We have been working on trying to get tax relief for all of...every session I've been here, I've carried or I've prioritized a bill to provide tax relief. And quite a few of those included property tax. Senator Krist, you've been here ten years. You tell me of a bill that you've brought for property tax. You can throw stones, but I don't recall you being a champion of property tax relief on this floor. Senator Brasch, you have. And you've had some pretty good ideas, and hindsight being 2020, I sure wish that we had gotten some of those bills through. So this is not new, colleagues. This is a half billion dollar tax increase. That's not a bumper sticker. That's Senator Briese's numbers. This is a half billion dollar tax increase. Senator Briese, would you yield to a question, please? [LB1103]

PRESIDENT FOLEY: Senator Briese, would you yield, please? [LB1103]

SENATOR BRIESE: Yes, I will. [LB1103]

SENATOR SMITH: Let's get into the bill, the amendment that Senator Friesen is attempting to substitute because I understand that that is the intent of LB1103 to have your amendment. So let's go to AM2808, AM2808, page 33, line 27. Are you there? [LB1103]

SENATOR BRIESE: Getting there. [LB1103]

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SENATOR SMITH: Mr. President, how much time do I have? [LB1103]

PRESIDENT FOLEY: 2:40. [LB1103]

SENATOR SMITH: Okay. Well, I'm not going to have you read that, but I'm going to ask my colleagues to read that. [LB1103]

SENATOR BRIESE: I'm there, Senator. [LB1103]

SENATOR SMITH: No, no, I'm going...and I'm going...I don't have the time for you to read that, but colleagues, read that. That does away with your Property Tax Credit Fund. That leaves you about \$43 million in your Property Tax Credit Fund. You have \$224 million plus this, minus that, minus that, minus that. What you end up with is depleting your Property Tax Credit Fund. You get farther, farther behind than where you are today with property tax relief in this bill. This bill is riddled with problems. The amendment is riddled with problems. And if we need to continue...I would really like to have an opportunity to have an exchange with Senator Briese and go through this because there's some problems in this amendment. I don't...I hope they're not intended, but we have serious problems. This is put together quickly. It came...it was filed a day and a half ago. It's complex. Shouldn't be up here. And there has been a lot of promises made to get this amendment on to LB1103. And we need to take some time or really go through this and understand what this amendment is. I don't think it's Senator Friesen's intent. I don't want to speak for Senator Friesen, but I've had a great time of working with Senator Friesen and I don't believe that that's his intent. [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR SMITH: That's one. Here's another one. The way Section 16 is worded on page 18, Senator Briese, take a look at that. How does that work? Does it apply to each individual or each household? If I'm a married, filing jointly and each person earns \$400,000 a year for a total of \$800,000, would that household not have to pay the surcharge? Your tax on a tax. Your double taxation that's in your bill. While a married couple with only one income earner making \$500,000 would then have to pay that surcharge. Take a read there. I'd like for you to explain

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that. Why would that...why would it work that way? Not well thought out. I know that's not the intent, most likely. Maybe it is. I don't know. But, you know, having a high income surcharge, a tax on a tax, that's not right. [LB1103]

PRESIDENT FOLEY: Time, Senator. [LB1103]

SENATOR SMITH: Thank you. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Wayne. [LB1103]

SENATOR WAYNE: I'll yield my time to Senator Pansing Brooks. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator Pansing Brooks, 5:00. [LB1103]

SENATOR PANSING BROOKS: Thank you, Senator Wayne, and Mr. Lieutenant Governor. Well, I just...you know, we have heard so much about this, this incredible need to lower our property taxes, to work on this and, you know, after hearing this discussion, heh, I don't believe anybody anymore. Don't come to me anymore and whine about the property taxes when you have an actual legitimate effort to find a solution and then because it's not exactly perfect in what you want, forget it. We're going to do everything to create a blockade about this. We're going to do every single thing. This idea is not perfect, but it's something. No one has come to me in my district to say lower income taxes. I will not support that. I will not go forward on that. I presume there's not 33 to bring it back because with this cluster that's going on, I don't see it happening. So I don't get it. And you know what's bright enough, what's really bright about Senator Friesen and Senator Briese is that they get that they need a coalition moving forward, which the other people have not really caught on to. There has been no attempt to work to protect the public schools. There has been no attempt to give some coverage to how we can protect low-income people. But boy, these property taxes, no matter what, they need to be cut. That's it, and tone deaf to income taxes. Tone deaf. That is something that I'll tell you what, not only am I not hearing about the decrease of property taxes, but I'm sitting here willing to learn. I'm agreeing to bring this out on the floor. I was one of the votes that brought this bill out from Education because everyone said it needs to be addressed and discussed. And, huh, silly me. Many of the rural

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people have put up every barrier they can to discuss this. So clearly, as I said last time, it's either my way or the highway. So Nebraska, huh, you wonder what's going on in this body? Look at this. Senator Erdman might as well bring his constitutional amendment because there is no way that I can see this moving forward. There is no way. I have no idea...I'm hearing rumblings that the Governor's proposal is coming forward on Monday. I can't imagine what 33 that is. I don't see it in here. I'm seeing shaking heads in here. So I don't know why that's coming back. And I clearly see this is going down. Where is your willingness...huh, the moderates are coming forward and saying, okay, we're listening. We're going to work with you. And instead, oh, no, all the conservatives are fighting against each other. We can't possibly do it this way. Well, what way then? And please figure it out before you come to us. It's clear there needs to be a broad coalition. [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR PANSING BROOKS: I don't like every single thing in this bill in the amendment, but there's been a lot of work to try to find something where we could all move forward for Nebraskans as a Legislature. I've heard you loud and clear. I've changed my position since I came into this body. So what the heck is going on? If it's not your perfect way of doing it, then it's over? Fine. It's over, Nebraska. That's what you're hearing from this body. People unwilling to move. I'm in my corner. I'm in another corner back on the corner of this building, and that's it. We're not moving. You got the moderates to move. Isn't that worth something? Senator Friesen and Senator Briese have thought so. And it's a really good idea. So I don't know. [LB1103]

PRESIDENT FOLEY: Time, Senator. [LB1103]

SENATOR PANSING BROOKS: I mean nothing else is happening, I think at this point, Nebraska. [LB1103]

PRESIDENT FOLEY: Time, Senator. [LB1103]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. [LB1103]

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PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. (Visitors introduced.) Continuing discussion. Senator Brasch. [LB1103]

SENATOR BRASCH: Thank you, Mr. President, and those of you watching today. This is a prime example of an old expression I read of, is that you can't get a longer blanket by cutting one end of the blanket and sewing it on to the other end of the blanket. This isn't reducing any of our spending. This is purely increasing taxes by removing exemptions and taxing services. When you...it's not solving the TEEOSA problem by putting it into a bill that we will fix it, we'll study it. That doesn't solve that. And, you know, it is disappointing. And again, as Senator Smith had said, just, you know, God willing, wait eight years and see what you think about it. After every single meeting, every single bill, every priority I've laid on reducing this, and you go home to your district and you go home to your loved ones and they ask, well, did you get anything done down there? We've been asking. And now we're getting momentum, just because we think by increasing some sales taxes, and we think by removing exemptions, by digging deeper into our pockets that it's going to come back to agriculture? I would be aware of strangers bearing gifts because we're not 99 percent of Nebraska. We're just a handful, 19 at best, rural senators in a Legislature that are going to come back and fix it, folks, next year, after the petition is done. I couldn't get a vote for eight years to shift it over to showing a little empathy and help on property taxes that are escalating, and I get it. We only have barely two million people and we have so much geography. We have so much infrastructure. We have so many needs for education, for our elderly, for our children, for our corrections, for everything. And agriculture is one out of every four jobs in our state. But to get it to come back our way, it's kind of like it's your way or the highway. And folks, you know, I'm getting on the highway before too long, and it will come to you. But I don't think less of what I haven't done because 40 years...you know, Senator Kremer, God rest his soul, used to come to room 1529, not sure who is in there, but that was his office. And him and his wife would come in and I told them they brought good vibes. He got the Silver Eagle Award from Farm Bureau and he was a good person for me to visit with over my first two years about agriculture. And when you look at how you are not reducing any true taxes because at the end of the day, we pay every tax, plus the local property tax burden. This isn't fixing it. This is just built on false promises of where we hope the dollar will go, how we hope things will turn out. We need more than just hope because at this point, I think we're being fooled. And colleagues, I do say, you know, it needs to be bracketed. We need to come, you know... [LB1103]

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PRESIDENT FOLEY: One minute. [LB1103]

SENATOR BRASCH: ...this is not a short cut that agriculture will fair well on. Thank you, Mr. President. Thank you, colleagues. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Brasch. Senator Bostelman. [LB1103]

SENATOR BOSTELMAN: Thank you, Mr. President. Tuesday, Tuesday early, Tuesday, maybe it was Tuesday afternoon, LB947 came to the floor. Three hours of debate. Today, LB1103 comes to the floor. Haven't got to it hardly at all. We're going to bracket it, we're going to IPP it, we're going to stall it. We're going to do whatever we can to keep it from coming to the floor so we can have a discussion about it. That's not right. We need to have that time. For those that did that, I don't think it's right. This should have had a fair debate just like LB947 did on Tuesday. I give the rest of my time to Senator Briese. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Bostelman. Senator Briese, 4:20. [LB1103]

SENATOR BRIESE: Thank you, Mr. President, and thank you, Senator Bostelman. And going back to what Senator Bostelman said about efforts to thwart this bill and smother discussion on it, earlier we had a motion to overrule the chair and I didn't speak on that. While Senator Larson was studying the rules and technicalities, I was looking at tax policy. I think it's a sad day when we have to resort to motions and technicalities to try to overcome a debate on the most important issue of the day, a debate that Nebraskans deserve. And I really hope Nebraskans are watching us here today because we are...I talked earlier, Nebraskans have a decision to make in the upcoming months and into the fall, and we're making that decision a whole lot easier for them. And earlier Senator Hilgers mentioned taxes are too high and I agree, taxes are too high. You look at any study and statistical information, Nebraskans pay way too much in taxes. But the question here, we're not talking about the overall taxes, the question here today is the balance in our tax structure. Nebraskans want a fair and balanced tax structure and we don't have one. I've talked numerous times about how much more we pay in property taxes than sales and income taxes and that's not right. That's the problem. And the suggestion was made somewhere here earlier, well, you should figure out what the problem is before you raise any revenue, raise any taxes. Well, I

