

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 08, 2016

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[LB107 LB157 LB467 LB598 LB673 LB675 LB678 LB707 LB709 LB768 LB774 LB794  
LB815 LB817 LB845 LB847 LB867 LB867A LB893 LB894 LB910A LB961 LB971 LB977  
LB1038 LB1051 LB1067A LB1092 LB1098 LB1105 LB1109 LR263 LR451 LR453 LR454  
LR456 LR457 LR470]

SPEAKER HADLEY PRESIDING

SPEAKER HADLEY: GOOD MORNING, LADIES AND GENTLEMEN. WELCOME TO THE GEORGE W. NORRIS LEGISLATIVE CHAMBER FOR THE THIRTY-NINTH DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, SECOND SESSION. OUR CHAPLAIN FOR TODAY IS PASTOR BRIAN HIGH, FIRST BAPTIST CHURCH, TEKAMAH, NEBRASKA, SENATOR BRASCH'S DISTRICT. PLEASE RISE.

CHAPLAIN HIGH: (PRAYER OFFERED.)

SPEAKER HADLEY: THANK YOU. I CALL TO ORDER THE THIRTY-NINTH DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, SECOND SESSION. SENATORS, PLEASE RECORD YOUR PRESENCE. ROLL CALL. WHILE THE LEGISLATURE IS...MR. CLERK, RECORD.

CLERK: I HAVE A QUORUM PRESENT, MR. PRESIDENT.

SPEAKER HADLEY: ANY CORRECTIONS FOR THE JOURNAL?

CLERK: I HAVE NO CORRECTIONS.

SPEAKER HADLEY: MESSAGES, REPORTS, AND ANNOUNCEMENTS?

CLERK: I HAVE NEITHER MESSAGES, REPORTS, NOR ANNOUNCEMENTS AT THIS TIME, MR. PRESIDENT.

SPEAKER HADLEY: WHILE THE LEGISLATURE IS IN SESSION AND CAPABLE OF TRANSACTING BUSINESS, I PROPOSE TO SIGN AND DO HEREBY SIGN LR451, LR453, LR454, LR456, AND LR457. MR. CLERK, WE'LL GO TO THE FIRST ITEM ON GENERAL FILE. [LR451 LR453 LR454 LR456 LR457]

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CLERK: MR. PRESIDENT, LB817 IS A BILL BY SENATOR RIEPE. (READ TITLE.) INTRODUCED ON JANUARY 8 OF THIS YEAR, REFERRED TO THE BANKING, COMMERCE AND INSURANCE COMMITTEE, ADVANCED TO GENERAL FILE. AT THIS TIME I HAVE NO AMENDMENTS TO THE BILL, MR. PRESIDENT. [LB817]

SPEAKER HADLEY: SENATOR RIEPE, YOU'RE RECOGNIZED TO OPEN ON LB817. [LB817]

SENATOR RIEPE: THANK YOU, MR. PRESIDENT. GOOD MORNING, FELLOW SENATORS AND NEBRASKANS. TODAY I BRING BEFORE YOU FOR YOUR CONSIDERATION LB817, WHICH IS DIRECT PRIMARY CARE, A BILL REGARDING HEALTHCARE REFORM. FEE-FOR-SERVICE HEALTHCARE IS NOT WORKING IN THE UNITED STATES, AND THAT INCLUDES NEBRASKA. HEALTHCARE REFORM IS NEEDED BEFORE IT CONSUMES EVEN MORE OF THE GROSS DOMESTIC PRODUCT. THE KEY TO BENDING THE HEALTHCARE COST CURVE IS TO REFOCUS ON PRIMARY CARE. PRESIDENT OBAMA IN 2009 SAID TO THE SENATE DEMOCRATS...ABSENCE OF COST CONTROLS AND REFORM...AND I QUOTE, "...WE CANNOT SIMPLY PUT MORE PEOPLE INTO A BROKEN SYSTEM THAT DOESN'T WORK." A FIX IS NEEDED FOR MEDICAID, MEDICARE, AND ALL OF HEALTHCARE. ONE PART OF THE FIX FOR HEALTHCARE DELIVERY IS DIRECT PRIMARY CARE, WHICH IS A CONTRACT BETWEEN A PATIENT AND A PRACTITIONER WHERE THE PATIENT PAYS A RETAINER FEE MONTHLY IS COMMON FOR PRIMARY CARE SERVICES. THE RETAINER FEE IS SIMILAR TO THE PRICE OF A STANDARD UTILITY BILL. THE PRACTITIONER GENERALLY PROVIDES UNLIMITED OFFICE VISITS AND AN ANNUAL PHYSICAL. PRACTITIONERS INCLUDE GENERAL PRACTICE, A FAMILY MEDICINE, INTERNAL MEDICINE, AND PEDIATRICS. NURSE PRACTITIONERS ARE INCLUDED SINCE THE PASSAGE OF LB107 LAST YEAR--THANKS TO THE EFFORT OF SENATOR CRAWFORD. DIRECT PRIMARY CARE HAS BEEN LIKENED TO AUTOMOBILE INSURANCE: COVERAGE FOR WHAT ONE CANNOT AFFORD TO LOSE, BUT NOT FOR THE DAY-TO-DAY MAINTENANCE COST. PATIENTS ARE ENCOURAGED TO PURCHASE A CATASTROPHIC HEALTH PLAN THAT MEETS THE CURRENT FEDERAL REQUIREMENTS. THE HEALTH PLAN WOULD COVER THOSE THINGS THAT ONE CANNOT AFFORD TO LOSE, FOR EXAMPLE, HOSPITALIZATIONS AND SPECIALISTS. THERE ARE 13 STATES WITH DIRECT PRIMARY CARE LEGISLATION AND 9 ADDITIONAL STATES THAT HAVE INTRODUCED LEGISLATION THIS SESSION. WE OBTAINED THE DIRECT PRIMARY CARE STATUTORY LANGUAGE FOR ALL 13 STATES AND CREATED WHAT WE BELIEVE--LB817--THAT INCLUDES THE BEST PRACTICES THAT WILL MEET THE NEEDS OF NEBRASKANS. THE NEED FOR LEGISLATION IS TO GUARANTEE IN STATUTE THAT DIRECT PRIMARY CARE IS NOT INSURANCE AND, THEREFORE, EXEMPT FROM

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INSURANCE CODES. LEGISLATION IS NEEDED TO ENSURE DIRECT PRIMARY CARE'S VIABILITY DOES NOT REST WITH THE OPINION OF ONE STATE DIRECTOR OF INSURANCE WHO MAY CHANGE FROM TIME TO TIME. THE DEPARTMENT OF INSURANCE HAS SUBMITTED A LETTER IN SUPPORT OF THE LEGISLATION STATING, AND I QUOTE, LB817 WILL BE VERY HELPFUL IN PROVIDING THE DEPARTMENT WITH CLEAR LEGISLATIVE GUIDANCE AS TO WHAT IS INSURANCE AND WHAT IS NOT INSURANCE AND PROVIDES THE NEEDED CLARITY FOR THE DEPARTMENT OF INSURANCE IN THIS AREA. IN JULY 2015, I ISSUED A PRESS RELEASE STATING MY INTENT TO INTRODUCE ENABLING DIRECT PRIMARY CARE LEGISLATION THIS SESSION. THE EARLY ANNOUNCEMENT WAS TO ENGAGE AS MANY SHAREHOLDERS, STOCKHOLDERS TO WEIGH IN ON THE ENGAGING LEGISLATION. AS YOU ALL KNOW, WITH BOTH A RURAL AND AN URBAN POPULATION IN NEBRASKA, ONE SIZE DOES NOT FIT ALL. WE HAVE SPOKEN WITH NUMEROUS AND VARIED STAKEHOLDERS IN HEALTHCARE IN NEBRASKA, INCLUDING REPRESENTATIVES OF MEDICINE, NURSING, HOSPITALS, INSURANCE, CHAMBERS OF COMMERCE, FARMERS, RANCHERS, LEGISLATORS, UNION LABOR, AND MANY OTHERS. SOME OF THE BENEFITS OF DIRECT PRIMARY CARE INCLUDE A FREE MARKET OPTION IN HEALTHCARE, PRACTITIONERS ARE HAPPIER THROUGH A BETTER WORK/LIFE BALANCE, AND THERE IS A GREATER CONNECTION WITH PATIENTS. PRACTITIONERS ARE GETTING BACK TO THE WAY THEY THOUGHT THAT THEY WERE GOING TO PRACTICE MEDICINE WHEN THEY BEGAN. IN AN EXCLUSIVE DIRECT PRIMARY CARE PRACTITIONER PRACTICE, THERE IS NO INSURANCE TO BILL. DIRECT PRIMARY CARE MOTIVATES PRACTITIONERS FROM RETIRING EARLY OUT OF FRUSTRATION AND REVITALIZES PRIMARY CARE AS THE FOCUS. DIRECT PRIMARY CARE ENCOURAGES MEDICAL STUDENTS, RESIDENTS, AND NURSE PRACTITIONERS TO BECOME PRIMARY CARE PRACTITIONERS. ANOTHER BENEFIT OF PRIMARY CARE INCLUDES HAPPIER PATIENTS. THERE IS A FOCUS ON PREVENTION, MONITORING CHRONIC CONDITIONS, AND CREATING A STRONG AND TRUSTING PATIENT-PRACTITIONER RELATIONSHIP. DIRECT PRIMARY CARE OFFERS BETTER HEALTH OUTCOMES. A DIRECT PRIMARY CARE PRACTITIONER IN WASHINGTON STATE, CALLED QLIANCE, REPORTED REDUCTIONS OF: 14 PERCENT IN EMERGENCY VISITS; 14 PERCENT REDUCTIONS IN SPECIALIST VISITS; 60 PERCENT REDUCTIONS IN INPATIENT VISITS; AND AN AVERAGE SAVINGS OF ALMOST 20 PERCENT PER PATIENT ENROLLED IN A DIRECT PRIMARY CARE PRACTICE. CRITICS MAY SAY DIRECT PRIMARY CARE WILL RESULT IN FEWER PRACTITIONERS AVAILABLE TO THE PUBLIC DUE TO REDUCED PANEL SIZES. THIS IS ESPECIALLY CONCERNING GIVEN THE SHORTAGE OF PRIMARY CARE PRACTITIONERS IN NEBRASKA. THAT SAID, PRACTITIONERS ARE NOT INDENTURED SERVANTS AND MAY ELECT TO RETIRE EARLIER THAN DESIRED

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BECAUSE THE BUREAUCRACY IN MEDICINE HAS PROVIDED TOO MANY CHALLENGES. PANEL SIZES MAY NOT NECESSARILY BE SMALLER, BUT IN DIRECT PRIMARY CARE PRACTITIONERS ARE ABLE TO IMPROVE THEIR WORK-LIFE BALANCE. THE NET GAIN WOULD BE MORE PRACTITIONERS AVAILABLE TO SERVE FOR ADDITIONAL YEARS. NEBRASKA DIRECT PRIMARY CARE MAY APPEAL TO FARMERS, RANCHERS, EMPLOYERS, ESPECIALLY SMALL BUSINESSES, INDIVIDUALS, AND LABOR GROUPS AS ALL ARE BEING ASKED TO PAY MORE OF THE COST OF THEIR PERSONAL HEALTHCARE. IN NEW JERSEY THIS YEAR THEY ARE MOVING FORWARD WITH A VOLUNTARY DIRECT PRIMARY CARE PILOT PROGRAM FOR STATE EMPLOYEES, INCLUDING FIREFIGHTERS AND TEACHERS. THE PILOT PROGRAM IS SUPPORTED BY THE AFL-CIO AND THE STATE TEACHERS' UNION. IN COLORADO NEXTERA HEALTHCARE CONTRACTS WITH SMALL BUSINESSES, SUCH AS LEFT HAND BREWERY, WHICH IS A GREAT CRAFT BREWERY, AND SO EMPLOYERS CAN PROVIDE PRIMARY CARE FOR THEIR EMPLOYEES. NEXTERA HEALTH CONTRACTS WITH EMPLOYERS RANGING FROM 5 EMPLOYEES UP TO 150 EMPLOYEES. DIRECT PRIMARY CARE IS NOT AN ALL-OR-NOTHING PROPOSITION FOR THE PRACTITIONER. A PRACTITIONER MAY HAVE A HYBRID PRACTICE, A PRACTICE THAT INCLUDES DIRECT PRIMARY CARE PATIENTS, MEDICARE, MEDICAID, COMMERCIAL, AND UNINSURED. IN NEBRASKA, WHERE SOME RURAL COMMUNITIES MAY HAVE ONE PHYSICIAN, IT IS NOT OUR INTENT TO EXCLUDE MEDICARE PATIENTS OR OTHERS FROM THIS PRACTITIONER. THE 2016 LEGISLATION ENABLES, NOT MANDATES, DIRECT PRIMARY CARE IN NEBRASKA. THE LEGISLATION WILL ESTABLISH DIRECT PRIMARY CARE IN STATUTE TO ENSURE ITS LONG-TERM VIABILITY AND PROVIDE CONSUMER PROTECTION LANGUAGE. THE LEGISLATION WILL ALSO ALLOW THE NEBRASKA DIRECTOR OF MEDICAID TO CONTRACT WITH DIRECT PRIMARY CARE PROVIDERS BUT DOES NOT, AGAIN, MANDATE SUCH ACTION. IN FACT, CENTENE, WHICH WAS JUST AWARDED ONE OF THE NEBRASKA MANAGED CARE ORGANIZATIONAL MEDICAID CONTRACTS, WAS INSTRUMENTAL IN BRINGING DIRECT PRIMARY CARE TO 30,000 MEDICAID BENEFICIARIES IN WASHINGTON STATE. THE LEGISLATION WILL SEEK TO AVOID MANDATES, MINIMIZE REGULATION, AND HAS--I EMPHASIZE--NO FISCAL IMPACT TO THE STATE. IN NOVEMBER 2015, MY OFFICE HOSTED A STATE SYMPOSIUM REGARDING DIRECT PRIMARY CARE. WE HAD A GREAT TURNOUT FOR THE SYMPOSIUM, INCLUDING MANY DOCTORS, REPRESENTATIVES OF INSURANCE, MEDICAL STUDENTS, STAKEHOLDERS, AND LEGISLATORS. LB817 WAS VOTED OUT OF COMMITTEE 7... [LB817 LB107]

SPEAKER HADLEY: ONE MINUTE. [LB817]

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SENATOR RIEPE: THANK YOU, SIR...WAS VOTED OUT OF COMMITTEE 7-0. THERE WERE 24 INDIVIDUALS PREPARED TO TESTIFY ON BEHALF OF THE BILL AT THE HEARING. HOWEVER, DUE TO THE TIME CONSTRAINT AS A RESULT OF THE SNOWSTORM IN FEBRUARY, ONLY FIVE INDIVIDUALS WERE ABLE TO TESTIFY. THE DEPARTMENT OF HEALTH AND HUMAN SERVICES SPOKE IN FAVOR OF THE BILL, AS WELL AS THE NEBRASKA MEDICAL ASSOCIATION, THE ACADEMY OF FAMILY PHYSICIANS, FEDERATION OF INDEPENDENT BUSINESSES, THE CHAMBER OF COMMERCE, AND MANY OTHER INDUSTRIES. I WAS ABLE TO HAVE A DIRECT PRIMARY CARE PHYSICIAN FROM COLORADO TO COME INTO THE HEARING AND EXPLAIN EXACTLY HOW DIRECT PRIMARY CARE WORKS. THERE ARE MORE GROUPS AND INDIVIDUALS LISTED ON THE COMMITTEE STATEMENT AND I RECOMMEND YOU TAKE A LOOK AT ALL THOSE WHO CAME IN TO SUPPORT THE DIRECT PRIMARY CARE. I HAVE RECEIVED GREAT RESPONSES FROM PRACTITIONERS WITHIN THE STATE THAT WANT THE OPPORTUNITY TO HAVE A CHOICE ON HOW THEY PRACTICE. I ASK FOR YOUR GREEN VOTE ON LB817. THANK YOU, SIR. [LB817]