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disagree. I think what we're trying to do here with the amendment is the responsible approach to tax policy. We're identifying where this revenue is coming from before we commit that revenue somewhere else. And that's the difference between this amendment and LB947. And someone suggested, maybe a couple folks suggested, we need to solve the problem first before we try to do something. We need to study the problem, solve the problem, then approach it. Well, I'm sorry, colleagues, Nebraskans can't wait. They're getting smothered by their property tax burden. And you go out and talk to young farmers and ranchers out there, you talk to young urban homeowners and they need property tax relief and they need it now. Somebody else said we need to reduce spending. That's the key to property tax relief. And I agree, that is part of the solution. The key to property tax relief is changing how we pay for things and controlling spending. Both of them, it has to be a multipronged effort, both aspects of it are a part of the solution. But in answer to that, though, you cannot slash and burn your way to property tax relief. That can't be the only way to property tax relief. You're not going to have a K-12 education system that will prepare our children for the jobs and careers of the 21st century. Some have suggested that what I propose in AM2808 is too much too fast. But you talk to Nebraskans and it's not too much too fast. This is what they're demanding, this is what they deserve. They need relief, they need it now. And if you think this is a lot to do at once, what do you think next January is going to be like when that freight train called the ballot initiative arrives here with a big thud? Now you talk about too much too fast, we're going to have a lot in our lap when that happens. And as I compare... [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR BRIESE: ...that we talk about, LB947 with this amendment, we have to ask ourselves, you know, which one provides immediate substantial relief that Nebraskans need? Which one defers that relief to years down the road? Which proposal identifies the means of paying for it? Which proposal does not do that and leaves it up to future leaders, future generations of Nebraskans to figure out how it's going to be funded? And which...we keep talking about spending and trying to control levying property taxes at the local level. Which proposal has a cap that can help us control property tax levies at the local level? Again, we talk about spending all the time, but where is the proposal out there to control property tax levies? I haven't seen one. We spent a lot of time developing this proposal. Some have suggested it's too

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soft. There's too many ways around it. But that's a difficulty in a cap. You still have to allow for inflation and growth in K-12 education. It can't be a hard cap. [LB1103]

PRESIDENT FOLEY: Time, Senator. [LB1103]

SENATOR BRIESE: Thank you, Mr. President. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Briese. Senator Schumacher. [LB1103]

SENATOR SCHUMACHER: Thank you, Mr. President, and members of the body. Senator Pansing Brooks asked a question. What in the heck is going on? What is going on is reality. Let's review some reality. I think most of you know this already because we've been over it once or twice. Reality is we passed budgets and then two years in a row had to go back on those budgets because the money wasn't there. Reality is we've deferred all kinds of expenses that are going to have to be paid later. Reality is we've left positions needed in state government unfilled. Reality is we've lowered our cash balances from the traditional 3 percent to two and a half percent. That's a 16 percent decrease. Reality is that while the sun was shining, we have taken our rainy day fund down from \$730 million to less than \$300 million in three years. And the sun was shining. Reality is that we, you, are on the fast track to insolvency. That's reality. Reality is that these hundred million dollar, roughly, some more, some a little less, magnitude storm clouds are on your horizon. Prison and prison programming, preschool and after-school programs, retiring private sector baby boomers that don't have a...I was going to say something about a pot, but I won't. Reality is underfunded public school retirement plans. Reality is that in an agriculture economy, there could accidentally be a drought. Reality is all kinds of federal aid cuts that could come out of an unstable administration. Reality is economic downturns due to federal policies such as military base closings or tariffs. Reality is a mental health crisis that we haven't tended to in over a decade and a half. Reality is healthcare for working poor. Reality is local government debt bailouts that may be on the horizon. Reality is funding incentive programs and buyouts of vested incentive program beneficiaries. That's reality. It's not just K-12 education and a few perks that can be traded around. Senator Briese taps into our last reserve and that reserve is a marginal pockets of tax base that remain untaxed. And most of those are sales tax and remain untaxed because of two reasons. Number one, they're highly regressive. They burden the poor people



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disproportionately more. And number two, studies, including one by our Tax Commissioner Doug Ewald, indicate that sales tax can be leveraged either way. Yep, sales taxes you throw a drag on the economy, you reduce sales tax, you stimulate the economy. Well, that's why they've been untapped. Now Senator Briese would take those sources of revenue and deploy them in a way that in years largely to the benefit of the agricultural states in proportion to their size. And that's problematic for me. Bottom line, I will not support any tax increase unless the revenue stream from that tax increase goes first to replenishing the rainy day fund to at least the two times a month revenue or about \$750 million and maintaining it there. Any other deployment of new taxes would be totally suicidal and nonsense. Without the rainy day fund being at that level, you will not have the flexibility to govern for very long. Finally, we've heard a little static about a petition program, a petition drive that's out there. I know about petition drives. I've spent over a million dollars of my own money or my company's money on petition drives and they're awfully poor bets. [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

SENATOR SCHUMACHER: Number one, it only has a remote possibility of clearing the multitude of hurdles it has to go through in order to become law. Number two, if it passes, it can and likely will be funded in part by a decrease in the agricultural sales tax exemptions and by a tax on irrigation water or something very similar. The notion that somehow the sales tax and income tax sector is going to fund massive property tax relief is simply not real. And number three, the people have told us in our Constitution that the Legislature by a two-thirds vote is permitted to and may alter, repeal, or modify a statute passed by initiative. We're not dealing with constitutional amendment. We're dealing with a mere statute that 33 votes can change. That's the filibuster rate. Historically, that's already been done. Precedent has been established. That petition drive is nothing at all to worry about. It's a bunch of hype and certainly if I were behind it, I wouldn't want to invest any money in it. Thank you. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Walz. [LB1103]

SENATOR WALZ: Thank you, Mr. President. I look forward to continuing our discussion on LB1103. I want to thank Senator Briese and Senator Friesen for all their hard work on this bill. I

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think it's crucial that we keep the discussion of property tax relief in the forefront of our debate. I do have to say I was very disappointed that LB1084 did not come out of committee and I, like Senator Briese, don't like every component of that bill, but I think that that's something that is important, that we work together to come to a compromise. I also have attended a lot of the meetings and have been a part of the conversation on this bill. Everyone had a seat at the table in the discussion, including Democrats, Republicans, rural and urban senators, the Ag Committee and the Education Committee...or education community. This is exactly what needs to happen. Groups coming together to form a compromise and putting politics aside because that is what the people of Nebraska so desperately need. Now property tax relief is being held hostage in the name of income tax relief by this administration. A few days ago I stood in opposition to LB947. I did not think that it was a plan that prioritized property taxes and I feel it's a reckless plan that puts us down a dangerous path that we have seen in other states like Kansas and Oklahoma. This bill would have relied on 3 to 6 percent projected growth. Our President has already begun a trade war in which there is no sight in end. More than likely these tariffs will negatively affect the economic welfare of farmers and ranchers in our state. Even in stable years, we can't predict an accurate state revenue from year to year. It is especially worrying that China has started implementing tariffs on pork, further straining our ag economy. We don't know what impact this will have and it makes the bill extremely dangerous. It also prioritized corporate income taxes. It is important that Nebraska stays competitive. I agree with that. But we have got to do it in a smart way. We can't completely cut our rates. But LB947 cuts it enough to jeopardize public schools and other vital services while creating little meaningful difference. It should be our goal to grow the tax base and stay strong in the areas to keep us competitive. But people here love Nebraska because they love the strong public education, the work ethic of our people, the low cost of living, and the high quality of life in Nebraska. That is how we sell Nebraska. If we don't have those important assets, we are not going to sell Nebraska. We all know our property taxes are especially burdensome in our ag community. LB1103 with the amendment is a step in the right direction. There have been discussions that a sales tax is regressive, but so is property tax. And I want to talk to you real quick about the three-legged stool. In the last ten years, sales and use tax has gone up 17.64 percent. Individual income tax has gone up 32.78 percent. The total of all property taxes, 44.08 percent, and ag real estate, 102.44 percent. If you really want to balance the budget... [LB1103]

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PRESIDENT FOLEY: One minute. [LB1103]

SENATOR WALZ: ...we need to look at all three sources of revenue. We all...there are measures in AM2808 that help address the regressive nature of the sales tax increase like the earned income tax credit that keeps muddying the hands of hard working Nebraskans who need it most. This bill would also create meaningful property tax relief to the tune of \$500 million. Some of this money goes directly to property tax relief, and some would go to our education system so that schools are less reliant on property taxes. This bill might not be perfect, but it is a step in the right direction, and it's urgently needed to ensure the welfare of the ag community and the hard working families in Nebraska. If it needs to be adjusted, we can do that. But this is a plan that has been vetted, been vetted by numerous stakeholders, and we need to pass this bill. I would yield the rest of my time to Senator Briese if I had any. Thank you. [LB1103]

PRESIDENT FOLEY: Time has expired. Senator Lowe, you're recognized. [LB1103]

SENATOR LOWE: Thank you, Lieutenant Governor. Well, here we are at the end of a day and, well, end of a topic, anyway. Taxes. Taxes and what can we do about them? We've been doing things about our taxes for a long time now. In good times, we put money toward things that we feel good about. And we forget that sometimes we go through bad times and there won't be money for what is needed, education, running our government, doing things right. We've been doing this for a long time now and we're trying to solve it. And I commend Senator Briese and Senator Friesen and Senator Erdman for trying to come up with great ways we can help out and dig us out of this hole we're putting ourselves in for the last 100 years. You know, taxes are something that can't get over with in one day, especially when you're trying to come up with that kind of money. Senator Chambers, would you yield me a minute? [LB1103]

PRESIDENT FOLEY: Senator Chambers, would you yield to a question, please? [LB1103]

SENATOR CHAMBERS: Yes. [LB1103]

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SENATOR LOWE: I wanted to do this when you weren't in the room and I'd wait for you to get back up here, but you beat me to it. You've been here the longest of anyone. How many times has property tax relief or tax relief come up? [LB1103]

SENATOR CHAMBERS: I can't begin to give you a number, but it's something that is perennial. So that means all the time it's coming up, over and over and over. [LB1103]

SENATOR LOWE: And how many times have we solved that problem? [LB1103]

SENATOR CHAMBERS: I don't even pay attention to it anymore because it's like the gingham dog and the calico cat. One on this side, one on the other and when it's over, they've eaten each other up and the only thing left is the table like it was, but a few dog hairs here, a few cat hairs over there, but the problem is basically what it was. And then the next year if they had offspring, we'll have another gingham dog and another calico cat doing the same thing. So what I try to do is wait until I see that there is at least some discernible direction that it's going, then I pay attention to see whether I agree with that or not. [LB1103]

SENATOR LOWE: Thank you, Senator. As you can see, this is not the last time we can solve our property tax issue. We still have a chance. But we need to take that chance and we need to make it a priority. Senator Briese tried to make it a priority this year to solve our property tax. I don't agree with it because it raises taxes. I'm not for that. We need to look at still consolidating some of our government. We need to look at maybe not spending so much on those little pet projects that each and every one of us have. You know, my priority projects this year were ones that didn't deal with everybody in the state, and maybe I'm wrong there. Maybe I should have made property tax my priority. So you can all blame me for not making that priority. I have shoulders, I can take the load. But we need to handle this. Senator Wishart was just talking with me and she says maybe we ought to go back to special session. Maybe we ought to make this a priority and do it in special session where we can find the money, where we can actually do things and just concentrate on one subject and not concentrate on parks and the watering... [LB1103]

PRESIDENT FOLEY: One minute. [LB1103]

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SENATOR LOWE: Thank you, Mr. President...and watering gardens and motorcycle helmet laws and credit cards and things like that. Maybe we need to concentrate. Maybe instead of taking 30 days with rules next year, maybe we take 30 days with property tax...or with tax relief. Maybe we take 30 days with revenue and try to come up with a way to get more business into Nebraska. And while I'm on the subject, you know that Internet sales tax is out there. Let's go about that a different way. Let's not buy things on the Internet. Let's buy from the mom and pop stores. Let's support our brick and mortar. Let's pay taxes in Nebraska. And that's one way we can gain some more tax money right off the bat today. Thank you, Mr. President. [LB1103]

PRESIDENT FOLEY: Thank you, Senator Lowe. Speaker Scheer. [LB1103]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Wanted to first share I am reversing a couple items on the agenda as we move forward. I am going to reverse LB793 and LB1115. My intent would be to go to probably about 5:30 if the time works out correctly and we will get about an hour into LB1115. Like to talk a little bit about what has happened in the last ten days. I met with all of those that were involved with any type of property tax bill six weeks ago. I asked them to sit down and work on something that they could all agree to because, if they didn't, we would come to the floor and, one after one after one, we would kill each bill. Why: because I don't like Patty's bill and hers is up first so I'm going to kill it. And Brett's is up last, so he's going to kill it. Mine comes up next. Well, now Patty doesn't want mine because I killed hers so she kills mine, and Brett's going to be the last man standing so he sure as hell is going to kill mine. And Brett gets up and guess what? Patty and I sit down, we're not going to let him have his. His is bad, too, so we kill it. We've killed everything that's came in front of us and why? Because we didn't take the time to determine if we could find something that everyone could agree with. We all had our own individual items that we had to have and no one, and I mean no one, was willing to compromise. Everybody wanted what they wanted; they wanted it now. It doesn't happen that way. It takes time to work together, solve the problems. We haven't done that. I've been here six years now. Six years I've been trying to figure out some way to work to reduce the plague of property taxes. Is it an easy solution? Heck, no. I'm not stupid but I'm not brilliant and I haven't been able to think of it. But we had five different types in front of us and no one was willing to meld them to try to get something that was amenable to everyone. The discussion we just had on Senator...a partial discussion...let me back track. A lot of complaining this afternoon--we need to

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talk about these bills, this is the best bill. Really? Because we killed Mike Groene's two weeks ago, took three hours, and that was fine. And we could go...we had Jim Smith's bill up, put a bracket on it before it ever got a chance to talk about it. The bracket was still there when we closed on it three hours later. Was that fair? What did we do today? Friesen brings up his bill. We screw around talking about other things, but, you know, we could have talked about the tax bills. No one stopped us from talking about it. We just didn't. We have a referendum that has the potential of being on the ballot in November. The price tag to that would literally be almost three times the cost of Senator Briese's, three times. We can't even agree on what Senator Briese was proposing, let alone spending three times that. Where does it come from? Now it's a dual-edged sword because I will tell you, you ag people, go ahead, put that on the ballot. But if it fails, when you come back to this body in January, conversely to what Senator Briese thinks about, if that wins, yeah, we got a big problem. If it loses, they have a gigantic problem because no one will care anymore. You want to go ask the people to vote on it, then let them vote on it. But if they turn you down, don't come back and say, well, it's still too high, we've got to work on it. You're the ones that said we want the people to decide. If they decide, by God, you're done. Do we really want that? I am asking for all five of those sponsors to meet with me this weekend, my office, tomorrow morning, 9:00. We'll shut the doors. I don't care what the lobby says. I don't care what the Governor says. We should be working for something that benefits the state of Nebraska, not next year, this year, not two years, not two years ago, because why not two years ago? Every time that anybody comes up with something, it's not enough. When is it not enough? You can never get there if you never start. I'm going to put the bills that came out of committee on the agenda for Monday. That's the only way we have an opportunity to look at them. I'm going to put LB1103, LB947, and LB640 on the agenda. If we can come up with something, and I don't care what number it is and neither should you, none of you that have a bill out there, there should be no pride in ownership, it's the solution we're after. Let's work on this. Let's come up with something. It doesn't have to be perfect. It doesn't have to spend \$500 million. But we should be doing something. And I want to tell you right now, if you...there's five of you. If all you're going to do is come say no to anything but what you want, then let me know because then we're doomed before we start, if you're really willing to look at the problem, come up with a solution, and turn your nos to yeses and agree to take something instead of everything that you have to have, which means we get nothing, because that's where we're at right now. Not one of those bills has 33 people that are willing to sign on. Your property tax is dead. Unless we find

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30...a way to revive something that will allow us to attract 33 people, we are done. We leave it to the voters> if they want to adopt the referendum, that's their choice, that's why it's on the ballot. If they are successful, we've got a big problem that we have to solve. If they're not, agriculture just put a nail in your own coffin by doing this. It's that simple. This isn't a godsend for agriculture. This is a high-stakes gamble. So I'll be looking for a text from each one of you. If you're willing to get together, I'm willing to sit down. I'm not trying to push one thing or the other. I'll help try to mediate if that's what we need, but we need to have open and fair discussion on what we can all agree on and bring it back and hopefully that the rest of the body can do so as well. This is an important issue. It has been in front of us for years. We have eight people that are going to be leaving. They're going to leave with their pockets empty and have talked about it. I've got two years left. I'll leave in eight years because, believe me, unless we put ourselves in a position where we have to do something, it will never get done. So I'll be looking at my phone. You let me know. Mr. Lieutenant Governor, we will move past this and we'll move to the next item on the agenda. Thank you.

CLERK: Mr. President, thank you. Senator Brewer offers LR483. That will be laid over. Senator Watermeier, LR484. Likewise will be laid over. Amendments to be printed by Senator Kuehn to LB117. Mr. President, the next bill is LB194, a bill by Senator Vargas relating to interest loans and debt. (Read title.) Introduced on January 10 of last year. At that time referred to the Banking, Commerce and Insurance Committee. The bill was advanced to General File. There are committee amendments, Mr. President. (AM2587, Legislative Journal page 1315.) [LR483 LR484 LB117 LB194]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Vargas, you're recognized to open on LB194. [LB194]

SENATOR VARGAS: Thank you very much, Mr. President. Good afternoon, colleagues. I am very excited to have LB194 on the floor and to have the opportunity to talk about payday lending reform in Nebraska. First, I do want to preface this. What you will see come down the line is an amendment that the Banking Committee is bringing forward, that I'm in support of, that many individuals are in support of, that was voted out 8-0. So I want to preface that as Speaker Scheer mentioned, that through hard work and through negotiations, sometimes we're able to take steps

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forward. I've been working hard on this bill for the last two years, building on the work that senators in the decades before me began. I introduced LB194 because it is critical that the Legislature work to reform payday lending law. Now, AM2587 is this one step towards that goal. I'm thankful to be making the changes in the amendment now with the help of so many others, but there is still work for us to do. That before I talk about the amendment, AM2587, I want to talk about Nebraska's payday lending issue and the people that I believe are most heavily impacted are our financially vulnerable consumers. I believe that the laws that the Legislature enacted in the 1990s were well-intentioned. These laws created the \$425 loan product that we still have today. Lenders can charge us \$75 in fees on that \$425 loan, which means that the borrowers check for \$500 becomes due in a lump sum payment on the date of the borrower's next payday, which is typically between 14 and 30 days. While the original intentions may have been good, we have seen some of these effects in the state laws in how it has impacted working people. Now, too often, sometimes we see this APRs that exceed 400 percent that can trap borrowers in a cycle of debt, which is incredibly difficult to escape. Sometimes they're unable to make lump sum payments in two to four weeks and borrowers are forced to take out another loan to cover the payment of the first loan and that's when the cycle of debt starts. And it can go on for months, even years. But a financial impact to tens of thousands of borrowers isn't where the problem necessarily ends. There are measurable negative impacts and this is something that we've studied and we want to continue to study. One study in 2008 showed that the economic impact of lenders in the Omaha metro area shows that \$19 million and 180 jobs are foregone from local economy from excessive fees. And that much of that \$19 million could be spent back in neighborhood associations in goods and services and that that money doesn't just represent money taken out of the economy, but it represents wealth that is lost to the community. Now I'm going to tell you during LB194 last year, the committee was able to hear from real people who have taken out payday loans. Testifiers included: a mother who needed money to put new tires on her car so she can get her kids to school, and get herself to work; a bank employee who didn't have health insurance and needed money for his epilepsy medication; a college graduate who was laid off from her first job and needed money to cover living expenses and pay back her student loans; and a young minister who had to cover hospital expenses for her two daughters who became suddenly ill. We even had a story about a JAG lawyer who testified to issues of payday lending to active duty militarys and their dependents. And what we heard is that people had a reason to utilize these, but that were real instances according to our law that were making