SPEAKER HADLEY: TIME, SENATOR. THANK YOU FOR THE OPENING ON THE LB817, SENATOR RIEPE. (VISITORS INTRODUCED.) THOSE IN THE QUEUE: SENATORS KOLTERMAN, STINNER, HILKEMANN, GLOOR, WILLIAMS, AND OTHERS. SENATOR KOLTERMAN, YOU ARE RECOGNIZED. [LB817]

SENATOR KOLTERMAN: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. I RISE IN SUPPORT OF THIS BILL. I SIGNED ON RIGHT AWAY WHEN I HEARD IT WAS COMING. TO ME THIS BILL IS ABOUT ADDITIONAL CHOICES FOR OUR CONSUMERS. IT'S PART OF A TOOLKIT THAT NEEDS TO BE UTILIZED WHEN LOOKING FOR AFFORDABLE HEALTHCARE. IT FITS RIGHT IN THERE WITH PATIENT-CENTERED MEDICAL HOME, AND THEY SHOULD WORK HAND IN HAND. THE AFFORDABLE CARE ACT IS UNAFFORDABLE FOR THOSE THAT ARE PAYING PREMIUMS. I CHECKED THIS AT MY OFFICE AND A FAMILY OF FOUR, 45 YEARS OLD, WILL PAY ANYWHERE IN A RANGE FROM \$969.38 PER MONTH UP TO \$1,782 PER MONTH. AND BASICALLY WE'RE DOWN TO TWO PROVIDERS. THIS IS A SIMPLISTIC APPROACH. IF YOU USE DIRECT PRIMARY CARE, AND LET'S SAY WE USE AN AVERAGE OF \$70 PER PERSON PER MONTH, FOR THAT SAME FAMILY OF FOUR THAT'S \$280 A MONTH. THE NICE THING ABOUT THIS IS THERE'S NO CLAIM FORMS, THERE'S NO COPAYS, AND YOUR ROUTINE CARE IS TAKEN CARE OF. THEN WHAT WE DO, WHAT'S RECOMMENDED AND WHAT I LIKE ABOUT THIS, IS THEY CONTRACT DIRECTLY WITH THE DOCTOR, BUT THEN THEY PURCHASE A HIGH-DEDUCTIBLE HEALTH PLAN. IF YOU WERE TO USE THE LEAST EXPENSIVE, THAT'S \$969. SO A FAMILY OF FOUR, IT COULD COST THEM ABOUT \$1,250 A

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MONTH. THAT'S ABOUT AS AFFORDABLE AS YOU CAN GET, AND AT THE SAME TIME IT PROVIDES THEM MOST OF THEIR ROUTINE CARE, WHICH IS WHAT THEY NEED. WE SEE THIS BEING USED IN THE OTHER STATES. IN KANSAS AND COLORADO WHAT'S GOING ON IS THE GROUPS THAT SENATOR RIEPE TALKED ABOUT WILL CONTRACT DIRECTLY WITH THE EMPLOYERS FOR THE DIRECT PRIMARY CARE, AND THEN THEY'LL WRAP AROUND WITH A HIGH-DEDUCTIBLE HEALTH PLAN TO TAKE CARE OF ANY MAJOR CLAIMS. IT'S WORKING IN KANSAS, IT'S WORKING IN COLORADO, AND I THINK IT'S A GOOD OPPORTUNITY FOR IT TO WORK IN NEBRASKA. I'D ENCOURAGE A GREEN VOTE, AND WITH THAT I'D GIVE THE REST OF MY TIME TO SENATOR STINNER, WHO'S NEXT IN THE QUEUE. [LB817]

SPEAKER HADLEY: SENATOR STINNER, YOU'RE YIELDED 2:36 AND YOU'RE NEXT IN THE QUEUE. [LB817]

SENATOR STINNER: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR KOLTERMAN. I ALSO RISE IN SUPPORT OF LB817 AND I THANK SENATOR RIEPE AND HIS STAFF FOR ALL THE HARD WORK AND DILIGENCE ON THIS ISSUE. MY FIRST EXPOSURE CAME ABOUT A YEAR AGO WHEN I WAS INVITED TO A SATURDAY MORNING CONFERENCE ABOUT DIRECT PRIMARY CARE. AND IT WAS ONE OF THE FEW TIMES THAT I STAYED IN TOWN, BUT I ATTENDED A BREAKFAST AND THEN OF COURSE THERE WAS THREE AND A HALF HOURS OF SPEAKERS THAT WERE SCHEDULED. AND I WILL TELL YOU I SAT RIGHT NEXT TO THE EXIT BECAUSE MY KNOWLEDGE OF MEDICINE IS NOT ALL THAT GREAT. BUT I WILL SAY THIS, THAT THE FIRST SPEAKER WAS A DOCTOR AND THE DOCTOR TALKED ABOUT HIM TRANSITIONING TO DIRECT PRIMARY CARE AND LEAVING THAT PAPER BLIZZARD BEHIND THAT HE HAD TO DEAL WITH. AND NOW HE WAS IN A POSITION WHERE HE COULD FOCUS ON THE CUSTOMER, ON PROVIDING MORE ACCESS TO THAT PATIENT AND PROVIDING PATIENT CARE. IT ALSO MADE HIM FEEL A WHOLE LOT BETTER ABOUT BEING A DOCTOR BECAUSE HE COULD BE A DOCTOR INSTEAD OF AN ACCOUNTANT, A COLLECTOR, SOMEBODY THAT DEALT WITH CLAIMS. THE OTHER THING THAT HE WAS TALKING ABOUT WAS THE FACT THAT HE COULD BE THEIR COACH AND NAVIGATOR. SO IF ONE OF HIS PATIENTS NEEDED KNEE SURGERY OR SOME OTHER TYPES OF SURGERY, HE CAN POINT THAT CUSTOMER IN THE RIGHT DIRECTION, HE COULD ADVISE THAT CUSTOMER ON UNNECESSARY TESTS, AND BASICALLY PUT THEM IN THE BEST POSITION AT THE LEAST COST. [LB817]

SENATOR KRIST PRESIDING

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SENATOR KRIST: ONE MINUTE. [LB817]

SENATOR STINNER: THANK YOU. HE ALSO TALKED ABOUT A PREDICTABLE CASH FLOW. AND NOW THAT HE HAD THAT PREDICTABLE CASH FLOW, HE WENT OUT AND HIRED A WELLNESS COACH, AND THAT WELLNESS COACH WORKED WITH HIS PATIENTS ON THE ISSUES THAT THEY MAY HAVE AT THAT TIME OR CERTAINLY GETTING IN FRONT OF ISSUES. SO HE WAS ABLE TO EXPAND HIS PRACTICE. THEN THE NEXT SPEAKER WAS ONE HOSPITAL ADMINISTRATOR THAT REALLY TALKED ABOUT WHAT COST DRIVERS THERE WERE IN THE HOSPITAL SIDE OF THINGS AND WHAT DIRECT PRIMARY CARE COULD DO FOR THAT HOSPITAL AND GET THEM REFOCUSED BACK ON PATIENT CARE AS OPPOSED TO ALL THE PAPERWORK THAT WAS ASSOCIATED WITH IT. SO I GATHERED UP ALL MY INFORMATION AND I WENT BACK TO MY BANK AND I SAT DOWN WITH MY HR PERSON... [LB817]

SENATOR KRIST: TIME, SENATOR, BUT YOU'RE NEXT IN THE QUEUE. YOU CAN CONTINUE. [LB817]

SENATOR STINNER: THANK YOU. SO I SAT DOWN AND I KIND OF WENT THROUGH THIS WHOLE PROCESS OF DIRECT PRIMARY CARE WITH MY HR PERSON, AND SHE GOT PRETTY EXCITED BECAUSE, FIRST OF ALL, IT WOULD ELIMINATE A LOT OF THE PAPER THAT SHE HAD TO SHUFFLE, WHICH IS ABOUT HALF A DAY, BUT IT WOULD ALSO PROVIDE A BETTER SITUATION FOR OUR EMPLOYEES. THEY WOULDN'T HAVE TO CALL HER TO FIND OUT WHERE THEY'RE AT ON THEIR DEDUCTIBLE OR IF SOMETHING WAS COVERED OR NOT. THIS WOULD BE SOMETHING THAT SHE THOUGHT, FIRST OF ALL, WE COULD SAVE MONEY ON BECAUSE THE DOLLARS ASSOCIATED WITH PRIMARY CARE, THE AMOUNT OF PAPERWORK ASSOCIATED WITH IT, AND THE LEFTOVER DOLLARS COULD GO TO PURCHASING A DRUG POLICY ALONG WITH A MAJOR MEDICAL. I ALSO HAD THE OPPORTUNITY TO VISIT WITH THE LOCAL HOSPITAL, AND OUR LOCAL HOSPITAL BASICALLY HAS ALL THE DOCTORS IN A CLINIC SITUATION. SO BASICALLY THE DOCTORS ARE EMPLOYEES OF THE HOSPITAL. AND I THINK THEY UNDERSTOOD WHAT DIRECT PRIMARY CARE WAS AND THEY WERE ABSOLUTELY FOR IT BECAUSE I THINK IT SOLVES A LOT OF THEIR PROBLEMS AS IT RELATES TO PAPERWORK AND ADMINISTRATIVE THINGS AND DEALING WITH INSURANCE COMPANIES THAT THEY FELT LIKE THIS WAS A LEAST-COST SOLUTION. SO ALL OF THOSE SITUATIONS I DESCRIBE, WHEN YOU PUT IT IN A PACKAGE AND YOU LOOK AT IT, I THINK IT PUSHES US FORWARD AND REDIRECTS FOCUS BACK ON THE PATIENT AND PATIENT CARE. SO I WOULD ASK THAT YOU VOTE GREEN ON THIS. THIS IS GOOD ENABLING LANGUAGE THAT ALLOWS US TO FIND LEAST-

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COST SOLUTIONS. AND I'LL YIELD THE REST OF MY TIME TO SENATOR HILKEMANN. [LB817]

SENATOR KRIST: SENATOR HILKEMANN, YOU'RE YIELDED 3:13. I APOLOGIZE. [LB817]

SENATOR HILKEMANN: THANK YOU, SENATOR, MR. SPEAKER. THANK YOU, SENATOR STINNER. I JUST RISE TO COMPLIMENT SENATOR RIEPE ON INNOVATIVE, OUTSIDE-THE-BOX THINKING ON AN ISSUE THAT IS GOING TO AFFECT ALL OF US. I BASICALLY BOIL DOWN THIS LEGISLATION AS CHOICE. FIRST OF ALL, IT'S CHOICE FOR THE PROVIDER. HAVING BEEN IN THE HEALTHCARE PRACTICE FOR 37 YEARS, THINGS HAVE CHANGED MARKEDLY. WE ARE...PATIENTS ARE ALMOST BEING UNFORTUNATELY, I HATE TO USE THAT TERM, ALMOST TREATED IN A COMMODITY IN SOME PRACTICES. AND THIS WILL ALLOW THE PHYSICIAN TO CONCENTRATE PROBABLY ON FEWER NUMBER OF PATIENTS THAN WHAT THEY WOULD DO IN THEIR STANDARD FEE-FOR-SERVICE TYPE OF PRACTICE. PROBABLY THE PHYSICIANS ARE CHOOSING POSSIBLY TO MAKE LESS INCOME, BUT THEY'RE DOING THAT ON THE FACT THAT THEY WILL HAVE A LESS STRESSED PRACTICE LIFE. THEY WON'T HAVE TO HAVE AS MUCH EMPLOYEE OVERHEAD. SO MUCH OF THE TIME OF MY EMPLOYEES IS JUST SPENT IN FILLING OUT OF INSURANCE FORMS AND PAPERWORK AND THIS TAKES CARE OF IT. AND THEN THE OTHER CHOICE COMES FOR PATIENTS THEMSELVES. THE PATIENT HAS THE CHOICE TO GO IN TO A DIRECT PRIMARY CARE PRACTICE PHYSICIAN. IT WILL GIVE THEM...THEY'LL HAVE...THEY WON'T HAVE TO EVERY MINUTE THINK, WELL, IT'S GOING TO COST ME A DEDUCTIBLE, IT'S GOING TO COST ME A COPAY, BECAUSE IT'S GOING TO BE PAID FOR AHEAD. IT WILL LEAD TO BETTER HEALTH OUTCOMES. CERTAINLY THE RESEARCH HAS SHOWN THAT. I JUST THINK IT'S GREAT LEGISLATION, AND I THINK WE OUGHT TO MOVE LB817 FORWARD. THANK YOU VERY MUCH. [LB817]

SENATOR KRIST: THANK YOU, SENATOR STINNER AND SENATOR HILKEMANN. SENATOR GLOOR, YOU'RE RECOGNIZED. [LB817]

SENATOR GLOOR: THANK YOU, MR. PRESIDENT. GOOD MORNING, NEBRASKA. THERE HAVE BEEN SEVERAL SENATORS WHO HAVE APPROACHED ME AND HAVE ASKED ME ABOUT PATIENT-CENTERED MEDICAL HOME AND SENATOR RIEPE'S BILL ON DIRECT PRIMARY CARE AND WHAT THE DIFFERENCE IS OR IS THERE ANY CONFLICT. AND SO IT'S IMPORTANT, I THINK, FOR ME TO BE ON MIKE BY WAY OF EXPLANATION TO FIRST OF ALL SAY THAT I SUPPORT LB817. SENATOR