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them use usury loans taking advantage of people. Now my goal in introducing LB194 was to reform payday loan products. It was to cap fees, extend the length of the loan, time monthly payments the borrowers ability to repay. And LB194 also contained a number of other provisions which AM2587 does include. I've spent the last couple of years learning about this issue from both the borrower and the lenders' perspective. I think that's what we should be doing and I applaud those that go around that route. I want to thank both the national chain lenders and the independent lenders for coming to the table over the last couple of months to discuss what we can move forward on this year. The result of those conversations and negotiations is what is contained in AM2587. AM2587 does not reform the payday loan product itself, but it does the following: It increases information and notification about the terms of payday loans to consumers; it codifies in state statute that these cannot be charged to active duty military or their spouses or dependents in excess of what is federally allowed; it provides the ability for a consumer to rescind their loan by the next day with no penalty; it creates the standard for payday lenders to follow the Uniform Deceptive Trade Practices Act making unfair deceptive practices or advertising illegal; it limits the dollar amount and the number of times a payday lender can collect a fee for nonnegotiable payments; it creates an extended payment plan with no additional fees or charges which consumers may elect to do once per 12-month period that divide the outstanding balance into at least four equal payments that coincide with the consumers pay dates. And it requires reporting of information about consumers and payday loans from each payday lender to the Department of Banking and the Legislature. The reporting provision is especially important because for the first time we'll get actual information about payday loan consumers and loan defaults which will allow us to have real data as we continue to move forward on addressing Nebraska's payday lending issue. There's still a lot of work to be done to truly reform payday lending in Nebraska, but with those individuals that worked alongside, on all sides of this issue, I'm confident that AM2587 is a positive step in the right direction and I'm thankful for that. First off, I'd like to thank Chairman Lindstrom for his initiative guidance and partnership on LB194. President. [LB194]

PRESIDENT FOLEY: Members, please come to order. [LB194]

SENATOR VARGAS: First, I'd like to thank Chairman Lindstrom for his initiative guidance and partnership on LB194. I'd like to thank Senator Williams as well, and members of the Banking

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Committee who voted this amendment out with an 8-0 vote, the introducing cosponsor of LB194, Senator Lou Ann Linehan and the following cosponsors, Senators Albrecht, Blood, and Pansing Brooks. Many thanks to the broad coalition of partners that have been working so hard on this issue for years, the Women's Fund of Greater Omaha, Nebraska Appleseed, Voices for Children, AARP, Habitat for Humanity, the Pew Charitable Trusts, the Heartland Workers Center, the Catholic Conference, Omaha Together One Community, the Center for Rural Affairs, Nebraskans for Peace, St. Vincent de Paul, Legal Aid of Nebraska, and the city of Omaha, and the large lenders and the independent lenders for making sure that we can come together to something that's a step forward. And finally, I'd like to thank the diverse groups of Nebraskans who came to the hearing on LB194. They showed so much courage by sharing their stories with the Banking Committee. My promise to all of you is that I'm not done working on this issue. I believe we can continue to push forward for reform together, but we are taking a step in the right direction and I'm appreciative of all the partners that have worked alongside in the spirit of collegiality and collaboration because I truly believe that that is the spirit of this body in the Legislature in what we do. With that, I want to thank you. And I (inaudible) and vote for LB194 and the corresponding amendments. [LB194]

PRESIDENT FOLEY: Thank you, Senator Vargas. As the Clerk indicated, there are amendments from the Banking Committee. Senator Lindstrom, you're recognized to open on the committee amendments. [LB194]

SENATOR LINDSTROM: Thank you, Mr. President. The committee amendments become the bill. They came to the Banking Committee from Senator Vargas, spent a lot of time working with the interested parties to come up with a compromise package that would be mutually agreeable. LB194 advanced from committee with these amendments on an 8-0 vote. The bill as introduced would restructure how a payday lender would have to do business, the nature of the product would be completely changed. However, the committee amendments would take a different and simpler approach. They would go back and start with the existing Delayed Deposit Services Licensing Act and plug in various consumer protections. The amendments would restore the existing terminology with a basic outline of the product being offered. Most of the protections appear in some form in the bill as introduced. The amendments would expand the definition of check to include an authorization to debit an account electronically. This is a significant...this is

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significant. The amendments that would allow a licensee to use electronic payments to withdraw funds directly from the consumer's financial institution account, they could only be done with a written authorization of the consumer. However, the transaction could not be initiated in this manner. The consumer still need to give a check to the licensee in order to receive an advance. The amendments would further provide that the consumer has the right to rescind his or her authorization for electronic payment to the licensee. The amendments would expand what must be in written notice that a licensee is required to furnish to a customer. The notice would have the disclosure, one, the name of the customer, transaction date, and transaction amount, the payment date and total payment due, and the total fees on the transaction expressed as both a dollar amount and an annual percentage rate. The amendments would contain provisions that mirror the restrictions in federal law that cap fees that can be charged to an individual on active military duty and their spouses and dependents. The amendments would provide that the licensee may contract for the collect...and collect one return check charge for each transaction not to exceed \$15 plus court costs and attorney's fee. Such attorney's fees could not exceed the amount of the check. The amendments would provide that the customer has the right to rescind the transaction by the end of the next day of business. Licensee shall not negotiate a check for payment unless the check is endorsed with the actual business name of the licensee. Licensee shall not attempt to negotiate a check after two consecutive failed collection attempts unless the licensee has obtained a new written payment authorization from the consumer and a licensee shall not engage in unfair, deceptive practices or advertising under the Uniform and Deceptive Trade Practices Act. The amendments contain an all-new section that would provide that a customer who cannot pay back a transaction when it comes due may elect once in a 12-month period to repay the transaction to the licensee by means of an extended payment plan. The plan would have to allow the customer at no additional cost to repay the outstanding transaction including any fee due in the last four equal payments that coincide with the customer's periodic pay dates. Finally, the amendments would require licensees annually to provide specific detailed information about their businesses to the Department of Banking, which in turn would compile the information in the total number of licensees operating in the state by location and to report to be submitted to the Legislature annually. Those are the committee amendments, and I would urge the adoption and advance on the bill. Thank you, Mr. President. [LB194]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Mr. Clerk. [LB194]

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ASSISTANT CLERK: Mr. President, two amendments to the committee amendment. The first, Senator Lindstrom, AM2792, but I have a note to withdraw that one. In that case Senator Lindstrom would offer AM2872. [LB194]

PRESIDENT FOLEY: Senator Lindstrom, you're recognized to open on AM2872. [LB194]

SENATOR LINDSTROM: Thank you, Mr. President. AM2872 contains technical tweaks to the committee amendments as recommended to us by the Department of Banking and Finance. The amendments would clarify the definition of maker, that is the term that has been employed in this act to describe the customer. The amendments would harmonize language in two sections regarding the time in which a customer may rescind a transaction. The amendments would add language in three places to block ways to which a licensee could possibly use a business affiliate to skirt consumer protections that would be put in place...put in place by the committee amendments. These are sound improvements in the bill. We can be grateful to the department for suggesting them to us. The amendments would add clarifying language to make certain that current provisions of law do not get in the way of customer's ability under the bill to authorize an electronic debit of his or her account. The amendments would amend the bill's changes in a director of banking, cease and desist authority to make sure the bill would actually expand, and not unintentionally restrict the director's authority. Finally, these amendments would change the licensees and customers would be subject to the bill's changes. At the urging of the Department of Banking these amendments would add a delayed operative date of January 1, 2019, to the bill to provide time for the licensees and the enforcement folks at the department to get themselves and their forms and electronics up to speed. There's one exception to this that Senator Vargas asked for, that is that the delayed operative date would not apply to Section 19 of the committee amendments. That section contains two requirements. First, licensees must annually report specific data to the department, and second, the department must compile the total number of licensees in the state along with the data reported by licensees in a report submitted to the Legislature by December 1 of each year. Section 19 of the committee amendments would become operative on the bill's effective date which will be in mid-July. This way, the first report from the department will be due on December 1 of 2018, rather than December 1 of 2019. Those are the technical amendments to the bill from the Department of Banking. They will put us...they will put the bill in good order and I would urge the adoption of the amendments and the bill and I

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would just like to thank Senator Williams and his staff, Senator Kolterman, my staff, Bill Marienau, and Senator Vargas and his staff. This has been a long process and endeavor and a lot of back and forth and to the folks in the lobby as well, we spent quite a lot of time on this, and I just appreciate the effort and the persistence of Senator Vargas. Thank you, Mr. President.  
[LB194]

PRESIDENT FOLEY: Thank you, Senator Lindstrom. Debate is now open on LB194, and the pending amendments. Senator Harr. [LB194]

SENATOR HARR: Thank you, Mr. President. So this is my first and only year on Banking, Commerce and Insurance, and one of the reasons I wanted to go on that committee is because everyone gets along so well and everything comes out okay, and then we had payday lending. And let me tell you, that was a hard, arduous task, and I want to thank Senator Vargas, Williams and especially Chairman Lindstrom for their hard work to get a compromise worked out. It is nice to see compromise worked out. It's nice to get the parties together, the relevant parties together. And so that leaves me to the last lecture that I just received where I was told that there will be five people, senators getting together tomorrow morning. I don't know who those five senators are. I was told it was senators who got bills out of committee. I went and looked. I don't know who got five property tax bills out of committee. Is it Senator Briese? His isn't out of committee. Is it Senator Erdman? His isn't out of committee. I prioritized a property tax relief bill, didn't make it out of committee. I won't be involved. Who are the five? And why won't we know it? I'd ask the Speaker but he's not on the floor right now, but let me tell you something, folks, if this is so important there needs to be some thought that goes into this, not just throwing five people in a room together. You need to figure out how to build a coalition, who are those five? Why are we going outside the Revenue Committee? Why...what, I should ask, is a property tax relief bill? Who determines what it was? Do the five members, whomever they may be, even want to be in the room together? I don't know. You know, last week, we did a lot of hard work and we got a compromise worked out on the budget. But we thought about it beforehand and we created ground rules. None of that's going into this. Folks, we're going to be here on Monday and Monday is going to be the same as this afternoon, Festivus, airing of the grievances, telling the other side why they're wrong and maybe some people for the first chance getting a chance, an