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RIEPE AND I HAVE TALKED ABOUT IT FOR THE FULL TWO YEARS THAT HE'S BEEN HERE, AND I THINK IT'S A GOOD BILL. I ALSO THINK IT'S A BILL THAT ONLY AFFECTS A SMALL PORTION OF THE OVERALL POPULATION IN TERMS OF MARKET SIZE. PROBABLY THE LARGER MARKET, THE MORE LIKELY YOU'RE GOING TO SEE SOMEBODY, SOME GROUP THAT WANTS TO MOVE TO DIRECT PRIMARY CARE AGREEMENTS. AND I THINK TO PUT THIS IN STATUTE TO PROTECT IT IS A COMMONSENSE THING TO DO, BUT IT'S PART OF THE PAYMENT APPROACH TOWARDS HEALTHCARE. AND THE DIFFERENCE BETWEEN DIRECT PRIMARY CARE AGREEMENTS AND PATIENT-CENTERED MEDICAL HOME, WHICH I'VE BEEN WORKING ON MY FULL EIGHT YEARS DOWN HERE, HAS BEEN THE PATIENT-CENTERED MEDICAL HOME IS THE WAY CARE IS PROVIDED. IT'S A TRANSFORMATIONAL WAY OF FOCUSING ON CHRONIC DISEASE MANAGEMENT, CONNECTING PATIENTS WITH THEIR PRIMARY CARE CLINIC, NOT JUST THEIR PHYSICIAN BUT THEIR PRIMARY CARE CLINIC/MEDICAL HOME. HOW YOU PROVIDE CARE, THE METHODOLOGY OF PROVIDING CARE, IS WHAT PATIENT-CENTERED MEDICAL HOME IS ABOUT. WE'VE HAD PILOTS THROUGH MEDICAID ON THAT IN COMMUNITIES OF...THROUGH MEDICAID THROUGH CLINICS IN BOTH LEXINGTON AND KEARNEY. WE HAVE HAD ADVISORY COMMITTEE MEETINGS MADE UP OF BOTH PAYERS AS WELL AS PROVIDER GROUPS ACROSS THE STATE FOR ALMOST THE ENTIRE TIME WE'VE BEEN WORKING ON THIS, CONTINUES TO MOVE FORWARD. IT'S NOW EXPANDED INTO OUR MEDICAID CONTRACTING THAT'S PATIENT-CENTERED MEDICAL HOME. AND IT'S SLOWLY BUT SURELY BECOMING EMBEDDED IN THE WAY WE PROVIDE CARE IN THIS STATE--THAT'S A GOOD THING. IT ASSURES QUALITY, CONTROLS COST, ADDRESSES ACCESS ISSUES, BUT IT'S A TRANSFORMATIONAL WAY OF PROVIDING CARE. IT'S NOT A SPECIFIC PAYMENT METHODOLOGY; SO TO CUT TO THE CHASE, YOU COULD HAVE A PATIENT-CENTERED MEDICAL HOME GROUP THAT, IN FACT, PROVIDES DIRECT PRIMARY CARE TO SOME OR ALL OF ITS PATIENTS IF IT WANTS TO. THERE'S A SIGNIFICANT DIFFERENCE. THERE IS COMPATIBILITY WITH BOTH OF THESE. THEY ARE DIFFERENT, AND THE FACT THAT ONE EXISTS SHOULD ONLY BE A POSITIVE AS RELATES TO THE SUCCESS OF THE OTHER. AGAIN, I WOULD AND WILL VOTE FOR, WANT TO ENCOURAGE YOU TO VOTE FOR LB817. THANK YOU, MEMBERS. [LB817]

SENATOR KRIST: THANK YOU, SENATOR GLOOR. (VISITORS INTRODUCED.) STILL WISHING TO SPEAK: SENATOR KEN HAAR, SENATOR CAMPBELL. SENATOR KEN HAAR, YOU'RE RECOGNIZED. [LB817]

SENATOR HAAR: MR. PRESIDENT, MEMBERS OF THE BODY, I DON'T KNOW A LOT ABOUT THIS YET, BUT I LIKE THE CONCEPT. FOR ME HAVING A...MAYBE I'M

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TALKING MORE ABOUT THE CONCEPT OF HOME CARE, OR A MEDICAL HOME, BUT I'VE HAD THE SAME GP FOR A DECADE AND MORE, AND HE KNOWS ME NOW AND I KNOW HIM AND WE'VE SPENT TIME TALKING. SO I LIKE THIS IDEA OF MUCH GREATER ACCESS TO PRIMARY CARE. ALSO, IT GOT MY INTEREST WHEN IT TALKED ABOUT LESS PAPERWORK. I HAVE A NIECE WHO HAS BEEN A DOCTOR NOW FOR ABOUT FIVE YEARS, AND SHE TALKS ABOUT ALL THE TIME SHE SPENDS EVERY DAY JUST FILLING OUT FORMS. I DO HAVE A COUPLE QUESTIONS THOUGH, AND I TOLD SENATOR RIEPE THAT I WAS GOING TO TALK TO HIM ABOUT THIS. SO THERE'S A LITTLE SECTION IN YOUR HANDOUT, SENATOR RIEPE, ABOUT MEDICARE. AND I THINK IT'S BEEN COVERED A LITTLE BIT IN THE TESTIMONY, BUT TALK TO ME ABOUT HOW THIS COULD WORK WITH MEDICARE BECAUSE I AM ON MEDICARE. [LB817]

SENATOR KRIST: SENATOR RIEPE, WILL YOU YIELD? [LB817]

SENATOR RIEPE: YES, I WILL. [LB817]

SENATOR KRIST: GO AHEAD. [LB817]

SENATOR RIEPE: SENATOR HAAR, THANK YOU VERY MUCH. THIS IN RELATIONSHIP TO MEDICARE, PER SE, IS NOT INCLUDED. WE DO HAVE SOME ENABLING LEGISLATION AND WORK THAT'S GOING ON IN THE U.S. SENATE THAT WOULD ALLOW MEDICARE PATIENTS TO ACCESS DIRECT PRIMARY CARE, BUT THAT LEGISLATION IS GOING THROUGH WITH SENATOR CASSIDY FROM LOUISIANA AND ALSO A U.S. SENATOR, A DEMOCRAT, FROM WASHINGTON STATE, AND THEY'RE WORKING TO MAKE THAT ENABLING SO THAT MEDICARE PATIENTS WOULD BE ABLE TO ACCESS DIRECT PRIMARY CARE. [LB817]

SENATOR HAAR: OKAY. THANK YOU VERY MUCH. AND THEN THE SECOND QUESTION: HOW COULD THIS DANCE WITH THE GAP THAT WE SEE NOW WITH PEOPLE THAT ARE MAKING TOO MUCH MONEY FOR MEDICAID BUT STILL CAN'T AFFORD HEALTHCARE? [LB817]

SENATOR RIEPE: THANK YOU, SENATOR HAAR. I WILL CONTINUE. DIRECT PRIMARY CARE IS NOT A SUBSTITUTE FOR EXPANDED MEDICAID, NOR DOES IT STAND IN THE WAY OF EXPANDED MEDICAID. IT SIMPLY STANDS ALONE. THE OPPORTUNITY, BECAUSE IT DOES HAVE APPEAL TO FARMERS, RANCHERS, AND SOME OF THE PEOPLE THAT WOULD FALL IN THE GAP, THAT IT'S MUCH MORE AFFORDABLE IF THE MONTHLY PAYMENT IS A UTILITY BILL PIECE, IT'S A LOT

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DIFFERENT. GRANTED, A PERSON SHOULD HAVE WRAPAROUND INSURANCE TO BACK IT UP, BUT IT SHOULD BE MUCH MORE ECONOMICAL; IT'S PROVEN TO BE A MORE ECONOMICAL APPROACH. [LB817]

SENATOR HAAR: THANK YOU VERY MUCH. AND I WILL LISTEN CAREFULLY BECAUSE I'M INTRIGUED BY THIS CONCEPT. IT MAKES A LOT OF SENSE TO ME. THANK YOU. [LB817]

SENATOR KRIST: THANK YOU, SENATOR HAAR AND SENATOR RIEPE. SENATOR CAMPBELL, YOU'RE RECOGNIZED. [LB817]

SENATOR CAMPBELL: THANK YOU, MR. PRESIDENT. COLLEAGUES, WE CERTAINLY DO HAVE SOME ASPECTS OF DIRECT PRIMARY CARE ALREADY PRACTICED IN NEBRASKA, BUT LB817 CLEARLY DEFINES HOW IT WILL BE USED IN THE STATE, AND I CERTAINLY DO SUPPORT LB817. SENATOR RIEPE HAS SPENT A LOT OF TIME ON THIS ISSUE AND TALKING TO PEOPLE. IT FITS, AS SENATOR GLOOR SAID, ONE SEGMENT OF THE CONTINUUM OF HEALTHCARE IN THE STATE. WE DO WANT TO EMPHASIZE THOUGH THAT WHILE YOU ARE SETTING UP AN INDIVIDUAL CONTRACT WITH YOUR PHYSICIAN, MOST LIKELY YOU'RE GOING TO HAVE TO HAVE A HEALTH INSURANCE POLICY. THAT WAS ONE OF THE QUESTIONS THAT I WAS ASKED BY A FELLOW SENATOR. YES, YOU WOULD HAVE TO HAVE AN INSURANCE POLICY THAT MEETS THE REQUIREMENTS OF HEALTH, THE HEALTH BENEFITS. AND SO THAT IS WHY IT'S GOING TO FIT A NICHE IN THE MARKET. ONE OF THE THINGS THAT MOST LIKELY YOUR PRIMARY CARE PHYSICIAN WILL TALK TO YOU ABOUT IS THE AFFORDABILITY OF THAT HIGH-DEDUCTIBLE POLICY, AND SENATOR KOLTERMAN MOST LIKELY CAN ALSO TALK ABOUT THAT. ONE OF THE THINGS THAT WE SHOULD BE AWARE OF IS THAT FOR OUR HOSPITALS ACROSS THE STATE, ONE OF THEIR LARGEST COMPONENTS OF BAD DEBT IS PEOPLE WHO CANNOT AFFORD TO PAY THEIR DEDUCTIBLE. THE INSURANCE POLICY COVERS WHATEVER, AND THEN THEY SAY, I'M REALLY SORRY, I CAN'T, AND I KNOW THAT THE PRIMARY CARE PHYSICIAN WILL TALK TO THE PERSON ABOUT THAT. BUT THE PROGRAM THAT LB817 PUTS FORWARD WOULD FIT A NUMBER OF NEBRASKANS ACROSS THE STATE, AND WE SHOULD HAVE IT IN OUR CONTINUUM OF CARE. AND I WOULD URGE YOUR GREEN VOTE ON LB817. THANK YOU, MR. PRESIDENT. [LB817]

SENATOR KRIST: THANK YOU, SENATOR CAMPBELL. SEEING NO ONE ELSE WISHING TO SPEAK, SENATOR RIEPE, YOU'RE RECOGNIZED TO CLOSE ON LB817. [LB817]

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SENATOR RIEPE: THANK YOU, MR. PRESIDENT. I WILL BE BRIEF. DIRECT PRIMARY CARE IS WE UNDERSTAND THE IMPORTANCE OF THE PATIENT-PRACTITIONER RELATIONSHIP. WE UNDERSTAND THAT ONE SIZE DOES NOT FIT ALL. WE UNDERSTAND WE MUST REFORM THE ENTIRE HEALTHCARE DELIVERY MODEL TO MAKE A BETTER NEBRASKA. AND I, WITH THAT, CLOSE IN SAYING I ASK FOR YOUR GREEN LIGHT, YOUR YES VOTE ON LB817. THANK YOU. [LB817]

SENATOR KRIST: THANK YOU, SENATOR RIEPE. YOU'VE HEARD THE CLOSING ON LB817. THE QUESTION IS THE ADVANCEMENT TO E&R INITIAL. ALL THOSE IN FAVOR VOTE AYE; OPPOSED, NAY. HAVE ALL THOSE VOTED THAT WISH TO? PLEASE RECORD, MR. CLERK. [LB817]

CLERK: 38 AYES, 0 NAYS ON THE ADVANCEMENT OF THE BILL. [LB817]

SENATOR KRIST: LB817 ADVANCES. NEXT ITEM. [LB817]

CLERK: MR. PRESIDENT, THE NEXT BILL IS LB1109. BUT PURSUANT TO RULE 6, SECTION 3(f), SENATOR CHAMBERS HAS OFFERED A MOTION TO INDEFINITELY POSTPONE THE BILL. [LB1109]

SENATOR KRIST: SENATOR CHAMBERS, YOU ARE RECOGNIZED TO OPEN ON YOUR MOTION. [LB1109]

SENATOR CHAMBERS: MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, THIS TIME I AM OUT OF BREATH. I HEARD THAT BELL RING. I CAN RUN UP THE STAIRS WITH NO PROBLEM. I CAN RUN FROM MY OFFICE TO THE STAIRS WITH NO PROBLEM. WHEN I HAVE TO RUN FROM MY OFFICE TO THE STAIRS AND UP THE STAIRS, IT'S A PROBLEM, BUT I AM HERE. AND THE REASON I OFFERED THIS AMENDMENT, THIS MOTION...BY THE WAY, WHEN SOME PEOPLE SEE A 79...WELL, I'LL BE 79 IN JULY, BUT AFTER I'M 79 I'LL BE INTO MY 80th YEAR. SO WHEN THEY SEE A PERSON THAT OLD RUNNING, THEN PUFFING, THEY THINK HE OR SHE MIGHT HAVE A HEART ATTACK, BUT AS YOU ALL KNOW AND OTHERS ARE FINDING OUT, YOU MUST HAVE THAT ORGAN BEFORE YOU CAN HAVE THAT KIND OF ATTACK. SO ALL I HAVE TO DO IS GET ENOUGH OXYGEN IN MY LUNGS TO RECOVER, THEN I'LL MOVE FORWARD. I'M OFFERING THIS MOTION TO GET A TEST VOTE. THIS, IN MY OPINION, IS ONE OF THE BADDER BILLS TO COME BEFORE US. THE IRONY IS THAT IT COMES OUT OF A COMMITTEE WHOSE MEMBERS OUGHT TO KNOW BETTER, BUT FOR ME IT'S NO SURPRISE. THEY ALWAYS ARE FOR LESS TRANSPARENCY AND GOVERNMENTAL SECRECY

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WHEREVER THEY CAN HAVE IT. AND IT'S FOR A POLITICAL PURPOSE AND I'LL TELL YOU WHY I SAY THAT. THIS OUTFIT CALLED MECA IN OMAHA WILL NOT COMPLY WITH THE OPEN MEETINGS LAW EVEN THOUGH LARGE AMOUNTS OF PUBLIC MONEY ARE INVOLVED. I BROUGHT A BILL WHICH THAT COMMITTEE UNCEREMONIOUSLY DISMISSED. THE ATTORNEY GENERAL SUBSEQUENTLY HAS ISSUED AN OPINION WHICH WOULD BIND THIS ORGANIZATION TO COMPLY WITH THE OPENING MEETINGS LAW. NATURALLY HIS OPINION IS NOT THE LAW, BUT IT SHOWS THE WAY THINGS OUGHT TO BE. SENATOR HOWARD OFFERED A BILL, OR SENATOR CRAWFORD OFFERED THE BILL, WHICH WOULD REQUIRE THE EXPOSURE OF CERTAIN EXPENDITURES OR AMOUNTS OF MONEY ON HAND AND IT WAS BROUGHT DUE TO THE FACT THAT THERE HAD BEEN MISUSE OF CAMPAIGN FUNDS BY A SITTING SENATOR. THERE WERE TWO OTHERS CHARGED WITH FELONIES IN THE LEGISLATURE. PEOPLE ON THAT COMMITTEE WILL SAY WE NEED VOTER REGISTRATION CARDS, WE NEED VOTER ID, NOT BECAUSE THERE HAS BEEN VOTER FRAUD, BUT BECAUSE IT MIGHT BE. NOW, IN A LEGISLATURE THE SIZE OF THIS ONE, WHERE YOU HAVE THREE PEOPLE, SITTING PEOPLE, CHARGED WITH FELONIES FOR MISCONDUCT, AND FOR THAT COMMITTEE, WHICH IS IN FAVOR OF VOTER ID WHERE THERE IS NO VOTER FRAUD SHOWN, TO SAY THAT WHERE THERE'S EVIDENCE OF A PROBLEM, NOTHING SHOULD BE DONE. WHEN I FOUND OUT THAT THIS BILL WAS OFFERED AND SAW WHICH COMMITTEE IT WOULD GO TO, I KNEW IT WAS GOING TO COME OUT HERE BECAUSE OF THE COMMITTEE'S RECORD, AS INFAMOUS AND TARNISHED AS IT IS IN MY OPINION. WE'RE ALL ENTITLED TO DO WHAT WE BELIEVE, TO CONDUCT OUR AFFAIRS LEGISLATIVELY IN THE WAY WE THINK FIT. AND THAT COMMITTEE, A MAJORITY, JUST HAPPENED TO COMPRISE PEOPLE WHOSE OPINIONS DIFFER FROM MINE. WE'RE TALKING HERE ABOUT A LAND GRANT COLLEGE, UNIVERSITY WHICH WAS GIVEN LAND ON WHICH TO CONSTRUCT AN EDUCATIONAL FACILITY. IT WAS DONE TO BENEFIT THE PUBLIC. LARGE AMOUNTS OF PUBLIC MONEY ARE APPROPRIATED EVERY SESSION BY THIS LEGISLATURE IN ONE WAY OR ANOTHER. FOR THEM TO THINK THAT THEY HAVE THE RIGHT TO CONDUCT ONE OF THE MOST IMPORTANT THINGS THAT THEY DO IN SECRECY IS TOTALLY UNACCEPTABLE IN MY OPINION. I AM GOING TO FIGHT THIS BILL TOOTH AND NAIL. THAT'S THE HUMAN SIDE OF ME, BUT TO GO TO MY ANIMAL SOUL, THE BIG CATS, I WILL BORROW FROM THEM AND SAY I'LL FIGHT IT FANG AND CLAW. SO THIS TEST VOTE WILL BE A WAY TO SEE HOW MUCH TIME THE LEGISLATURE WANTS TO SPEND ON THIS BILL. I CAN TAKE 12 HOURS OVER ALL BY MYSELF. I CAN TALK ABOUT GOVERNMENTAL SECRECY, THE FIDUCIARY RESPONSIBILITY OF PUBLIC OFFICIALS, WHETHER ELECTED OR APPOINTED, TO CARRY OUT THEIR RESPONSIBILITIES BEFORE THE PUBLIC. I HAVE PLENTY TO TALK ABOUT. AND IF MY COLLEAGUES WANT TO LISTEN, I'M

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GOING TO DO THAT; AND IF THEY DON'T WANT TO LISTEN, I SHALL TAKE THAT TIME. HOW MUCH TIME DO I HAVE, MR. PRESIDENT? [LB1109]

SENATOR KRIST: 4:00. [LB1109]

SENATOR CHAMBERS: 4:00? [LB1109]

SENATOR KRIST: YES, SIR. [LB1109]

SENATOR CHAMBERS: THANK YOU. THAT'S TIME TO READ SOMETHING. BY THE WAY, I DON'T WANT TO BOAST, BUT THERE WERE TWO RESOLUTIONS OF IMPEACHMENT PASSED BY THIS LEGISLATURE. ONE WAS AGAINST FORMER ATTORNEY GENERAL PAUL DOUGLAS. HE WAS IMPEACHED BY THE LEGISLATURE. A MAJORITY OF THE MEMBERS OF THE SUPREME COURT VOTED TO KICK HIM OUT OF OFFICE, BUT THEY DIDN'T HAVE THE SUPERMAJORITY REQUIRED BY THE CONSTITUTION. I WROTE THAT RESOLUTION. A RESOLUTION WAS PASSED BY THE LEGISLATURE AGAINST A FORMER MEMBER OF THE BOARD OF REGENTS NAMED DAVID HERGERT. I WROTE THAT RESOLUTION. NOT ONLY DID THE LEGISLATURE VOTE TO IMPEACH HIM, THE SUPREME COURT CONVICTED HIM, WHICH MEANS HE CAN NEVER HOLD PUBLIC OFFICE AGAIN. SO I KNOW SOMETHING ABOUT THE LAW. I RESPECT THE LAW. AND I'M GOING TO READ SOMETHING FROM A CASE THAT INVOLVED THAT FORMER ATTORNEY GENERAL. THE CITATION FOR THOSE WHO ARE INTERESTED: STATE v. DOUGLAS, 217 NEBRASKA, 84-199, AT PAGE 225. LET ME GET TO THIS PART. THE SUPREME COURT IS QUOTING FROM THE NEW JERSEY SUPREME COURT AND THEY SAID FROM THAT COURT, "...[PUBLIC OFFICERS] STAND IN A FIDUCIARY RELATIONSHIP TO THE PEOPLE WHOM THEY HAVE BEEN ELECTED OR APPOINTED TO SERVE...AS FIDUCIARIES AND TRUSTEES OF THE PUBLIC WEAL THEY ARE UNDER AN INESCAPABLE OBLIGATION TO SERVE THE PUBLIC WITH THE HIGHEST FIDELITY. IN DISCHARGING THE DUTIES OF THEIR OFFICE THEY ARE REQUIRED TO DISPLAY SUCH INTELLIGENCE AND SKILL AS THEY ARE CAPABLE OF, TO BE DILIGENT AND CONSCIENTIOUS, TO EXERCISE THEIR DISCRETION NOT ARBITRARILY BUT REASONABLY, AND ABOVE ALL TO DISPLAY GOOD FAITH, HONESTY AND INTEGRITY...THEY MUST BE IMPERVIOUS TO CORRUPTING INFLUENCES AND THEY MUST TRANSACT THEIR BUSINESS FRANKLY AND OPENLY IN THE LIGHT OF PUBLIC SCRUTINY SO THAT THE PUBLIC MAY KNOW AND BE ABLE TO JUDGE THEM AND THEIR WORK FAIRLY...THESE OBLIGATIONS ARE NOT MERE THEORETICAL CONCEPTS OR IDEALISTIC ABSTRACTIONS OF NO PRACTICAL FORCE AND EFFECT; THEY ARE OBLIGATIONS IMPOSED BY THE

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COMMON LAW ON PUBLIC OFFICERS AND ASSUMED BY THEM AS A MATTER OF LAW UPON THEIR ENTERING PUBLIC OFFICE." THIS IS A PUBLIC ACTION BY THE UNIVERSITY WHEN THEY SELECT A PRESIDENT. THE PUBLIC HAS THE RIGHT TO BE AWARE OF THE CRITICAL DECISIONS BEING MADE AND TO PARTICIPATE WHEN THE POINT IS REACHED WHERE THEY HAVE NARROWED THE FIELD TO FOUR CANDIDATES, AND THAT'S WHAT THIS BILL IS ABOUT. THAT COMMITTEE WANTS THE PUBLIC NOT TO KNOW,... [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR CHAMBERS: ...THE PUBLIC TO BE SHUT OUT AND BE PRESENTED WITH A FACT ALREADY ACCOMPLISHED: THIS IS WHAT YOU'RE OFFERED, TAKE IT OR LEAVE IT; YOUR INPUT MEANS NOTHING; WHAT YOU SAY WE HAVE NO RESPECT FOR; YES, WE ARE ELECTED OR WE ARE APPOINTED AND WE ARE PAID WITH PUBLIC MONEY, BUT WE...THERE WAS A KING WHO SAID, L'ETAT C'EST MOI: I AM THE STATE. THAT'S THEIR ATTITUDE. BUT THEY'RE GOING TO FIND OUT THAT THERE'S AT LEAST ONE PERSON IN THIS LEGISLATURE WHO WANTS TO SEND A CLEAR, UNEQUIVOCAL MESSAGE TO THEM TODAY THAT THEY ARE NOT THE STATE AND THEY ARE, IN FACT, NOT EVEN THE UNIVERSITY. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR CHAMBERS. PURSUANT TO RULE 6, SECTION 5(d), AS THE PRIMARY INTRODUCER, SENATOR MURANTE, YOU'RE AFFORDED AN OPPORTUNITY TO RESPOND. WOULD YOU LIKE TO TAKE THAT OPPORTUNITY? [LB1109]

SENATOR MURANTE: I WOULD LOVE TO TAKE THAT OPPORTUNITY, MR. PRESIDENT. [LB1109]

SENATOR KRIST: YOU'RE RECOGNIZED FOR 5:00. [LB1109]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT. MEMBERS, GOOD MORNING. I RISE IN OPPOSITION TO THE MOTION TO INDEFINITELY POSTPONE AND IN FAVOR OF LB1109. I WILL START BY SAYING LB1109 IS THE RESULT OF A LOT OF COMMUNICATION OVER A PERIOD OF YEARS TO REFORM THE PROCESS BY WHICH THE UNIVERSITY OF NEBRASKA HIRES ITS CHANCELLORS AND ITS PRESIDENT. WHAT IS CONTAINED IN LB1109 WOULD MAINTAIN ONE OF THE MOST OPEN AND TRANSPARENT PROCESSES OF HIRING A UNIVERSITY PRESIDENT IN THE ENTIRE NATION. WHEN WE GET TO LB1109, AND I WOULD SUGGEST TO MY

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COLLEAGUES THAT WE DISPOSE OF THE MOTION TO INDEFINITELY POSTPONE AS QUICKLY AS POSSIBLE SO THAT WE CAN GET TO THE MERITS OF THE ISSUE, WHEN WE GET TO LB1109 WE WILL DISCUSS THE COMPETITIVE DISADVANTAGE THAT THE STATE OF NEBRASKA HAS. WE WILL DISCUSS THE ENHANCED PUBLIC SCRUTINY HIRING PROCESS WHICH IS CONTAINED IN LB1109, ONE OF THE STRICTEST, MOST TRANSPARENT PROCESSES IN THE COUNTRY. WE WILL TALK ABOUT THE IMPORTANT INSTITUTIONS, THE MEMBERS OF THIS LEGISLATURE WHO HAVE COSPONSORED THIS BILL AND WHO I THANK: THE NEBRASKA CHAMBER OF COMMERCE, THE LINCOLN CHAMBER OF COMMERCE, THE LINCOLN INDEPENDENT BUSINESS ASSOCIATION, AND MANY OTHER ORGANIZATIONS WHO HAVE COME TOGETHER RECOGNIZING THAT THE STATE OF NEBRASKA HAS A COMPETITIVE DISADVANTAGE AND WHO UNDERSTAND THAT IT IS IMPORTANT TO RUN STATE GOVERNMENT LIKE A BUSINESS TO THE EXTENT POSSIBLE AND IT IS IMPORTANT TO HAVE OPEN AND TRANSPARENT GOVERNMENT AND THAT THOSE TWO INTERESTS ARE NOT IN CONFLICT WITH EACH OTHER. WE CAN DO BOTH, AND THAT'S WHAT WE PROPOSE TO DO IN LB1109. IT'S BEEN SUGGESTED THAT...BECAUSE THE GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE IN YEARS PAST AND UNDER DIFFERENT CHAIRMANSHIP HAVE NOT ADVANCED SENATOR CHAMBERS' BILL ON MECA AND OTHERS. I WOULD SUBMIT TO YOU THAT THE GOVERNMENT COMMITTEE HAS TAKEN A GOOD LOOK AT THE ISSUES BEFORE US. I'M PROUD OF THE WORK THAT WE'VE DONE. I'M PROUD OF THE MEMBERS WHO ARE ON THE COMMITTEE. WE HAVE OUR DISAGREEMENTS. NOT EVERY BILL THAT WE WANT GETS OUT OF THE COMMITTEE. NOT EVERY BILL THAT I WANT GETS OUT OF COMMITTEE, JUST LIKE EVERY OTHER COMMITTEE. BUT WE DO GOOD WORK WHEN WE'RE DELIBERATIVE AND WE THOUGHT ABOUT THIS AND WE ADVANCED IT TO THE FLOOR. I WOULD ENCOURAGE YOUR SUPPORT OF LB1109. I WOULD ENCOURAGE THE DEFEAT OF THE MOTION TO INDEFINITELY POSTPONE AS QUICKLY AS POSSIBLE SO THAT WE CAN DISCUSS THE MERITS OF THIS ISSUE. AND I PARTICULARLY WANT TO THANK SPEAKER HADLEY FOR HIS ONGOING LEADERSHIP ON THIS ISSUE. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR CHAMBERS AND SENATOR MURANTE. SENATOR HADLEY, YOU'RE RECOGNIZED. [LB1109]

SPEAKER HADLEY: MR. PRESIDENT, MEMBERS OF THE BODY, I STAND TO SPEAK IN FAVOR OF LB1109 AND AGAINST THE MOTION TO INDEFINITELY POSTPONE, THE MOTION. LET ME START...I SPENT 35 YEARS IN HIGHER EDUCATION, ASSISTANT PROFESSOR, ASSOCIATE PROFESSOR, A FULL PROFESSOR, A DEPARTMENT CHAIR, VICE PRESIDENT FOR ADMINISTRATION, VICE PRESIDENT



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FOR ACADEMIC AFFAIRS, SENIOR VICE PRESIDENT FOR ACADEMIC AFFAIRS AND STUDENT AFFAIRS, AND INTERIM PRESIDENT. I HAVE SAT ON BOTH SIDES OF SEARCH COMMITTEES. I HAVE BEEN WHERE I HAVE APPLIED FOR JOBS AND I HAVE CHAIRED SEARCH COMMITTEES. SO I HAVE A LOT OF EXPERIENCE IN THIS AREA. THINGS HAVE CHANGED IN HIGHER EDUCATION. THE INSTITUTIONS HAVE BECOME MORE COMPLEX, MORE EXPENSIVE, MORE DOLLARS INVOLVED, MORE PUBLIC STATURE. AS A RESULT, IT TAKES SPECIAL PEOPLE TO LEAD OUR INSTITUTIONS, AND THERE'S A RELATIVELY SMALL POOL OF PEOPLE CAPABLE OF RUNNING THOSE INSTITUTIONS. I UNDERSTAND THE CONCERNS THAT THE OPPOSITION HAS TO THIS BILL, BUT I MUST RESPECTFULLY DISAGREE WITH THOSE CONCERNS. THE QUESTION IS TRANSPARENCY IN A UNIVERSITY PRESIDENTIAL SEARCH VERSUS AN INCLUSIVE PRESIDENTIAL SEARCH. I'M GOING TO TAKE A SECOND AND EXPLAIN THAT. ON ONE SIDE WE HAVE THE OPPONENTS SAYING THERE SHOULD BE COMPLETE TRANSPARENCY, MEANING THAT, IN ESSENCE, FOUR FINALISTS NAMED, THEY'RE OUT IN THE PUBLIC. I'M MAKING THE ARGUMENT FOR AN INCLUSIVE SEARCH, MEANING WE GET EVERY PERSON WHO HAS THE BEST CAPABILITIES TO RUN A UNIVERSITY TO APPLY FOR THE JOB AND HAVE THE POTENTIAL TO BE ELECTED FOR THAT JOB. SO IT'S TRANSPARENCY VERSUS HAVING THE BEST POSSIBLE POOL TO CHOOSE FROM TO RUN OUR UNIVERSITY. AGAIN, DO YOU LOSE HIGHLY QUALIFIED CANDIDATES BECAUSE NAMES OF FINALISTS WILL BE MADE PUBLIC? LET ME STOP FOR A SECOND AND EXPLAIN JUST A LITTLE BIT ABOUT HOW SEARCHES WORK IN HIGHER EDUCATION. MOST HIGHER EDUCATION FIRMS HIRE EXECUTIVE SEARCH FIRMS, THE WAY BUSINESSES DO, AND PART OF THEIR JOB IS TO SEARCH FOR CANDIDATES. THEY SEARCH FOR CANDIDATES WHO ARE NOT IN THE JOB MARKET RIGHT NOW. THEY GO OUT AND THEY CALL "HARRIET SMITH" AT BROWN UNIVERSITY AND SAY, WE'VE GOT AN OPENING AT THE UNIVERSITY OF MICHIGAN THAT WE'RE HELPING SEARCH, WOULD YOU BE INTERESTED? THE FIRST QUESTION THESE GOOD CANDIDATES ASK IS, WILL IT BE A SEARCH WHERE MY NAME IS MADE PUBLIC? THAT'S THE FIRST QUESTION THEY ASK. AND MORE OFTEN THAN NOT, IF THE QUESTION...IF THE ANSWER IS YES, THEY SAY, I'M NOT INTERESTED. I'M GOING TO GO IN LATER TO TELL YOU WHY THEY'RE NOT INTERESTED. PRIVATE INSTITUTIONS HAVE USED CONFIDENTIAL SEARCHES FOR YEARS. THAT WAS IN THE DEBATE, IT'S IN THE PAPER. WHY DO THEY USE CONFIDENTIAL SEARCHES? WHY DO PRIVATE SCHOOLS USE CONFIDENTIAL SEARCHES? BECAUSE THEY THINK THAT'S THE BEST WAY TO GET THE BEST POSSIBLE PRESIDENT. I CAN SPEND A LOT OF TIME MAKING DIFFERENCES BETWEEN PRIVATE AND PUBLIC INSTITUTIONS. [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