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opportunity to talk, because apparently there's going to be a meeting tomorrow morning. Mr. Speaker, would you yield to a question, please? [LB194]

PRESIDENT FOLEY: Speaker Scheer, would you yield, please? [LB194]

SPEAKER SCHEER: Certainly. [LB194]

SENATOR HARR: Thank you, Mr. Speaker. Who are the five that you plan to get together tomorrow? [LB194]

SPEAKER SCHEER: The five that I mentioned, there were three bills that were received out of committee and the other two that were backlogged that I'm aware of, and that would be Senator Briese, Groene, Smith, Erdman and Friesen, yes. Was that five? [LB194]

SENATOR HARR: There you go, folks, five. [LB194]

SPEAKER SCHEER: Did you want to ask me any other question? [LB194]

SENATOR HARR: Nope. [LB194]

SPEAKER SCHEER: Because I would be glad to respond. You asked why...I was watching on TV, Senator Harr, so I guess I should get an opportunity to discuss the question. Those five were asked by myself because they have all been working with different coalitions, and I thought they were able to represent those that they had been dealing with. And if we're going to come to a solution, it's easier to work with five people that have been working with others... [LB194]

PRESIDENT FOLEY: One minute. [LB194]

SPEAKER SCHEER: ...than try to get a multitude in. [LB194]

SENATOR HARR: Okay, thank you. I have one minute. Thank you. I have been working on this issue, folks. I don't mean to interrupt you, Mr. Speaker, but I only have a certain amount of time,

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so I don't get unlimited. I have been working on this issue. Property tax has been important to me. Tax policy has been important to me. I've served on the Revenue Committee for the last six years. You can't just pluck one part of this off, folks. I'm going to have a tough time. I'm going to listen on Monday, but I'm going to have a tough time when the Revenue Committee is usurped, when my hard work is usurped and I'm even determined that my property tax bill, my tax policy bill, doesn't count. I'm not sure if I agree with that, but that's fine, we can be...we can do that. I mean, heck, I only have, Senator Kolterman will tell you, four more days. So that's fine. I get it. Thank you. [LB194]

PRESIDENT FOLEY: Thank you, Senator Harr. Senator Schumacher. [LB194]

SENATOR SCHUMACHER: Thank you, Mr. President, and members of the body. I, too, have to express the same sentiment as Senator Harr expressed. I've spent seven years on the Revenue Committee, introduced the tax modernization thing, innumerable hearings over the years learning about the complexities and the tos and the fros when you start to deal with tax policy. Issue upon issue we've come to learn. It is not just as simple as saying, oh, this tax is more important to address than anything else and let's get a group of people together to come up with an agreement on that. Things have not happened because this is a complex issue. And anytime you push on one part of the balloon, the other part of the balloon pops out. Why would anyone want to waste time on a committee and seven or eight years of their life serving and...that may be going to something that might be a more interesting and pleasurable committee in order to serve a Legislature to be told that, well, this person who has no breath at all, a narrow tunnel vision, and less than two years experience is the one that counts. Bypass all the procedures. Senator Briese's bill is not out of committee. I've got three bills set in committee, some of which could raise hundreds of millions of dollars. It's not part of the discussion. What about the income tax folks? Who have been barking at Revenue Committee for at least all the time I've been there, about needs to adjustment. The corporate tax folks. The people who say our incentives are too high or too low. Any of these decisions made to deploy these kind of resources are going to impact everything across the board. Am I going to say the Revenue Committee has done the best job in the world of trying to integrate policies? Has been terribly productive? No, I'm not. We did do \$750 million dollars of tax reductions. Over the time that...that I've been there and about three years before that that nobody has thanked anybody for. I have to strongly object to any procedure

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that is concocted at the very last minute with a very narrow scope simply trying to accommodate a very noisy group. The business sector, the sales tax sector, the income tax sector, the give me incentive sector, all of those people have a right to be heard in not some railroad car launched at the very last minute that can produce nothing but bad legislation. I want to register my objection to this abrogation of procedure and this abandonment of work and knowledge in favor of a very narrow interest. Thank you. [LB194]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Bolz. [LB194]

SENATOR BOLZ: Thank you, Mr. President. My apologies to Senator Vargas, I don't think that I have ever done this before which is speak about process on a senator's priority bill. So my apologies, Senator Vargas, but this is too important not to speak to. The announcement we just heard is not the process that is typically used for making decisions of this scope. And I have to rise with particular concern because the group that is being brought together is not diverse and does not represent diverse perspectives. And specifically, if we are making choices of this scope about our future fiscal sustainability, it may make sense to have an individual from the other side of the ledger, from the appropriations side of the house, to think about the fiscal consequences here. I have served on the Appropriations Committee for six years. I served on the Tax Modernization Committee and I, too, brought a bill to the Revenue Committee that did not get out of committee that was addressing property tax relief. When we negotiated the impasse on the budget, we had individuals from Health and Human Services, Education, Judiciary and Appropriations coming together to try to find a way forward. Compromise is only truly compromise if we have fair representation, and I would offer to participate. I'd be more than happy to clear my weekend schedule. Thank you, Mr. President. [LB194]

PRESIDENT FOLEY: Thank you, Senator Bolz. Speaker Scheer. [LB194]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. And I will respond. What I am simply trying to do is facilitate some type of a response, a package that people have an opportunity to vote up or down. We have not had that yet. Yes, in talking with Senator Harr, he had a program that from our discussions could be considered a property tax bill. And, no, Senator Bolz, I'm not trying to exclude anyone or any part of the floor. And, Senator



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Schumacher, I'm not trying to exclude and abrogate this process. Is this unheard of? Not at all. One of my predecessors actually took a group of senators probably about ten years ago to a small bank and put them in the "fricking" vault and shut the door until they could come up with a compromise. Yep, that happened. We didn't argue about who was there. We didn't argue about...we knew the...we knew what was trying to be accomplished and the people that were there were the ones that had been involved earlier. That's all I'm trying to do here. Are they diverse? Well, I think so. Senator Briese has a completely different process than Senator Groene or Senator Smith. Senator Friesen's is somewhat different than those as well. All of them have worked with different groups and different organizations. They have a good idea of what will and won't be acceptable. But we have one weekend to do something. I have no illusions. Are we going to be able to accomplish something? Maybe not. Is it worth a try? I'm willing. Am I trying to hurt feelings? Absolutely not. But I also know from past history, and I'm old--I'm not as old as Senator Chambers, I get that, but I'm about the age of dirt--and I do know that smaller sometimes works better than larger. A group of 20 has a much harder time reaching consensus than a group of 5. I'm not trying to exclude anyone. I'm trying to come up with something that at least we can look at and vote on. We haven't had that opportunity. I don't know what whatever...if--that's a big, big "if," folks--but if we have the opportunity to have something that comes back, if you don't like it, vote against it. It's not brain surgery here. It's not being exclusive. If there's something that you can modify it with that no one else thought about, fair enough, at least it's in front of us. But right now we don't have anything left. So isn't it worth a try to come up with something rather than nothing? Maybe I was wrong. I thought that's what we came down here to do is to try to finish things that we start. This is something that's been trying to be finished for a long time. My hope is that we would get to that point. Maybe we won't. But it was not my intent to try to minimize anyone's input or any group's input but everybody...there's been a large group that's already been involved. Those people that are sponsor of the bills know that. I've...and I will publicly tell Senator Harr, which I did personally, he's more than welcome to come if he'd like. It wasn't an intentional snub. Every time I've talked to Senator Harr about his bill it has been reformed to me as a work force development bill. So again, if I offended people on this floor, I'm sorry. But I think at some point in time we have to try to get something done. Maybe we won't. That's okay. But at least we should try. And right now I don't have everyone trying so maybe nothing happens at all. It was just an idea, may not amount to anything. Thank you, Mr. Lieutenant Governor.

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PRESIDENT FOLEY: Thank you, Mr. Speaker. Senator Pansing Brooks. [LB194]

SENATOR PANSING BROOKS: Thank you, Mr. Lieutenant Governor. I am rising just to reiterate just a bit of what Senator Bolz said about the diversity of that group and the fact that...and now you can all roll your eyes because there are no women involved and there are no people from the progressive side of the aisle involved. And you may all think, well, that doesn't matter, and you shouldn't have your voices heard, but I'll tell you what, we should have our voices heard. And to come out with some sort of agreement, it has to be an agreement that makes everybody hurt a little bit, or makes everybody happy a little bit. So I get what Senator Scheer...or Speaker Scheer is trying to do and I appreciate that effort, but again I would say that there are very knowledgeable people who have not been included in the process. My main concern is something like the earned income tax credit, which Senator Briese and Senator Friesen decided to add in order to get the progressives involved. But again that isn't necessarily what the others are going to be interested in. But there's nobody there to argue or support that idea that brings so many more of us along. So I'm not happy about this. I can see that everybody's going to come back with five...five people are going to try to come back and just like we had on Title X and everybody feels like, oh, if we come out of there, we have to be together. And so five people are going to say, well, here it is. We're going to do this. And if you don't stand with us, then you're against property tax adjustments and help. So I get what you're doing, but it seems to me there are key people that have been excluded and not included in this process. Key people with particular knowledge. Senator Schumacher, Senator Harr, people who have been fighting for this for a long time. So I...that has one Democrat. What about people from Appropriations? What about Senator Walz who has particular interest in property tax cuts as a Democrat and as a woman? I think that this group is basically a good idea. I do not like how the makeup is so skewed to white males that are very conservative. Just said it right there. There needs to be more breadth and diversity in this group. And again, when they all come back because they've come to some kum ba yah moment, and everybody's decided, oh, well, okay, this isn't good for anybody, who's really going to be cut? How are the low-income people going to be treated? Because we're starting with cut income taxes for the wealthy. That's where we're starting. Unfortunately, Senator Briese and Senator Friesen caught that it was important to bring us along with some of those...with some of those proposals. So, anyway, thank you, Mr.