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SPEAKER HADLEY: BUT IT ONLY COMES DOWN TO THE FACT THAT PUBLIC INSTITUTIONS DO HAVE STATE FUNDING. BUT BOTH PRIVATE AND PUBLIC HAVE FACULTY, STUDENTS, ALUMNI. ALL OF THEM HAVE INTERESTED GROUPS, YET PRIVATE INSTITUTIONS HAVE JUST TRADITIONALLY HAD PRIVATE SEARCHES. SO IT'S IMPORTANT FOR THAT. IN 2010, THE UNIVERSITY OF NEBRASKA JOINED THE BIG TEN CONFERENCE. WE ALL CHEERED AND WE ALL THOUGHT IN TERMS OF ATHLETICS. BUT YOU KNOW WHAT'S MORE IMPORTANT ABOUT JOINING THE BIG TEN CONFERENCE? WE JOINED ONE OF THE BEST ACADEMIC CONFERENCES IN THE WORLD THAT WORK TOGETHER FOR ACADEMIC PURPOSES. THE BIG TEN CONFERENCE, IF YOU TAKE THE TOP FIVE, THEY CALL THEM, POWER CONFERENCES, WE ARE FAR AND AWAY...THE BIG TEN IS FAR AND AWAY THE BEST ACADEMIC CONFERENCE. [LB1109]

SENATOR KRIST: TIME, SENATOR. [LB1109]

SPEAKER HADLEY: THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SPEAKER. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB1109]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, SENATOR MURANTE OUGHT TO GO AHEAD AND DISCUSS WHY YOU OUGHT NOT KILL THIS BILL INSTEAD OF BEING A "MYSTERIAN." BUT TO DEAL WITH SOME OF THE THINGS THAT SENATOR HADLEY SAID, FIRST I'M GOING TO QUOTE JUST A LITTLE BIT FROM ABRAHAM LINCOLN, AND PARAPHRASE: FOUR SCORE AND SEVEN YEARS AGO, OUR FATHERS BROUGHT FORTH ON THIS CONTINENT A NEW NATION CONCEIVED IN LIBERTY AND DEDICATED TO THE PROPOSITION THAT ALL MEN ARE CREATED EQUAL. THAT LAST PART IS FALSE BECAUSE THEY HAD SLAVES. SOME MEN WANT TO BE EQUAL WITH THE WHITE MEN IN ENGLAND. BUT CONTINUING: NOW--AND THIS APPLIES--WE ARE ENGAGED IN A GREAT CIVIL WAR TESTING WHETHER THAT NATION, OR ANY NATION, SO CONCEIVED AND SO DEDICATED CAN LONG ENDURE. WE HAVE A MINI-CIVIL WAR GOING ON HERE. SHALL THE INTERESTS OF THE PUBLIC IN KNOWING WHAT THEIR EMPLOYEES ARE DOING BE TRUMPED BY THE INTEREST OF PRIVATE BUSINESSES, WHO ARE KNOWN AS HEADHUNTERS, WHO WILL SAY, WE WANT TO BE ABLE TO RAID OTHER UNIVERSITIES AND WE CAN'T DO IT IF OUR HAND IS CALLED, IF WE'RE GOING TO BE A SNEAKY PETE, IF WE'RE GOING TO BE AN AMBUSER, WE NEED TO DO THIS WITHOUT PUBLIC DISCLOSURE? AND THE LIST OF ENTITIES THAT WERE READ IN SUPPORT OF THIS BILL DON'T CARRY A LOT OF CREDIBILITY IN MY OPINION.

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NOW WHEN THEY TALK ABOUT RUNNING A PRIVATE SCHOOL AND THEY DO THINGS THE WAY THEY WANT TO, THEY DON'T GET PUBLIC MONEY. IS THE UNIVERSITY OF NEBRASKA WILLING TO FORGO ALL PUBLIC MONEY TO BEHAVE LIKE A PRIVATE SCHOOL? IT'S NOT A PRIVATE SCHOOL. THERE ARE MANY THINGS PRIVATE SCHOOLS CAN DO THAT NEBRASKA UNIVERSITY CANNOT. THEY CAN HAVE PRAYER IN THE CLASSROOM. THEY CAN HAVE MINISTERS AND NUNS TEACHING. THEY CAN PRESENT A RELIGIOUS DOCTRINE. SO BETWEEN THINGS DISPARATE IN NATURE THERE CAN BE NO COMPARISON. AND AS SOMEBODY WITH A LOT OF EDUCATION, SENATOR HADLEY KNOWS THIS. TO TRY TO EQUATE A PUBLIC UNIVERSITY WITH WHAT HAPPENS IN A PRIVATE UNIVERSITY IS DISINGENUOUS AT BEST OR CARELESS AND SLIPSHOD AT WORST. I'M GOING TO FIGHT THIS BILL. AND IF I HAVE TO DO IT ALONE, I SAID I'LL DO IT. AND I'M NOT GOING TO REINVENT THE WHEEL. I'VE GOT MATERIAL THAT I INTEND TO READ. AND IT WILL HAVE BEEN WRITTEN, SOME OF IT, BY PEOPLE WHO HAVE BEEN INVOLVED IN THESE SEEKINGS AFTER HIGHER POSITIONS OR PARALLEL, HORIZONTAL POSITIONS. AND ONE OF THE INDIVIDUALS, EVEN DOWN HERE, I THINK HE WAS RUNNING FOR CHANCELLOR, SAID THAT THEIR WORK IS TO BE DONE IN PUBLIC, AND IF THEY START OUT AS PEOPLE SHROUDED IN SECRECY-- I'M PARAPHRASING-- THAT DOESN'T COMPORT WITH THE WAY THE BUSINESS OF THE UNIVERSITY IS TO BE CONDUCTED. IF SOMEBODY IS SO SHAKY ABOUT HIS OR HER POSITION WHERE HE OR SHE IS WORKING, THAT'S TOUGH. DON'T APPLY FOR THE JOB. AND TO TRY TO EQUATE THIS WITH A BUSINESS IS OUTLANDISH TOO. BUSINESSES HAVE WHAT THEY CALL PROPRIETARY INFORMATION. THEY MAKE CERTAIN PEOPLE SIGN NONDISCLOSURE AGREEMENTS BEFORE THEY'RE EVEN HIRED. [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR CHAMBERS: SO FOR A PERIOD OF TIME AFTER THEY'VE GONE, THERE ARE THINGS THEY CANNOT TALK ABOUT. SOME OF THESE PEOPLE RAISE THESE ISSUES AS THOUGH EVERYBODY IN HERE IS STUPID AND DOESN'T UNDERSTAND HOW THESE THINGS GO. BUT WE'RE GOING TO HAVE THE OPPORTUNITY TO DISCUSS IT. AND I DON'T CARE WHETHER YOU TAKE THE MOTION OR NOT. IF YOU DON'T TAKE THE MOTION, YOU STILL ARE GOING TO HAVE TO LISTEN TO ME. SO IF THOSE WHO ARE IN FAVOR OF THIS BILL WANT TO CONTINUE THE DISCUSSION, LET THEM GET 33 VOTES. IF THEY GET ANY FEWER THAN 33 VOTES, THEY CANNOT INVOKE CLOTURE. AND THERE ARE SOME PEOPLE ON THIS FLOOR, AND THEY PROBABLY WERE ENCOURAGED IN THAT VOTE... THAT BELIEF WHEN I CAME UP HERE HUFFING AND PUFFING AFTER HAVING RUN THROUGH THE HALLS AND TAKING THE STEPS THREE AT A TIME, MAY SAY, UH-HUH, HIS

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AGE IS STARTING TO GET HIM, HE CAN'T LAST FOR FOUR HOURS ON GENERAL FILE. [LB1109]

SENATOR KRIST: TIME, SENATOR. [LB1109]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR CHAMBERS. SENATOR McCOY, YOU'RE RECOGNIZED. [LB1109]

SENATOR McCOY: THANK YOU, MR. PRESIDENT AND MEMBERS. I RISE THIS MORNING IN SUPPORT OF SENATOR CHAMBERS' INDEFINITELY POSTPONE MOTION, IN OPPOSITION TO LB1109. IF YOU TAKE A LOOK AT THE COMMITTEE STATEMENT YOU'LL FIND THAT I WAS ONE OF TWO VOTES NO ON THIS BILL. I OPPOSE THIS BILL ON A NUMBER OF DIFFERENT FRONTS, NAMELY IN THE AREA OF TRANSPARENCY. I WOULD IMAGINE THAT MOST OF US, ESPECIALLY THOSE OF US WHO HAVE BEEN AROUND HERE AWHILE--AND SENATOR HADLEY IS ONE, AS IS SENATOR CHAMBERS--WE HAVE THE BENEFIT OF THOSE OF US WHO CAME IN, IN 2009, TO GO THROUGH A SPECIAL SESSION ON THE BUDGET, NOT A TERRIBLY FUN EXPERIENCE, I CAN ASSURE YOU, PARTICULARLY FOR THOSE THAT SERVED ON THE APPROPRIATIONS COMMITTEE AT THE TIME, SENATOR MELLO, NOW OUR CHAIRMAN OF THAT AUGUST COMMITTEE, BEING ONE OF THEM. I AM PROUD THOUGH THAT THROUGH THAT PROCESS THE LEGISLATURE, HOWEVER PAINFUL IT WAS FOR US AND, DURING THAT PERIOD, FOR MANY NEBRASKANS, WE PRIORITIZED IN A HUGE WAY ROBUST FUNDING FOR K-12 AND HIGHER EDUCATION--AND WE ALWAYS HAVE. I'M PROUD OF THAT FACT. I THINK WE ALL SHOULD BE, ALL NEBRASKANS SHOULD BE. CURRENTLY IT'S MY UNDERSTANDING, UNLESS SOMETHING...UNLESS I'M INCORRECT, AND I DON'T BELIEVE THAT I AM, 23 PERCENT OF THE UNIVERSITY'S FUNDING COMES FROM TAXPAYER DOLLARS. TO ME IT DOESN'T MATTER WHETHER THAT NUMBER IS 23 PERCENT, 2 PERCENT, OR 97 PERCENT, OR ANYWHERE IN BETWEEN. WHEN TAXPAYER DOLLARS ARE USED, FULL TRANSPARENCY SHOULD BE ACCORDED. THAT'S MY VIEW. THERE MAY BE THOSE THAT DISAGREE. FUNDAMENTALLY THAT'S MY BIGGEST ISSUE WITH THIS BILL. NEBRASKANS EXPECT TRANSPARENCY. THEY EXPECT IT OUT OF THIS LEGISLATURE. THAT'S THE HALLMARK OF WHY GEORGE NORRIS WANTED THIS BODY IN THE FIRST PLACE. NEBRASKANS EXPECT TRANSPARENCY AT EVERY LEVEL OF GOVERNMENT IN OUR STATE AND, BY AND LARGE, THEY GET IT. AND WHILE THE UNIVERSITY IS ITS OWN ENTITY, I THINK IT'S IMPORTANT THAT NEBRASKANS FEEL LIKE THEY

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KNOW WHERE THEIR TAXPAYER DOLLARS ARE GOING. WE HAVE A WONDERFUL UNIVERSITY SYSTEM, AS I SAID, ONE THAT WE SHOULD BE VERY PROUD OF, AND WE ALL ARE, NOT JUST ATHLETICALLY BUT ACADEMICALLY. BUT WHEN WE'RE GOING TO LIMIT, AS THIS BILL SEEKS TO DO, THE SEARCH FROM FOUR CANDIDATES, FOUR FINALISTS, DOWN TO ONE PRIORITY FINALIST, WHAT YOU HAVE IS AN INABILITY FOR NEBRASKANS TO DISTINGUISH BETWEEN THE MERITS OF ONE CANDIDATE OVER ANOTHER. WE NEED TO LOOK NO FURTHER THAN AN OPINION PIECE THAT WAS WRITTEN IN THE JOURNAL STAR A FEW DAYS AGO BY THE FACULTY SENATE AT UNL IN WHICH THE LEADER OF THAT GROUP TALKED ABOUT THE DEEP CONVERSATIONS THAT HAVE WENT ON BETWEEN THE FOUR FINALISTS FOR THE POSITION OF CHANCELLOR OF UNL AND THE ABILITY TO TALK ABOUT THE PRIORITIES GOING FORWARD... [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR McCOY: ...OF WHERE THE UNIVERSITY IS GOING. HOW DOES THAT TAKE PLACE IF THERE'S ONLY ONE PRIORITY CANDIDATE, COLLEAGUES? INSTEAD, NEBRASKANS IN PUBLIC HEARINGS WOULD ONLY HAVE THE ABILITY TO DETERMINE WHETHER THEY CARE OR DON'T CARE FOR ONE CANDIDATE. THAT'S NOT TRANSPARENCY, THAT'S NOT ACCOUNTABILITY, NOT IN MY VIEW. NEBRASKANS BORDER TO BORDER, FROM SCOTTSBLUFF TO OMAHA, FROM VALENTINE TO EVERYWHERE IN BETWEEN DESERVE BETTER. THEY DESERVE BETTER FROM THIS BODY. THEY DESERVE BETTER FROM THE UNIVERSITY SYSTEM. TRANSPARENCY IS NEVER WRONG. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR McCOY. THOSE STILL WISHING TO SPEAK: SENATOR GROENE, CHAMBERS, AND BLOOMFIELD. SENATOR GROENE, YOU'RE RECOGNIZED. [LB1109]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. I WAS THE OTHER NO VOTE IN THE GOVERNMENT COMMITTEE. MANY OF YOU KNOW I GOT...I MOVED TO COLORADO IN MY CAREER FOR TEN YEARS, CAME BACK, AND WAS SHOCKED AT TAXES AND THE WAY OUR STATE HAD GONE IN THOSE TEN YEARS I WAS GONE. SO I GOT INVOLVED IN A GROUP. WE STARTED A TAXPAYERS' GROUP WHERE WE WENT TO HEARINGS. AND WE TESTIFIED ACTUALLY AT BUDGET HEARINGS AND STUFF. AND THE ONE THING THAT SHOCKED ME MOST WAS THAT WHEN YOU GET ELECTED OFFICIALS, THEY START TAKING OWNERSHIP IN THE BODY THEY GOVERN. AND THEY GET DEFENSIVE; IT BECOMES THEIRS. IT'S HUMAN NATURE.

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TRANSPARENCY WAS: WHAT? WHY DO YOU NEED TO KNOW? THIS IS OURS. WE'RE IN CHARGE HERE. NEBRASKANS DEMAND TRANSPARENCY. ITS ONE OF THE ISSUES I STRIVE ON AND I WILL DEFEND. THERE IS NO NEED FOR THIS BILL BECAUSE A COUPLE OF REGENTS WANT TO PICK THEIR MAN, THEIR WOMAN. I DON'T KNOW. WOULD THEY PICK A WOMAN? WE DON'T KNOW. WE DON'T KNOW IF THEY EVEN CONSIDERED ONE. WE DON'T EVEN KNOW IF THEY CONSIDERED A MINORITY WITH THIS. WE DON'T KNOW. RIGHT NOW, I'M ROOTING FOR RONNIE GREEN, GOT A PROCESS GOING ON. IF THE PRESIDENT DOESN'T PICK HIM, DO WE KNOW HE WAS EVEN CONSIDERED? WE WOULDN'T KNOW THAT. WE WOULDN'T KNOW THAT WITH THIS NEW PROCESS. THERE'S NO COMPARISON, PUBLIC VERSUS PRIVATE. SENATOR McCOY POINTED THAT OUT. WE OWN THIS UNIVERSITY, THE TAXPAYERS ACROSS THE STATE. WE ARE ONE OF THE UNIQUE STATES THAT HAVE ONE UNIVERSITY SYSTEM--OTHER STATES HAVE MANY--AS FAR AS PUBLIC--DON'T YELL AT ME, CREIGHTON GRADS--BUT ONE UNIVERSITY. WE'RE DIVERSE, WE'RE SPREAD OUT. IT'S URBAN VERSUS RURAL AGAIN. A FEW URBAN REGENTS ARE GOING TO PICK THEIR MAN. THEY'VE GOT ENOUGH POWER, ENOUGH MONEY, WHY NOT? I GUESS THAT'S THE WAY WE LOOK AT THINGS IN NEBRASKA NOW. ANOTHER UNIQUE THING ABOUT NEBRASKA: WE'RE A UNICAMERAL. AND GUESS WHO THE SECOND HOUSE IS? IT'S THE PEOPLE. THE PEOPLE NEED TO BE INVOLVED IN EVERY ISSUE WE DO BECAUSE THEY ARE THE SECOND HOUSE OF OUR GOVERNMENT. THIS TAKES THAT AWAY. THAT BLANKS THEM OUT AGAIN. I LOOKED UP, HAD MY AIDES LOOK, KIND OF ODD, MAYBE IT'S NOT A GOOD STATEMENT ON THE UNIVERSITY OF NEBRASKA, BUT OF THE 49 SENATORS, 20 HOLD A DEGREE FROM THE UNIVERSITY SYSTEM--20. TWENTY-NINE OF YOU ARE GOING TO MAKE A POINT. SOME OF YOU MOVED INTO THE STATE. FINE. WE ACCEPT IMMIGRANTS AND I GUESS WE ELECT YOU TOO. BUT YOU'RE GOING TO MAKE A DECISION THAT YOU KNOW NOTHING ABOUT THE SYSTEM, YOU WERE NEVER PART OF IT, YOU NEVER TOOK THE HONOR OF GRADUATING FROM THAT HIGH SCHOOL AND WANTING TO GO TO THE UNIVERSITY SYSTEM, AND YOU'RE GOING TO GO ALONG FOR THE RIDE. YOU'RE GOING TO SAY, WELL, IF THAT'S WHAT THEY WANT, WE'LL GIVE IT TO THEM. WELL, I'M PROUD OF MY DEGREE FROM THE UNIVERSITY. AND I'M PROUD THAT IT'S A PUBLIC UNIVERSITY. AND IT NEEDS TO STAY THAT WAY. NOT ONE PERSON HAS ASKED ME, OF MY CONSTITUENTS, WE NEED TO PICK THE PRESIDENT SECRETLY, WE NEED TO PICK THAT CHANCELLOR SECRETLY. SO WE GOT ONE OR TWO REGENTS WITH A LOT OF MONEY SAYING, I WANT TO PICK THEM. AND WE AND THE STATE OF NEBRASKA WATCH, WATCH THE SMALL EARTHQUAKE WHEN A WHOLE BUNCH OF SENATORS JUMP WHEN A COUPLE OF RICH GUYS TELL THEM TO JUMP,... [LB1109]

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SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR GROENE: ...WHEN THEY LAND AGAIN, BECAUSE THAT'S WHAT WE GOT HERE. THAT'S WHAT WE GOT HERE. THAT'S WHAT'S GOING ON AND THAT'S WHAT'S HAPPENING. THERE'S NOTHING WRONG WITH THE PRESENT SYSTEM. I'VE BEEN READING THE ARTICLES IN THE PAPERS ABOUT THE CANDIDATES, PROUD CANDIDATES, ALL OF THEM WILLING TO STEP FORWARD. I WANT A PRESIDENT OR A CHANCELLOR OF MY UNIVERSITY SYSTEM WHO BELIEVES IN TRANSPARENCY AND WILL STEP FORWARD, HAS THE COURAGE TO STEP FORWARD AND ENOUGH CONFIDENCE IN THEIR ABILITIES THAT THEY WILL DO SO AND APPLY FOR A JOB. THAT'S WHAT MAKES NEBRASKA GREAT. DO WE NEED TO GO IN THE WEEDS, IN THE DARK ROOM AND START APPOINTING PEOPLE? I GUESS THAT'S WHERE WE'RE HEADED. THANK YOU. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR GROENE. (VISITORS INTRODUCED.)  
SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB1109]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, I SAID I WOULD READ SOME ITEMS. THIS WAS IN THE WORLD-HERALD, MARCH 1, BY FRANK LoMONTE. "THE WRITER IS AN ATTORNEY AND EXECUTIVE DIRECTOR OF THE STUDENT PRESS LAW CENTER, A WASHINGTON-BASED NONPROFIT ADVOCATE FOR OPEN GOVERNMENT IN SCHOOLS AND COLLEGES." HERE IS WHAT HE WROTE. "HIRING THE PRESIDENT OF A MAJOR PUBLIC UNIVERSITY HAS INCREASINGLY BEGUN TO RESEMBLE A CHEAP SPY NOVEL--COMPLETE WITH DISGUISES, SHREDDED DOCUMENTS AND SECRET AIRPORT MEET-UPS. THESE OBSESSIVELY SECRET SELECTION PROCESSES PRODUCE OBSESSIVELY SECRETIVE PRESIDENTS, WHO RUN THEIR INSTITUTIONS WITH DISREGARD FOR PUBLIC ACCOUNTABILITY. NEBRASKA HAS BEEN A NOTEWORTHY EXCEPTION. BUT ITS LEGISLATURE IS ON THE VERGE OF JOINING THE 'RACE TO THE BOTTOM' OF STATES DEPRIVING THE PUBLIC OF INPUT INTO THE CHOICE OF SOME OF THEIR COMMUNITIES' MOST POWERFUL AND HIGHEST-PAID GOVERNMENT OFFICIALS. BEFORE A PERSON IS HANDED A \$400,000-A-YEAR STATE PAYCHECK AND THE KEYS TO A \$1.2 BILLION BUDGET, THE PUBLIC HAS A RIGHT TO KNOW WHETHER THE BEST CANDIDATE WAS CHOSEN OR WHETHER SUPERIOR CONTENDERS GOT PASSED OVER. BUT NEBRASKA'S LB1109 WOULD CLOSE OFF ALL MEANINGFUL PUBLIC ACCESS TO PRESIDENTIAL SEARCHES, LEAVING THE PUBLIC WITH A SINGLE DONE...'FINALIST'--AND NO CLUE ABOUT WHETHER THE PROCESS WAS FAIR. IN SOME PARTS OF THE COUNTRY, COLLEGE TRUSTEES HAVE GONE TO COMICAL AND AT TIMES HIGHLY QUESTIONABLE LENGTHS TO KEEP THE PUBLIC UNINFORMED ABOUT PRESIDENTIAL HIRING.

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MEMBERS OF THE KENT STATE (OHIO) SEARCH COMMITTEE SHREDDING THEIR NOTES TO EVADE A PUBLIC-RECORDS REQUEST. TRUSTEES AT LOUISIANA STATE WENT TO THE BRINK OF JAIL IN DEFYING A JUDGE'S ORDER TO SURRENDER THE LIST OF PRESIDENTIAL FINALISTS. A UNIVERSITY OF MICHIGAN TRUSTEE WORE A DISGUISE TO ESCORT THE SOON-TO-BE PRESIDENT ON A CAMPUS TOUR, "FEARFUL OF BEING OUTED. "WHEN THE CITIZENS OF A MAJOR UNIVERSITY CAMPUS ARE HANDED A PIG-IN-A-POKE PRESIDENT AFTER A CLOSED SEARCH, IT'S LIKE TELLING THE RESIDENTS OF A 40,000-PERSON CITY THAT THEIR MAYOR HAS JUST BEEN PICKED FOR THEM IN A SMOKE-FILLED ROOM. THESE SECRET SEARCHES HAVE BEEN PUSHED ON STATE LEGISLATORS BY WELL-PAID 'HEADHUNTING' CONTRACTORS, WHO DOMINATE THE HIRING PROCESS SO THAT THE PARTICIPATION OF CAMPUS SEARCH COMMITTEES IS AN EMPTY FORMALITY. CLOSED-DOOR SEARCHES ARE A PROVEN FAILURE. THEY'VE RESULTED IN DISASTROUS MISMATCHES WHEN UNQUALIFIED STRANGERS WERE PLOPPED INTO UNFAMILIAR CAMPUSES. LOOK NO FURTHER THAN THE," NEIGHBORING, "UNIVERSITY OF MISSOURI, WHERE FORMER PRESIDENT TIM WOLFE'S FAILED PRESIDENCY WAS PREORDAINED BY A SECRETIVE SEARCH WITHOUT PUBLIC INPUT. IT TURNED OUT THAT WOLFE HAD NO APTITUDE FOR, OR INTEREST IN, INTERACTING WITH ACTUAL COLLEGE STUDENTS--A FACT THAT WOULD HAVE BECOME APPARENT IF MISSOURI HAD CONDUCTED A TRANSPARENT SEARCH, BRINGING MULTIPLE CANDIDATES TO CAMPUS FOR A TEST-DRIVE. THE ONLY RATIONALE OFFERED FOR EXCLUDING THE PUBLIC FROM PRESIDENTIAL SEARCHES IS THAT SITTING UNIVERSITY PRESIDENTS WILL NOT RISK THEIR EXISTING JOBS BY APPLYING FOR A NEW ONE. THINK ABOUT WHAT THAT'S REALLY PROTECTING: THE RIGHT OF A PRESIDENT TO DECEIVE HIS CURRENT CAMPUS ABOUT HIS INTEREST IN LEAVING. IS THAT REALLY SOMETHING WE CARE ABOUT ENOUGH TO ACCEPT THE TRADE-OFF OF ILL-MATCHED PRESIDENTS WHO'VE BEEN POORLY SCREENED? NOR IS THERE ANY INDICATION FROM RECENT SEARCHES THAT A CLOSED-DOOR PROCESS SUCCEEDS IN LURING AWAY OTHER COLLEGES' SUPERSTAR PRESIDENTS." [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR CHAMBERS: "IT DIDN'T HAPPEN AT PURDUE, WHERE THE GOVERNOR WHO HAD APPOINTED THE MAJORITY OF THE TRUSTEES, MITCH DANIELS, SNATCHED THE PRESIDENCY FOR HIMSELF. IT DIDN'T HAPPEN AT THE UNIVERSITIES OF GEORGIA, TEXAS, OR WASHINGTON, WHERE IN-HOUSE CANDIDATES WERE ELEVATED. AND IT DIDN'T HAPPEN AT THE UNIVERSITY OF IOWA, WHERE A FORMER RESTAURANT EXECUTIVE WITH NO UNIVERSITY EXPERIENCE, J. BRUCE HARRELD HAS LIMPED INTO A PRESIDENCY FATALLY



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WOUNDED," BEFORE IT BEGAN, "BY AN ILLEGITIMATE SEARCH PROCESS." I'LL FINISH THIS WHEN I CLOSE OR IF SOMEBODY GIVES ME TIME. BUT I WANT IT KNOWN THAT WHAT NEBRASKA IS DOING IS SEEN AROUND THE COUNTRY. THERE ARE PEOPLE WHO ARE VERY FAMILIAR WITH THESE ACTIVITIES AND HAVE SEEN WHERE THE CLOSED-DOOR SEARCHES HAVE NOT PRODUCED THE BEST CANDIDATES. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR CHAMBERS. SENATOR BLOOMFIELD, YOU ARE RECOGNIZED. [LB1109]

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. THE TWO NO VOTES IN THE COMMITTEE HAVE ALREADY SPOKEN. I DID NOT VOTE OUT OF COMMITTEE. THE SYSTEM WE HAVE SEEMS TO HAVE WORKED. I THINK HANK BOUNDS IS A FABULOUS FIND FOR THE STATE OF NEBRASKA. HE CAME OUT WITH THREE OTHERS. I VOTED...OR I DIDN'T VOTE, BECAUSE I'VE SEEN THE SYSTEM WE'VE HAD ABUSED ALSO. I THINK IT WAS TWO, MAYBE THREE, YEARS AGO DURING THE SEARCH WHERE THEY KIND OF DECIDED WHO THEY WANTED AND THREW A BUNCH OF NAMES IN THE HAT THAT REALLY DIDN'T AMOUNT TO MUCH, THEN PICKED WHO THEY WANTED. AND THAT CAN BE DONE NOW. THEY CAN THROW IN FOUR TOTALLY UNQUALIFIED PEOPLE, DECLINE TO HIRE ANY OF THEM, THEN THEY HAVE AN OPEN PATH. THEY DON'T HAVE TO PICK FOUR MORE. SO THERE ARE TWO SIDES TO THIS ISSUE. I DID NOT VOTE OUT OF COMMITTEE. I'M GOING TO SIT AND LISTEN TODAY, AND I VERY WELL MAY NOT VOTE AGAIN. BUT THE SYSTEM WE HAVE SEEMS TO HAVE WORKED WITH RARE EXCEPTIONS, BUT IT NEEDS TIGHTENED UP A LITTLE BIT TOO. SO THIS IS A BIT OF A THORNY ISSUE. LET'S CONTINUE THE CONVERSATION ON IT, BECAUSE THERE ARE 49 BODIES THAT HAVE TO MAKE THAT DECISION. IT'S NOT THE UNIVERSITY'S DECISION. IT'S OURS. I WOULD YIELD MY TIME TO SENATOR CHAMBERS THIS ONE TIME, MR. PRESIDENT. [LB1109]

SENATOR KRIST: SENATOR CHAMBERS, 3:00. [LB1109]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR BLOOMFIELD. TO FINISH THIS ARTICLE, THIS COLUMN, "HAVING DECIDED ON HARRELD BEHIND CLOSED DOORS, IOWA'S REGENTS RUSHED THROUGH THE LEGALLY REQUIRED SERIES OF ON-CAMPUS FINALIST INTERVIEWS JUST 48 HOURS BEFORE MAKING THEIR CHOICE, GUARANTEEING THAT THE PUBLIC WOULD HAVE NO MEANINGFUL OPPORTUNITY TO VET ANY OF THE