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Lieutenant Governor. I just wanted to voice my concern about the makeup of this group. Thank you. [LB194]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Smith. [LB194]

SENATOR SMITH: Thank you, Mr. President, and I was listening downstairs and I understood the conversation continued from Senator Scheer. I didn't hear what led up to that. I actually went down to my office, Senator Scheer, and I...or Mr. Speaker, and started talking with others to find any path forward just as I have been working on for two years. And so I, for one, Mr. Speaker, resent you suggesting that I have not worked to find a compromise. And I think all of you should resent it as well. I don't know what you were saying, Senator Pansing Brooks, but if you want to take my place in the meeting, you can take my place because I'm not going to be at a nine o'clock meeting tomorrow morning. That was dropped on me. I have business appointments tomorrow. I have a business to run. And so Senator...Speaker Scheer did not have a courtesy to ask me of my availability. I'm the Revenue Chair. I'm not any better than any of you, but I'm the Revenue Chair. The agenda shows that we're going to be here until ten o'clock tonight. Why are we going to adjourn at 5:00? I'll be here until ten o'clock. Anyone want to talk? I'm here. You want to...you want to find a compromise? I'll continue to work until the end of my career here, but don't tell me that I'm going to be here at nine o'clock the night before. Oh, and by the way, whenever I tell you I'm not available, you said you're going to have the meeting anyway, with or without me. So I guess it's going to be without me. Thank you, Mr. President. [LB194]

PRESIDENT FOLEY: Thank you, Senator Smith. Senator Williams. [LB194]

SENATOR WILLIAMS: Thank you, Mr. President, and good afternoon. We are here for a reason. We are here to represent our constituents in the state of Nebraska. And when we get into discussions that become personal and ego-laden, we are not doing that to the best of our ability. There's a poem written by Wallace Stevens that it starts out with maybe the most important line of poetry that I have ever read in my life and I hope you will listen to what it says and think about what it means to you. And it starts out, after the final no, there comes a yes. And on that yes, the future world depends. We have got to quit saying no to everything and start saying yes. And I want to fully defend Speaker Scheer and his reaction to the hard work that he has put in

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over his two years as Speaker and the years coming into that and working behind the scenes to bring people together, many times that were saying no, no, that final no. And tomorrow what he has asked is for a group of people to come together and say yes. Stop just saying no. I don't particularly care who's in that meeting, and I know Senator Pansing Brooks, it makes a difference to you. I don't care myself if that group is all male and it's all Republican, as long as they come into that meeting with the right spirit and then we look at doing what's best for our people. I thank Senator Scheer. I applaud his last-ditch effort here to bring us back to something that matters and makes a difference. Because as the poem says, on that final yes, the world depends. I would also like to remind you that we are talking about Senator Vargas' bill, and talk about someone that has committed himself to extremely hard work on a very delicate and sensitive issue. And I hope that we will not get sidetracked and that here before we are finished we pass the Lindstrom amendment, the Banking Committee's amendment, and Senator Vargas' bill, and move that industry forward. Thank you, Senator Scheer, for your work, your commitment to this body, and your willingness to give of your time and your effort. Thank you, Mr. President. [LB194]

PRESIDENT FOLEY: Thank you, Senator Williams. Senator Crawford. [LB194]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. I do rise in support of Senator Vargas' bill and the accompanied amendments and urge your support of that. But I...and I do want to just empathize the importance of the conversation having a diverse mix of people and I just want to echo that concern of not only different backgrounds, but also expertise. And so I certainly hope that in the room there will be someone like Senator Schumacher who has extensive experience in revenue, and so I just urge some thought about considering who's all in that room. From that perspective, and from the perspective of having a mix of people from different genders, different perspectives coming into the room. I do know that part of the concern was that I think brought five people together and hadn't gotten to a resolution. And so I would just raise the issue that repeating that again may be...result if a similar result. And someone else in the room from different perspective, with appropriations perspective, revenue perspective, may help in that conversation. And I again, I thank the Speaker for his concern about trying to move forward, but I do also know that as Senator Schumacher raised, there are tough and complex issues here. And so to narrow...to put the focus on a narrower slant of that and not being

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attentive to making sure those people in the room are covering that different perspectives is something we just need to be concerned about. And I just felt it was critical to have that on the record. It is something that is an issue here. We have 30 percent...less than 30 percent women in the body. And so I think it's really important that we be attentive to recognizing who's in the room and pushing those conversations forward. And so I wish this group all the best as they examine these issues, and I do hope there is conversation that provides some fruit. But I...again, I think it's always...we always have to be cautious about getting at this point when the ideas have not been vetted by people who are on a committee and have that kind of expertise. And so we just...or just to proceed with hope and...but with some caution as well on those fronts. Thank you, Mr. President. [LB194]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Hughes. [LB194]

SENATOR HUGHES: Thank you, Mr. President. I want to echo the sentiments of Senator Williams. I, too, appreciate very much what Speaker Scheer is trying to do. The last couple years I've had the opportunity to sit in on some of those meetings where he has tried to bring the sides together. We have noticed it again earlier this year when we were struggling with our budget. You know, he is trying to facilitate. And as far as who's in the meeting, I don't care. I really don't want to be in there. But whatever comes out of that meeting all 49 of us get to talk about. So where's all this indignation about, I'm not involved? Whatever...if anything comes out of there, we all get to talk about it. What's the big deal? Let them try and work out something. They're the ones who have shown the initiative to tackle the problem, because they're R's or D's or conservatives or liberal, they're the ones that are willing to tackle that problem. They spent this whole session working on it and probably even before the session started. Why not get them in the room? I have a tremendous amount of respect for Senator Schumacher and Senator Harr and Senator Smith for the work they put in on the Revenue Committee. It's not an easy committee. Most of our committees are not easy at times. But the indignation of, well, it didn't come out of our committee, so therefore it can't be good, give me a break. Let's grow up. Senator Williams showed us what statesmanship looks like. Senator Scheer has showed us what statesmanship looks like. That's what we're supposed to be doing. Not me, it's not my idea, therefore, it's not good. Let's step back. Take a breath. We've been working hard the last two or three weeks. We put in some late nights. We've accomplished some things. And it always gets a little crazy this

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time of the year. All of us have been here before. Let's just reassess where we're at. What is it our constituents want us to do? Is property tax on the top of everybody's list? No, it's not. For some it's income tax. For some it's increased spending on schools. But our job is to get together, talk about the issues, try and find a compromise that a majority of us can live with. Does everybody get everything? No. Not even close. Do we get sometimes what we can live with? Yes. That's our job. Government is about compromise. There are some things that I will not compromise. There are some things that I will compromise. Speaker Scheer is doing a good job of trying to help us get to that point of something that we can move forward and take to our constituents and say, yes, we have made progress. They didn't waste another 12,000 bucks a year on each of us to get nothing done. We need to step back and take a break. Take a breath. Hopefully, next Monday, Tuesday, there's something we can vote on. And whatever comes out of that meeting, I may not like. I may vote against it. It may not meet the criteria that I need to take back to my district to get reelected. [LB194]

PRESIDENT FOLEY: One minute. [LB194]

SENATOR HUGHES: But at least I get to talk about it. And I think it's more important that we be statesmen and stateswomen because that's, I believe, the standard that is expected of us. That's what our constituents want to see happen in this Chamber. Thank you, Mr. President. And thank you, Speaker Scheer. [LB194]

PRESIDENT FOLEY: Thank you, Senator Hughes. Senator Watermeier. [LB194]

SENATOR WATERMEIER: Thank you, Mr. President, and good afternoon, Nebraskans, again. I want to start my conversation off here that I am in support of the committee amendment and the amendment from Senator Lindstrom for Senator Vargas' bill so we don't lose track of what we're talking about here on LB194. So I do stand in support of that. I understand the conversation and the frustration among us as well and Speaker Scheer I think is completely justified in calling us together, call us out on the table and insist we get together. We did this two or three weekends ago on Title X and the budget. It took a lot of time and it was productive. We need to do that again now. It's fine. I think the Speaker is completely in his realm to call for that. I support the idea of that, who's on that and who can participate, who can't. But I also would defend in many

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ways what Revenue Chair, Senator Smith, had said, he had been working hard. I've been working with him on several amendments that haven't seen the light of day as well. I supported Senator Briese's idea of LB1084 instead of LB1103 and that will upset some of my constituents. There's no doubt about it because it's a change in policy, it's a shift. And I don't know who all ought to be in that room. I'll be fine with whoever goes into that room and do the best they can and get it done. With that I'd yield the rest of my time to Senator Vargas, if he needs it to talk about his bill. [LB194 LB1084 LB1103]

PRESIDENT FOLEY: Thanks, Senator Watermeier. Senator Vargas, 3:30 if you would care to use it? He waives the opportunity. Senator Wayne, you're recognized. [LB194]

SENATOR WAYNE: Thank you, Mr. President. Colleagues, what we have here is what I mentioned, I think this will be the fourth time on the mike, frustration over our infrastructure system. What I mean, infrastructure from education, from taxes, to judicial branches, to everything, and it's coming to a boiling point. And the reason it's coming to a boiling point is because we're up against a backstop called a valid initiative. We can come up with a solution or we can put it to the voters and as Speaker Scheer said, it's a high stake gamble. One, I think it's been 45 initiatives done since 1923 or so, one out of every three fails I believe was my statistic that I saw. It's a lot of work. So either we can do what we were elected to do and figure out how to get there and help provide some relief and make sure we make changes in the education system that are needed to fund all students, no matter where they are, in some capacity and hold those school districts accountable, or we can choose not to. I was going to yield my time to Senator Vargas, but he already waived it once before. I think we need to make sure that we don't keep talking on the bill because it may go from a 25 to a 33 vote because we are filibustering a bill on an issue that has nothing to do with the bill. So everybody can vend at one or two times, let's move forward and vote on this bill. Speaker Scheer, I only ask one thing of you. I would like to be in the room so I can represent the pages, because they deserve a tax break too. (Laughter) [LB194]

PRESIDENT FOLEY: Thank you, Senator Wayne. Senator McCollister. [LB194]