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CANDIDATES. THEN THEY," WHOLLY, "IGNORED PUBLIC SENTIMENT THAT HARRELD WAS THE LEAST-QUALIFIED CONTENDER. IS IT TRUE THAT FEWER CANDIDATES WILL APPLY IN PUBLICLY VISIBLE SEARCHES? NO DOUBT, JUST AS THERE'S NO DOUBT MORE PEOPLE WOULD APPLY TO DRIVE TAXIS IF VALID DRIVER LICENSES WEREN'T REQUIRED, OR (SIC--AND) MORE PEOPLE WOULD APPLY TO BE COPS IF THEY (SIC--WE) DID AWAY WITH CRIMINAL BACKGROUND CHECKS. SOMETIMES 'MORE APPLICANTS' ISN'T REALLY BETTER. IF PRESIDENTIAL SEARCHES REMAIN OPEN, HERE'S WHO WON'T APPLY: (1) PEOPLE SO ARROGANT THEY CAN'T STAND THE THOUGHT OF LOSING; (2) PEOPLE WHOSE BACKGROUNDS WON'T HOLD UP TO PUBLIC SCRUTINY AND (3) PEOPLE WITH CONTEMPT FOR OPEN GOVERNMENT. THAT VALUABLE WEED-OUT FUNCTION IS A GOOD ENOUGH REASON FOR THE LEGISLATURE AND GOVERNOR PETE RICKETTS TO REJECT LB1109 AND KEEP THE SUN SHINING ON NEBRASKA'S CAMPUSES." THOSE ARE VERY COGENT ARGUMENTS. AND BECAUSE FORMER GOVERNOR HEINEMAN HAD HIMSELF PUBLICLY DECLARED AN INTEREST IN BECOMING THE NEXT PRESIDENT OF THE UNIVERSITY, I WAS ABLE TO PUT TOGETHER A DOCUMENT, MAYBE THREE DOZEN PAGES, WHICH EVEN REGENTS MADE USE OF, PROFESSORS AT THE UNIVERSITY MADE USE OF, BECAUSE I DOCUMENTED VARIOUS THINGS IN FORMER GOVERNOR HEINEMAN'S BACKGROUND IN HOW HE CONDUCTED HIS GOVERNORSHIP THAT SHOWED HE DID NOT HAVE THE TEMPERAMENT, THE DISPOSITION, OR THE QUALIFICATIONS TO BE PRESIDENT OF THE UNIVERSITY. I CAN'T SAY THAT THAT MADE THE DIFFERENCE, BUT THERE WERE COMMENTS MADE TO ME THAT SUGGEST IT MADE A DIFFERENCE. HAD I NOT BEEN AWARE THAT HE WAS GOING TO SEEK THE PRESIDENCY, I COULD NOT PRESENT INFORMATION... [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR CHAMBERS: ...THAT THOSE INDIVIDUALS DID NOT HAVE, THEY MAY NOT HAVE HAD ACCESS TO. AND ANYBODY WHO IS SO TENDER IN HIS OR HER FEELINGS, SO SENSITIVE THAT HE OR SHE CANNOT WITHSTAND PUBLIC SCRUTINY IN SEEKING THE JOB, HOW WILL THAT PERSON WITHSTAND THE WINDS, POLITICAL AND OTHERWISE, THAT MAY BLOW AGAINST A PERSON SITTING AS PRESIDENT OF A UNIVERSITY SUCH AS NEBRASKA? THE VERY FACT THAT NEBRASKA HAS JOINED THE BIG TEN, WITH ALL THE PRAISE THAT SENATOR HADLEY BESTOWED ON THAT CONFERENCE, NEBRASKA SHOULD BE A CITY SET ON A HILL THAT SHOWS A BETTER WAY INSTEAD OF A TAG-ALONG LEMMING. THANK YOU, MR. PRESIDENT. [LB1109]

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SENATOR KRIST: THANK YOU, SENATOR CHAMBERS. SEEING NO ONE ELSE IN THE QUEUE, SENATOR CHAMBERS, YOU'RE RECOGNIZED TO CLOSE ON YOUR IPP MOTION. [LB1109]

SENATOR CHAMBERS: THANK YOU. MEMBERS OF THE LEGISLATURE, I CAN CERTAINLY UNDERSTAND WHY MANY PEOPLE WOULD FEEL THAT THIS ISSUE, WHICH HAS RECEIVED SO MUCH PUBLICITY, SO MUCH DISCUSSION, THAT IT SHOULD NOT BE DISPATCHED IN THE WAY THAT I'M SEEKING TO DO IT. BUT WHAT I INTEND TO DO EVERY TIME I'M OPPOSED TO A BILL TO THE EXTENT I'M OPPOSED TO THIS ONE, IS TO SHOW THAT FOR ME THE LINE WAS DRAWN IN THE SAND, MAYBE FOR NOBODY ELSE. BUT FROM THE VERY BEGINNING, AT THE FIRST OPPORTUNITY TO SHOW MY OPPOSITION, I WILL DO IT. AND THIS MOTION IS THE FIRST OPPORTUNITY TO HAVE THE CHANCE TO SPEAK ON THE BILL, EVEN BEFORE THE ONE WHO INTRODUCED IT. AND I SHALL CONTINUE TO FIGHT AGAINST THIS BILL. WE WILL WATCH THE VOTE AND MAYBE SOMETHING CAN BE DETERMINED BY IT AND MAYBE NOT. BUT I'LL TELL YOU ONE THING THAT WILL NOT BE DETERMINED BY IT: THE EXTENT, THE LENGTH, AND THE FEROCITY OF MY OPPOSITION TO THIS VERY BAD BILL. WE OFTEN HEAR THE WORD "TRANSPARENCY" USED. OFTEN THOSE WHO USE IT ARE NOT...I'M NOT TALKING ABOUT SENATOR GROENE. HE USES THE TERM SOMETIMES THAT IT GETS ON MY NERVES BECAUSE I THINK HE BRINGS IT UP FOR AREAS WHERE THERE SHOULDN'T BE, ADMITTEDLY SHOULDN'T BE, WHICH I WILL ACKNOWLEDGE. BUT YOU CANNOT SAY THAT THERE IS TRANSPARENCY AND NOT TRANSPARENCY WHEN THERE IS NO TRANSPARENCY WHATSOEVER IN WINNOWING THE FIELD, BUT TRANSPARENCY EXISTS WHEN THEY PRESENT YOU ONE. HOW DO YOU MAKE A CHOICE? TAKE IT OR LEAVE IT. A VALID CHOICE PRESENTS ALTERNATIVES OTHER THAN TAKE IT OR LEAVE IT. YOU NEED AT LEAST TWO TO HAVE A VALID, MEANINGFUL CHOICE. THERE ARE NUMEROUS CONDEMNATIONS ABOUT THESE SO-CALLED AUTHORITARIAN OR TOTALITARIAN GOVERNMENTS WHERE ONE PERSON IS AVAILABLE TO BE VOTED FOR, FOR PRIME MINISTER, PRESIDENT, OR WHATEVER THEY TERM THE LEADER OF THAT PARTICULAR COUNTRY. BUT THAT PRINCIPLE IS NOT APPLIED ACROSS THE BOARD WHEN IT COMES TO HOW THINGS ARE DONE IN AMERICA. THIS IS NOT THE LEADERSHIP OF A GROUP OF PROFESSORS WHO HAVE THEIR OWN ORGANIZATION. THIS IS FOR A PERSON WHO GETS HUNDREDS OF THOUSANDS OF DOLLARS IN PUBLIC MONEY AS A SALARY TO RUN A PUBLIC INSTITUTION WHOSE BUDGET EXCEEDS A BILLION DOLLARS. AND THAT'S TO BE DONE UNDER COVER OF DARKNESS, IN SECRET, AND THE PUBLIC ARE TOLD TAKE HIM OR HER OR LEAVE HIM OR HER. THAT IS NOT THE WAY THINGS SHOULD BE DONE. AND ON A UNIVERSITY CAMPUS, WHERE THEY SPEND SO MUCH TIME TALKING

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ABOUT DIVERSITY, NOT ONLY RACIAL DIVERSITY, BUT WHEN IT COMES TO DIFFERENT POINTS OF VIEW, DIFFERENT PHILOSOPHIES, DIFFERENT IDEOLOGIES, IN OTHER WORDS, HAVING ALL OF THESE CONTENDING OPPOSITES AND DIFFERENT GROUPS CONTEND FOR ACCEPTANCE IN WHAT IS CALLED THE MARKETPLACE OF IDEAS. BUT IN THIS PLACE, WHERE THE NOTION OF THE MARKETPLACE OF IDEAS, OPENNESS, TRANSPARENCY ARE HERALDED AND LAUDED, THAT VERY PLACE WANTS TO BE ALLOWED TO OBSERVE THAT PRINCIPLE BY BREACHING IT,... [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR CHAMBERS: ...BY CASTING IT ASIDE. WE WILL HAVE PLENTY OF OPPORTUNITIES AND WE'LL HAVE THE OPPORTUNITY TO HEAR SENATOR HADLEY GO INTO MORE DETAIL ABOUT HOW YOU HAVE TRANSPARENCY WHEN YOU HAVE ONLY ONE PERSON TO LOOK AT, AND HOW GETTING INTO THE BIG TEN IS SO IMPORTANT THAT NEBRASKA OUGHT TO JETTISON A PRINCIPLE THAT SHOULD DISTINGUISH IT, OR ANY UNIVERSITY, FROM THE REST OF THE HERD. SO I WILL NOT ACCEPT QUIETLY AND DOCILELY A VOTE AGAINST THIS MOTION BECAUSE I'VE ALREADY GOT MY RECONSIDERATION MOTION BEING DRAFTED. SO WHEN I'M NOT VOTING, IT'S NOT THAT I'M AGAINST MY OWN MOTION. I HAVE TO BE IN THE PARLIAMENTARY POSITION TO MAKE MY MOTION TO RECONSIDER, AND I'LL BE MAKING MOTIONS. I'LL EVEN OFFER AMENDMENTS IN ORDER THAT I WILL HAVE PLENTY OF OPPORTUNITIES TO SPEAK WITHOUT ANYBODY HAVING TO YIELD TIME TO ME. [LB1109]

SENATOR KRIST: TIME. [LB1109]

SENATOR CHAMBERS: MR. PRESIDENT, I WOULD ASK THAT WE HAVE A CALL OF THE HOUSE AND I'LL TAKE A MACHINE VOTE. THANK YOU. [LB1109]

SENATOR KRIST: THERE HAS BEEN A REQUEST TO PLACE THE HOUSE UNDER CALL. THE QUESTION IS, SHALL THE HOUSE BE UNDER CALL? ALL THOSE IN FAVOR VOTE AYE; OPPOSED, NAY. PLEASE RECORD, MR. CLERK. [LB1109]

CLERK: 31 AYES, 0 NAYS, MR. PRESIDENT, TO PLACE THE HOUSE UNDER CALL. [LB1109]

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SENATOR KRIST: THE HOUSE IS UNDER CALL. SENATORS PLEASE RECORD YOUR PRESENCE. THOSE UNEXCUSED SENATORS OUTSIDE THE CHAMBER PLEASE RETURN TO THE CHAMBER AND RECORD YOUR PRESENCE. ALL UNAUTHORIZED PERSONNEL PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. SENATOR MORFELD, SENATOR COASH, SENATOR KINTNER, SENATOR FRIESEN, PLEASE RETURN TO THE CHAMBER. THE HOUSE IS UNDER CALL. EVERYONE IS ACCOUNTED FOR. I UNDERSTAND YOU WANT A RECORD VOTE, SENATOR CHAMBERS? [LB1109]

SENATOR CHAMBERS: YES. [LB1109]

SENATOR KRIST: AND A MACHINE VOTE? [LB1109]

SENATOR CHAMBERS: YES. [LB1109]

SENATOR KRIST: OKAY, MR. CLERK. THE MOTION BEFORE YOU IS THE INDEFINITELY POSTPONE. THOSE IN FAVOR VOTE AYE; OPPOSED, NAY. HAVE ALL THOSE VOTED THAT WISH TO? PLEASE RECORD, MR. CLERK. [LB1109]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 892.) 5 AYES, 34 NAYS, MR. PRESIDENT, ON THE MOTION TO INDEFINITELY POSTPONE. [LB1109]

SENATOR KRIST: MOTION FAILS. MR. CLERK. [LB1109]

CLERK: WOULD YOU LIKE TO RAISE THE CALL, MR. PRESIDENT? [LB1109]

SENATOR KRIST: RAISE THE CALL, PLEASE. [LB1109]

CLERK: MR. PRESIDENT, I HAVE A PRIORITY MOTION. SENATOR CHAMBERS WOULD MOVE TO RECONSIDER THE VOTE JUST TAKEN WITH RESPECT TO INDEFINITELY POSTPONING THE BILL. [LB1109]

SENATOR KRIST: SENATOR CHAMBERS, YOU'RE RECOGNIZED ON YOUR MOTION. [LB1109]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE, ALL THAT VOTE SHOWS IS THAT YOU WANTED TO TEACH ME A

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LESSON WHICH I DID NOT LEARN. BUT I'LL TELL YOU WHAT, THIS COULD BE THE TIME AND THIS COULD BE THE BILL TO TEST ME AND SEE IF I CAN DELIVER ON WHAT I SAID, THAT I WILL FIND A WAY TO TALK AND TALK AND TALK TILL WE RUN OUT OF TIME. IT'S 10:33. YOU'LL PROBABLY TAKE A BREAK AT NOON. THAT'S ONLY AN HOUR AND A HALF. THERE ARE MOTIONS THAT I CAN OFFER WITHOUT HAVING TO OFFER AMENDMENTS TO THE BILL AND THAT'S WHAT I INTEND TO DO. BUT AS I STATED EARLIER, THERE ARE THINGS THAT I SHALL READ SO THEY WILL BE IN THE RECORD, AND IF THEY'RE NOT READ HERE THEY WILL NOT BE OTHERWISE. THERE WERE PEOPLE WHO TESTIFIED AGAINST THIS BILL AND I THINK I'M GOING TO READ THE TESTIMONY OF TWO PEOPLE, BECAUSE I'M SURE THAT THEY CAN STAND FOR THEMSELVES SHOULD ANYBODY CALL THEM TO QUESTION...CALL THEM IN QUESTION. THIS PERSON'S LAST NAME IS SPELLED K-R-O-E-G-E-R. THIS IS THE TESTIMONY THAT WAS WRITTEN AND PRESENTED TO THE COMMITTEE. CHAIRMAN MURANTE, COMMITTEE MEMBERS, THANK YOU FOR THE OPPORTUNITY TO SPEAK TO YOU TODAY. I AM TERRY KROEGER--AND HE SPELLED HIS NAME K-R-O-E-G-E-R--AND I AM THE PUBLISHER OF THE OMAHA WORLD-HERALD AND THE PRESIDENT OF BERKSHIRE HATHAWAY MEDIA GROUP, 1314 DOUGLAS STREET, OMAHA, NEBRASKA, 68102. FIRST, I WANT TO SAY THAT I'M A HUSKER, A PROUD ALUMNUS OF THE UNIVERSITY OF NEBRASKA-LINCOLN, AND A SUPPORTER OF THE UNIVERSITY, BOTH PERSONALLY AND THROUGH OUR COMPANY. I'M ALWAYS INTERESTED IN WHAT'S BEST FOR THE UNIVERSITY, BOTH IN THE SHORT AND LONG TERM. LB1109 IS A SOLUTION IN SEARCH OF A PROBLEM. AS HAS BEEN EARLIER MENTIONED, THE HIRES OF DR. BOUNDS AND DR. GOLD ARE DEEMED GREAT SUCCESSES BY THE BOARD OF REGENTS AND BOTH WERE HIRED UNDER THE PRESENT LAW. I'M GOING TO DIGRESS. BASED ON WHAT I'M HEARING ON THIS FLOOR, DR. BOUNDS IS NOT QUALIFIED, NOR IS DR. GOLD. THEY ARE TWO INCOMPETENTS WHO ARE NOT GOING TO KEEP THE POSITIONS IF THEY CAME FROM SOMEPLACE ELSE ANYWAY. THEY WERE THE THROWAWAYS. AND SINCE THE BOARD OF REGENTS DECIDED THAT ONE WOULD BE SELECTED FOR ONE THING AND ANOTHER FOR SOMETHING ELSE, THEY HAD TO TAKE WHAT WAS NOT THE BEST OF A BAD LOT BUT THE LEAST WORSE. THAT'S WHAT WE HAVE TO CONCLUDE, BUT I DON'T CONCLUDE THAT. I THINK THAT THE PRESENT SYSTEM NOT ONLY IS CAPABLE OF PRODUCING SOMEBODY WHO IS COMPETENT AND ABLE TO DO THE JOB, BUT IT LETS YOU KNOW IT'S SOMEBODY WHO IS STRONG ENOUGH TO LET HIS OR HER NAME BE OUT THERE. AND ANYBODY FROM AMONG THOSE WHERE HE CAME FROM TO SAY WHATEVER THEY MIGHT WANT TO SAY IN OPPOSITION, FOR ANYBODY WHO KNOWS THAT HE IS ONE OF THOSE BEING CONSIDERED FOR THIS POSITION, WOULD HAVE THE OPPORTUNITY TO EXPRESS, PUBLICLY OR PRIVATELY, TO THOSE WHO ARE GOING TO MAKE THE ULTIMATE DECISION OPPOSITION. SO