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SENATOR McCOLLISTER: Thank you, Mr. Lieutenant Governor. Good afternoon, colleagues. I want to say that I admire the initiative of the Speaker in this regard. Perhaps it's a last-ditch effort. I don't know, but we owe our constituents our best effort to get something done with regard to taxes. They say that necessity is the mother of invention, and let's hope that's the case of the meeting tomorrow if it occurs. It's do or die time. It's time for us to take up the gauntlet and try to move something forward. We have that obligation. And I don't care whether I'm reelected because of this...this effort. This effort and tax relief, property tax relief is bigger than any one senator's election. So I think we need to show some courage, take up the gauntlet, and move forward with this effort, and if we could cobble something together, I think we sure should. Thank you, Mr. President. [LB194]

PRESIDENT FOLEY: Thank you, Senator McCollister. Senator Chambers. [LB194]

SENATOR CHAMBERS: Thank you, Mr. President. Sometimes there is wisdom in age and experience. So I want to establish something that I think is very important by asking the Speaker to yield to a question. [LB194]

PRESIDENT FOLEY: Mr. Speaker, would you yield, please? [LB194]

SPEAKER SCHEER: Certainly. [LB194]

SENATOR CHAMBERS: Mr. Speaker, since this discussion that's going on now was triggered by an announcement you made, I think it would only be fair to rule that this discussion does not count against the time that will be given to Senator Vargas for his bill. Would you agree that that's reasonable? [LB194]

SPEAKER SCHEER: Absolutely. [LB194]

SENATOR CHAMBERS: Thank you. And I'll say a few words now. I'm not going to take a side. I'm going to speak in generalities. It does matter who sits at the table to negotiate. If there are identifiable interests, each interest has a right to be at that table. And it's not for Senator Hughes to dictate based on his narrow view what constitutes states personship. I've watched him in his



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committee and on the floor so he's the last one to make that judgment. I don't think anybody should be excluded. There should be a recognition of the time, the expertise, and the effort put into these various...these very issues by people such as Senator Harr, "Professor" Schumacher, and to exclude them puts me in a frame of mind where what comes out of that group is not legitimate. You negotiate when you have people with differing points of view. You could not have everybody who is on the New York Yankees baseball team negotiate and come up with something that's to apply to the Brooklyn Dodgers when they were a team. As for this praise given to the Speaker, I don't object to people doing that. But there was a famous national football league referee named Red Cashion. And every calling that he made, it was very forceful without any doubt that anybody could have as to what he said. He was being interviewed, and the interviewer said, Red, isn't it hard to make some of those decisions, and you know people are not going to be satisfied? He said, that's what I'm paid to do. That's the way he talked. He was doing what he was paid to do. He was not worthy of any praise, he was doing his job. The Speaker signed on for his job, and that doesn't mean everybody is going to agree with what he has done. Give him his credit while you're giving me mine for spending more time here than anybody else which is not going to happen, so all of those things are irrelevant. The Speaker can make a mistake. The Speaker can have a judgment that is well-intentioned, but flawed. We are a body of equals. And there should be input respected from everybody who wants to offer it. And simply because the Speaker spoke doesn't mean that's the final word. But in this instance since he schedules and he set up this group, if just means that we'll oppose anything that they bring out and then we'll discuss every single issue as though they had not met. That is not negotiation. Earlier, I pointed out that when the issue of Title X was being negotiated, as it was called, the Governor was not in the room. So it was not negotiation, it was people from the Legislature talking to each other and having messages and directives being sent to them. That's how...that's not how negotiation occurs. I don't feel anybody is of a higher rank in order... [LB194]

PRESIDENT FOLEY: One minute. [LB194]

SENATOR CHAMBERS: ...than I am in this Legislature. So the group that was selected, with all due respect to them, do represent a certain point of view. So I don't think there will be legitimacy accorded whatever they come out here with, but I shall be here to express my views on it if I

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think it's worthwhile. But I'm not going to get into these worthless back and forth that will go nowhere. Thank you, Mr. President. [LB194]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Groene. [LB194]

SENATOR GROENE: Thank you, Mr. President. I stand in support of LB194. No, I didn't trade a vote. I've been accused of that lately. Senator Vargas. For four years I've been on the Education Committee. I'm a numbers guy. Always have been. I've studied TEEOSA, two years on the committee, under the tutelage of Senator Sullivan and now two years as chairman. I had worked at...and I came up with different ideals that have failed over the years on how to fix TEEOSA. I'd come to a climax with LB640. Senator Friesen prioritized it last year. We changed it this year. We had comments from individuals and changed it this year, and I prioritized it this year. LB640 is not sexy, it isn't dramatic, it is of a technical nature to fix TEEOSA for the long run. We have tried property tax credits over here to offset this over here. We tried throwing more money on the state side, on education. You know for spending \$100 on property taxes, by golly we can't equalize it by taking the property taxes down to \$75 and then raise education to \$75 from \$50. No, we got to bring state funding to \$100 too. That won't work, folks, we don't have the money. I will gladly attend that meeting tomorrow morning, but I'm going to be the boring one in the room because I'm going to talk about a technical long-term fix, and to pay for it with Property Tax Credit Fund transferred to where it really belongs, in education. I'm going to try to explain to people that 40 percent of that Property Tax Credit Fund now goes out of state, \$90 million of it goes off to the counties and cities, and our real function here is education. And nothing fancy or sexy about that or dramatic. I don't know where it fits with the rest, but I look at LB640 as a long-term fix. If something like this would have been done five, six, seven years ago, we probably wouldn't be standing here right now with the urban/rural situation. But some will say, it's not enough money. We got to throw money. I'll look at that, but you're going to have a hard time for me to agree with any tax increases in a down economy. We're not going to tax the poor, not going to tax those who have a bad habit. I just have a hard time going that way. So I think, everybody forgets that Nebraska is a vibrant society and our economy grows. And even in these down years, receipts have continued to rise. We can do some tweaks and we can get some fixes here by using the growth. The problem here is not us amongst ourselves, it's who you going to listen to? If one person going to call you or e-mail you and you go, oh, my gosh, that person isn't

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going to vote for me, I can't support this. Is one government employee out of school, at a county, going to call you and say, oh, my gosh, we can't do this, we need more money. That's what frustrates me more than anything being in this body when somebody tells me I got an e-mail. I get lots of e-mails. Some I agree with, some of them I realize the person doesn't know his facts. But that's the biggest resistance I hear from folks. A government employee called me. We can't do this. It would hurt. It will hurt my job. I got five years left and I want my job to be easy, so just keep throwing me money, and then I'll retire and go off to some state that has lower taxes. We have a problem in this state, folks, we are shrinking. We are shrinking in population. You can listen to the statistics, but the people who create money that have gone through our educational systems for three or four years, they are declining. We are rising because we are have international immigrants and the children that they bring with them and births. Does the corporate income tax need to be done? We better look at it. We better look at it, because those people hire those folks that are leaving. I'm not saying I'm for it, but that's rational thinking. That's tedious thinking. That isn't dramatic where we can just throw more money at it. I'll attend the meeting. I hope LB640 fits in there because it's a tedious bill that I've had some very intelligent senators tell me it's too complicated, just too complicated. People can't figure it out. Well, it took me at least three years to figure out TEEOSA and I'm not sure I'm completely there, but that's all I focused on. You don't see my name on a lot of bills. I made a commitment that I'd tell the lobby, don't bring me those little fix-it bills. I'm not looking for my name on bills, I've got the big picture I've got to work on. [LB194 LB640]

PRESIDENT FOLEY: Time, Senator. [LB194]

SENATOR GROENE: Thank you. I will be at the meeting. [LB194]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Watermeier. [LB194]

SENATOR WATERMEIER: Question. [LB194]

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. Record, please. [LB194]

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CLERK: 29 ayes, 0 nays to cease debate, Mr. President. [LB194]

PRESIDENT FOLEY: Debate does cease. Senator Lindstrom, you're recognized to close on AM2872. He waives closing. The question for the body is the adoption of the amendment, AM2872. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB194]

CLERK: 43 ayes, 0 nays, Mr. President, on adoption of Senator Lindstrom's amendment. [LB194]

PRESIDENT FOLEY: AM2872 is adopted. Is there any further discussion of LB194 or the pending committee amendment? Seeing none, Senator Lindstrom waives closing on the committee amendments. The question for the body is the adoption of AM2587. Those in favor vote aye; those opposed vote nay. Record, please. [LB194]

CLERK: 47 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB194]

PRESIDENT FOLEY: On the...that's the amendment, committee amendment. [LB194]

CLERK: I'm sorry, committee amendment. Excuse me, Mr. President. [LB194]

PRESIDENT FOLEY: Committee amendment 2587 has been adopted. Is there any further discussion on the bill? Senator Vargas, you're recognized to close on the advance of the bill. [LB194]

SENATOR VARGAS: Thank you, colleagues. Keep this short. (Laughter) Got to laugh it out, apparently. I want to thank everybody that's worked on this. My staff, Banking Committee, Chairman Lindstrom and his staff, and the people both in this room and the people outside the glass for helping us take a really important step forward in payday lending and making sure that we're doing everything we can to better protect consumers, because that's one of the reasons why we're here is to make sure Nebraskans are getting the best product they possibly can and we're

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always continually trying to improve the laws that we have. And so thank you for this nondiscussion of my bill. And I urge your green vote on LB194. [LB194]

PRESIDENT FOLEY: Thank you, Senator Vargas. The question for the body is the advance of the bill, LB194. Those in favor vote aye; those opposed vote nay. Record, please. [LB194]

CLERK: 47 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB194]

PRESIDENT FOLEY: LB194 advances. We will proceed to General File, 2018 committee priority bill, LB793. Mr. Clerk. [LB194 LB793]

CLERK: Mr. President, LB793 was a bill introduced by Senator Riepe. (Read title.) The bill was referred to Health, placed on General File. No committee amendments. I do have other amendments, Mr. President. [LB793]

PRESIDENT FOLEY: Senator Riepe, you're recognized to open on LB793. He waives opening. [LB793]

CLERK: Mr. President, in that case, Senator Bolz, you had a series of amendments. I understand you wish to withdraw your amendments, Senator. Thank you. Mr. President, Senator Stinner would move to amend with AM2871. (Legislative Journal pages 1466-1472.) [LB793]

PRESIDENT FOLEY: Senator Stinner, you're recognized to open on your amendment. [LB793]

SENATOR STINNER: Thank you, Mr. President. And members of the Legislature, I appreciate the leadership of Senator Riepe and Senator Bolz. They've shown that they can work together and compromise. I know our time is limited to debate this bill and I will yield my time to Senator Riepe to open on LB793 and AM2871. Please vote green on AM2871 and LB793. Thank you. [LB793]

PRESIDENT FOLEY: Thank you, Senator Stinner. Senator Riepe, you've been yielded 9:30. [LB793]

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SENATOR RIEPE: Thank you, Senator Stinner and Mr. President and colleagues. Last year we, as the Legislature, passed LB333 to allow the division of developmentally disabled the ability to maximize federal and general funds through the Medicaid development disability waivers. Within LB333 we added prioritization language to put our most vulnerable developmentally disabled individuals first for funding. I have provided the body with a handout regarding the implementation of LB333, which is from the Department of Health and Human Services. You can see from the handout, Director Miller has successfully offered services to the first of four prioritization categories, and has made 945 funding offers for prioritizations 1 through 5 since January 1 of 2017. I want to thank Director Miller for continued persistence in providing quality services for the individuals with developmentally disabilities. I brought LB793 to officially remove the mandate so the state can maximize federal dollars and provide services to the more...to more individuals with developmental disabilities. Senator Bolz and I have worked on language that is what I believe a win-win for all parties. Individuals with developmental disabilities, their families, and the taxpayers. AM2871 is what I describe as trigger language for the entitlement. If the department does not have enough funds to provide services for priorities 1 through 4, then the department shall provide comparable services to just the high school graduates. The way the Legislature will know whether this provision is triggered is every September 15th the department will have to provide a notification to the Appropriations and Health and Human Services Committee of whether or not this provision is triggered so the Legislature may provide appropriate funding for the services. This provision will sunset in 2021. 2021 is a good date to demonstrate the priorities 1 through 4 are being funded through the Medicaid waiver. And if priority...and if priority to 2021, the Legislature is not comfortable sunsetting this section, it may always address the issue. The ADRCs are the other portion of the amendment which is LB1004. Senator Bolz and I have worked for many hours on these two bills, and I am pleased we were able to come to a compromise. I will ask Senator Bolz to discuss the ADRC portion and I ask for your support on AM2871 and LB793. Thank you. [LB793 LB333 LB1004]

PRESIDENT FOLEY: Thank you, Senator Riepe. Senator Bolz. [LB793]

SENATOR BOLZ: Thank you, Mr. President. I also want to thank Senator Riepe, Senator Stinner, Senator Crawford, and Senator Howard, as well as all the advocates and everyone else

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who contributed to us finding a way forward on this bill. I think it's a great compromise. I'm really pleased that Senator Riepe was willing to work with me to continue the Aging and Disability Resource Center project. ADRCs provide information, referral and options counseling to seniors and individuals with disabilities, most importantly they provide options counseling. What does that mean? That means that you sit down with someone who is a senior and walk through all of their options given their finances and their eligibility and you help them stay in their home and community when they choose to do so. Since December 2016, ADRCs have fielded 9,356 calls and importantly, colleagues, ADRCs have created an estimated \$4.5 million in cost savings by helping individuals avoid higher cost nursing home placement, and instead have services that help them in their own homes and communities. Further, ADRCs are needed for our future plans. They were referenced as a part of the Nebraska Department of Health and Human Services Medicaid long-term care redesign plan to create a No Wrong Door initiative so that people can find the right information at the right time for the right service, and the right cost. So colleagues, I think this is a great amendment. I appreciate everybody's help and support. I know that you may hear a concern about some duplication. I would argue that in No Wrong Door System should cover a wide swath and that there should be multiple opportunities for people to engage. And that rather than being duplicative, this is comprehensive, service driven, and most importantly, creates cost savings. So again, I think this bill continues the Aging and Disability Resource Centers for all our senior citizens, and it protects the access to services for youth who are transitioning from high school into the adult system of developmental disabilities to seek jobs and more independence. So colleagues, I would ask you to support this bill and if you do in fact support this bill, I would ask you to support this bill by pressing your green lights quickly and moving us forward quickly so that we can move on with the rest of the business of the body. Thanks again to everyone who worked on this bill and this compromise and I ask for your support. Thank you, Mr. President. [LB793]

PRESIDENT FOLEY: Thank you, Senator Bolz. Senator Erdman. [LB793]

SENATOR ERDMAN: Thank you, Lieutenant Governor. Not quite so fast. I am not...I am not in favor of this amendment. As happens here always, we do a pilot project and then in two years, whenever it's supposed to sunset, we find all these reasons why we should continue. And most of those reasons have to do with somebody that we like is getting paid big bucks to do something.

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These ADRCs are duplicative of services. When they came in for the hearing on LB1004, how many employees do you have? Not sure. What do you do? Well, we answer the phone, and we reach out to people and we do this and we do that. There's eight agencies on aging across the state. Eight. One of the agencies is in Lincoln County, North Platte. They did not set up an ADRC. It's my opinion from visiting with them that they thought it was a duplicate of services, unnecessary. I agree. So we look at the bill and the amendment, and it says on page 4, on line 19, it says, an area agency on aging shall...the word "shall" is there, shall establish a partnership with one or more lead organizations that specialize in serving persons with disabilities...acquired disabilities. I understand that. Who? Who are these agencies that are qualified? And is now the North Platte area agency on aging going to have to set up an ADRC? Yes, they are. Why is that? Because this says the aging office shall establish a partnership. We whine about local control all the time. We say we have to have local control. So those people in North Platte, what kind of local control do they get? They don't get any. Why is that? Because this bill said they shall. And who is this agency that's going to be qualified? Who makes that decision? And I read LB320 that was put in place when this bill was established, when this pilot project was put in place, and there were a whole bunch of things that they were supposed to evaluate to determine whether this was something that was going to continue. I didn't see any of that information presented in a hearing about what they do except what they wanted me to see from those people they asked to send in testimony. I don't see any need for the ADRCs. The area agency on aging in Grand Island was delivering meals, and they were delivering to a senior center, but they were putting them in the commons area so the elderly people could eat together. And they told them now it was inappropriate, you have to deliver them to their rooms. So they forced these older people to eat by themselves in the rooms because they couldn't use their walker and carry their meal down to the commons area. So don't let people make you believe that they're really doing something that they're really not doing. So the question you always have to ask yourself, what if we don't do this, what happens? The area on aging is already there, there to meet those needs of those seniors, and they will do that. But it's another \$900,000... [LB793 LB1004 LB320]

PRESIDENT FOLEY: One minute. [LB793]

SENATOR ERDMAN: ...that someone gets for doing a phone call or a check on somebody, maybe. And they have supervisors. They have a supervisor supervising each one of those



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employees, I believe. I don't know what there is exactly. But we do things here in this legislative body, and it's just like with LB998 when we're going to hire a social worker for the ESUs, we'll do that on private funds. We're not going to use any tax dollars. And then in two years, it will continue, and that's exactly what this is. This was a pilot project. I haven't been shown by anybody about the information of the examination of the results that shows me this is a necessary program that needs to continue. I am not voting for AM2871. Thank you. [LB793 LB998]

PRESIDENT FOLEY: Thank you, Senator Erdman. Senator Crawford. [LB793]

SENATOR CRAWFORD: Thank you, Mr. Lieutenant Governor. I rise in support of LB793 as amended by AM2871, and I thank those who have worked very hard on this amendment. I will say, I introduced the pilot project and it did run for four years and we did not ask for it to be continued. It did some great things, got some people some jobs while it ran, but we saw there were some ways in which it was not operating as we had intended it to operate, and decided it was a situation where as it was operating, it was not something that we would ask to be continued. So I think pilot projects are important and they do provide an opportunity to test something. And we just...you don't hear about all of those that are considered and then not moved forward. So it's important for us to do at times. And I will say also that we did have a report, an evaluation report on a...the pilot that was part of our packet, part of what got distributed to us as part of the hearing. And so it was...it was the case, there was an evaluation, and there was discussion, and research on the evaluation, that was present for us, so that we could look at that and ask questions. And I asked a couple questions related to that on the hearing. So I think it is important to recognize that it is...it is important to test ideas. And the idea, I think, rolled out differently than it was originally anticipated. So it looked a little different than anticipated but it was done in a way that was able to serve more people. So I encourage your support of LB793 as amended by AM2871. Thank you. [LB793]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Stinner, you're recognized to close on AM2871. He waives closing. The question for the body is the adoption of AM2871. Those in favor vote aye; those opposed vote nay. Record, please. [LB793]

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ASSISTANT CLERK: 27 ayes, 6 nays, Mr. President, on the adoption of Senator Stinner's amendment. [LB793]

PRESIDENT FOLEY: AM2871 is adopted. Is there any further discussion on LB793? Seeing none, Senator Riepe, you're recognized to close on the advance of the bill. [LB793]

SENATOR RIEPE: Thank you, Mr. President, and I will be brief. I do want to thank Senator Bolz for her willingness to negotiate. I also want to thank Senator Stinner, and I also want to thank Senator Erdman and I know that he has concerns, but he's been extremely cooperative and he's been an extremely gifted and engaged member of Health and Human Services and for that I am very appreciative. I would like to comment. We do have an interim study to examine the overall impact of the area agencies on aging and their interaction with the Aging and Disabilities Resource Center. So we will address Senator Erdman and others that have that same concern during the interim. With that, Mr. President, thank you. [LB793]

PRESIDENT FOLEY: Thank you, Senator Riepe. Members, you heard the debate on LB793. The question for the body is the advance of the bill. Those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please. [LB793]

CLERK: 33 ayes, 1 nay, Mr. President, on the advancement of LB793. [LB793]

PRESIDENT FOLEY: LB793 advances. Items for the record, please. [LB793]

CLERK: Mr. President, LR485 by Senator Linehan. That will be laid over. Likewise LR486 by Senator Halloran. Enrollment and Review reports they've examined and engrossed the following bills: LB738, LB738A, LB776, LB841, LB902, and LB1040. Have an amendment to be printed by Senator Ebke to LB791. (Legislative Journal pages 1472-1474.) [LR485 LR486 LB738 LB738A LB776 LB841 LB902 LB1040 LB791]

And Mr. President, Senator Kuehn would move to adjourn the body until Monday, April 9 at 9:00 a.m.

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