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UNDER THE PRESENT SYSTEM, TWO PEOPLE WERE HIRED BY THE UNIVERSITY, BOTH OF WHOM APPARENTLY ARE DEEMED TO BE COMPETENT. CONTINUING WITH THAT TESTIMONY: FURTHER, THE IDEA OF INTRODUCING ONE "PRIORITY CANDIDATE" IS INTERESTING, BUT TRULY ROBS THE PUBLIC OF ANY ABILITY TO MAKE A COMPARISON WITH OTHER APPLICANTS. PUT ANOTHER WAY, THIS 30-DAY VETTING PERIOD OF ONE CANDIDATE, SHORT OF A TRULY SCANDALOUS FINDING, IS REALLY WINDOW DRESSING FOR A DECISION THAT IS IN REALITY ALREADY FINAL. I ALSO THINK IT IS IMPORTANT THAT MY OPPOSITION TO THIS BILL DOES NOT PROPOSE TO TAKE THE HIRING DECISION AWAY FROM THE BOARD OF REGENTS AS THEY CARRY OUT THEIR DUTIES. THE RESPONSIBILITY FOR HIRING THESE IMPORTANT OFFICIALS LIES WITH THE BOARD OF REGENTS, AS IS THEIR OBLIGATION. BUT WE BELIEVE THEY ARE ALSO OBLIGATED TO ACCEPT PUBLIC INPUT PRIOR TO MAKING THAT CRITICAL HIRING DECISION. IT IS ALSO IMPORTANT TO CONSIDER THE "SLIPPERY SLOPE" THAT IS ALMOST CERTAINLY CERTAIN TO COME ABOUT IF THIS LB1109 WERE TO BECOME LAW. IT IS NOT DIFFICULT TO BELIEVE THAT SCHOOL BOARDS, CITY COUNCILS, PUBLIC UTILITIES, AND OTHER PUBLIC BOARDS WILL LINE UP TO FOLLOW THIS PRECEDENT. PROPONENTS OF THIS BILL WILL EMPHASIZE THAT THIS BILL IS ONLY ABOUT THE UNIVERSITY LEADERSHIP POSITIONS. BUT THE PRECEDENT THAT IS BEING SET IS SERIOUS AND ALARMING TO ANYONE INTERESTED IN THE PUBLIC'S RIGHT TO KNOW. THE PUBLIC'S RIGHT TO KNOW WHAT ITS PUBLIC INSTITUTIONS ARE DOING IS ONE OF THE FOUNDING PRINCIPLES OF THIS COUNTRY. THAT TRADITION AND PRACTICE HAS BENEFITED THE CITIZENS OF NEBRASKA FOR GENERATIONS, AND THE PASSAGE OF THIS BILL TURNS ITS BACK ON THAT TRADITION IN FAVOR OF VESTING POWER IN A SMALL NUMBER OF POWERFUL INDIVIDUALS. I AM GRATEFUL FOR THE OPPORTUNITY TO ADDRESS YOUR COMMITTEE AND URGE YOU TO REJECT LB1109 AS IT SIGNIFICANTLY DIMINISHES THE PUBLIC INTEREST AND OUR COLLECTIVE ABILITY TO OBSERVE THE IMPORTANT WORK OF OUR GOVERNMENT. THE REASON, BROTHERS AND SISTERS, FRIENDS, ENEMIES, AND NEUTRALS, THAT I WANT THIS INFORMATION IN THE PUBLIC RECORD IS SO THAT PEOPLE WHO WATCH US WILL BE AWARE OF WHAT WE HAD AT OUR DISPOSAL WHEN WE DO MAKE OUR DECISION. AND SHOULD THE LEGISLATURE BY A MAJORITY--AND THEY'LL HAVE TO GET THAT SUPERMAJORITY OF 33 TO INVOKE CLOTURE--IF BY A SUPERMAJORITY OF 33 MEMBERS OF THIS BODY THE NOTION OF TRANSPARENCY IS CAST ASIDE, THEY WILL KNOW, THEY WILL HAVE AN OPPORTUNITY TO HAVE LISTENED TO THE DEVELOPMENTAL DISCUSSION THAT LED TO SUCH A WRONGFUL DECISION. AND IT IS MY RESPONSIBILITY AS A MEMBER OF THE LEGISLATURE TO SEE THAT TAKES PLACE. WHAT DO I MEAN BY MY RESPONSIBILITY AS A LEGISLATOR? FIRST OF ALL, THE OFFICE OF STATE SENATOR DOES NOT BELONG TO ANYBODY

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IN A PROPRIETARY SENSE OF THE TERM. EVEN IF WE HAVE BEEN HERE FOR A LONG TIME, WE DO NOT HAVE OWNERSHIP OF THAT POSITION. WE DO WHAT WE THINK WE OUGHT TO DO IN THE WAY WE THINK WE OUGHT TO DO IT. SOME PEOPLE MAY OPERATE FROM WHAT COULD BE CALLED ALTRUISTIC MOTIVES. THEY WANT TO DO WHAT THEY GENUINELY BELIEVE IS IN THE BEST INTEREST OF THE PUBLIC. SINCE THEY CANNOT KNOW WHAT EVERYBODY WHO IS A MEMBER OF THE PUBLIC IS DESIROUS OF HAVING DONE, THAT STATEMENT IS NARROWED A BIT TO SAY WHATEVER APPEARS TO BE THE GREATEST GOOD FOR THE GREATEST NUMBER, NOT LIKE A POPULARITY CONTEST WHERE THOSE WHO FEEL A CERTAIN WAY SHOULD GET THEIR WAY BECAUSE THERE ARE MORE OF THEM ON THAT SIDE THAN PEOPLE ON THE OTHER SIDE. IT MEANS THAT A PERSON WILL OBTAIN INFORMATION, ANALYZE IT, EVALUATE IT, AND DETERMINE WHETHER ACTION IS NECESSARY, AND IF THERE IS ACTION NECESSARY, TO CLEARLY DEFINE THE PROBLEM OR, AS THE COURTS SAY, THE EVIL THAT IS TO BE REMEDIED AND MAKE SURE THAT THE REMEDY IS GEARED TO ADDRESS THAT PARTICULAR PROBLEM OR EVIL. IF THAT HAS BEEN DONE, THE RECORD IS THEN AVAILABLE FOR ANYBODY TO EXAMINE. FROM BEING IN THIS LEGISLATURE GOING ON 42 YEARS, I KNOW THAT WISDOM DOES NOT ALWAYS PREVAIL... [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR CHAMBERS: ...OVER UNWISDOM. KNOWLEDGE DOES NOT ALWAYS PREVAIL OVER IGNORANCE. TRUTH DOES NOT ALWAYS PREVAIL OVER FALSEHOOD. BUT YOU DO THE BEST YOU CAN WITH WHAT YOU HAVE TO WORK WITH. SO IF SUCH A PERSON WHO CONSIDERS THESE NOTIONS WINDS UP IN THE LEGISLATURE, THEN THAT PERSON SHOULD BE VERY HONEST WHEN HE OR SHE SEEKS THIS OFFICE AND WHEN TIME COMES TO PUT HIS OR HER NAME BEFORE THE PUBLIC TO BE VOTED ON, LET PEOPLE KNOW STRAIGHTFORWARDLY IN WAYS THAT CAN BE UNDERSTOOD WHAT HIS OR HER POSITIONS ARE ON ANY ISSUE THAT MAY BE PRESENTED, HOW HE OR SHE WOULD BE LIKELY TO VOTE IF HE OR SHE HAD ALL OF THE INFORMATION AT HIS OR HER DISPOSAL. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR CHAMBERS. SENATOR MURANTE, YOU'RE RECOGNIZED. [LB1109]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT. MEMBERS, GOOD MORNING. I RISE IN OPPOSITION TO THE RECONSIDERATION MOTION AND CONTINUED



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SUPPORT OF LB1109. I EAGERLY AWAIT THE OPPORTUNITY TO BEGIN DISCUSSION ON LB1109. I KNOW THERE ARE MANY MEMBERS IN THIS BODY WHO HAVE STATED THEIR DESIRE TO STAND UP AND SPEAK ON THE MERITS OF THE ISSUE AND THEIR PERSONAL EXPERIENCES AS TO WHY LB1109 IS GOOD PUBLIC POLICY, AND I SUSPECT THAT TIME WILL BE COMING VERY SOON. SENATOR CHAMBERS, I DON'T DOUBT YOUR ABILITY TO TALK FOR SIX HOURS ON THIS OR ANY OTHER ISSUE, EVEN IF YOU DIDN'T HAVE SUPPORT, ALTHOUGH I SUSPECT THAT YOU WILL HAVE SOME. BUT I DO WANT TO THANK THE MEMBERS WHO VOTED AGAINST THE MOTION TO INDEFINITELY POSTPONE AND THOSE WHO HAVE...THOSE WHO DID NOT VOTE AGAINST IT BUT WHO ARE IN SUPPORT OF THE BILL. WE WILL HAVE A GOOD PUBLIC POLICY DISCUSSION TODAY. UNDOUBTEDLY, THE OPPONENTS OF THIS BILL WILL CONTINUE REFERRING TO THE PROCESS OUTLINED IN LB1109 AS CLOSED, AS SECRETIVE, AS SOMEHOW INCONSISTENT WITH THE TRANSPARENT NATURE OF THIS BODY. I WILL TELL YOU, I DISAGREE. I DON'T BELIEVE THAT A PROCESS THAT INCLUDES MULTIPLE PUBLIC HEARINGS IS A CLOSED ONE. I DON'T BELIEVE THAT A PROCESS THAT INCLUDES SOLICITING INPUT IS A CLOSED ONE. I DON'T BELIEVE THAT A PROCESS WHICH MANDATES THAT THE NEXT PRESIDENT OR CHANCELLOR OF THE UNIVERSITY OF NEBRASKA HAS TO ANSWER QUESTIONS FROM THE FACULTY, THE STUDENTS, AND THE STAFF OF THAT UNIVERSITY, IS A CLOSED PROCESS. AND WE'LL GET TO ALL OF THOSE POINTS, HOPEFULLY, SOONER RATHER THAN LATER. WE'LL OUTLINE EXACTLY WHAT LB1109 DOES AND DOES NOT DO. I BELIEVE THAT IT IS A GOOD STEP FORWARD. I DO THINK IT'S IMPORTANT TO NOTE THAT THIS IS NOT AN ISSUE THAT IS PAROCHIAL TO A FEW RICH REGENTS FROM OMAHA. THE FACT OF THE MATTER IS THE BOARD OF REGENTS HAS VOTED UNANIMOUSLY TO SUPPORT THIS PROPOSAL. IT MAY NOT HAVE BEEN THEIR FIRST CHOICE, BUT I THINK AFTER CONSULTATION AND DISCUSSION OVER THE INTERIM AND INTO THIS SESSION, IT IS WHAT IS PROPOSED AS THE BEST PUBLIC POLICY THAT WE CAN GET ENACTED BY THIS LEGISLATURE. I LOOK FORWARD TO THE DISCUSSION AND ENCOURAGE YOUR CONTINUED SUPPORT OF LB1109. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR MURANTE. SENATOR McCOY, YOU'RE RECOGNIZED. [LB1109]

SENATOR McCOY: THANK YOU, MR. PRESIDENT AND MEMBERS. I WANT TO TAKE A MOMENT TO READ PART OF THE TESTIMONY OF A YOUNG LADY, FRESHMAN STUDENT HERE AT UNL WHO TESTIFIED IN OPPOSITION TO LB1109 IN THE GOVERNMENT, MILITARY AFFAIRS COMMITTEE JUST A LITTLE LESS THAN A MONTH AGO. I'M GOING TO READ A COUPLE OF STATEMENTS FROM...OR A

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COUPLE OF HER STATEMENTS FROM HER TESTIMONY. AS STUDENTS AND FUTURE ALUMNI WE REPRESENT THE LARGEST CONSTITUENCY AS WELL AS THE LARGEST FUNDER OF THE UNIVERSITY. WITH OUR MONEY AND TRUST WE MAKE THE UNIVERSITY POSSIBLE. WE DESERVE TO BE INFORMED OF PROCESSES THAT WILL SIGNIFICANTLY IMPACT OUR UNIVERSITY. I THINK THIS SAYS A LOT ABOUT AND HARKENS BACK TO WHAT I SPOKE OF MY FIRST TIME ON THE MICROPHONE THIS MORNING. WE HAVE A WHOLE NEW GENERATION, COLLEAGUES, AS WE ALL KNOW, A WHOLE NEW GENERATION OF NEBRASKA LEADERS. SOME OF THEM ARE BEING EDUCATED AT THE FINE INSTITUTIONS THAT MAKE UP OUR UNIVERSITY SYSTEM. SOME OF THEM, AS WE KNOW, ARE BEING EDUCATED IN THE EXCELLENT COMMUNITY COLLEGES AND PRIVATE COLLEGES AND UNIVERSITIES IN THIS STATE AND ELSEWHERE ACROSS THIS LAND. THOSE YOUNG NEBRASKANS KNOW AND APPRECIATE THE IMPACT THAT THE UNIVERSITY HAS ALWAYS HAD SINCE ITS INCEPTION ON OUR STATE. THEY KNOW AND APPRECIATE, SOME OF THEM, SOME OF THEIR FAMILY MEMBERS, FOR THREE, FOUR, FIVE GENERATIONS ARE GRADUATES OF THE UNIVERSITY SYSTEM. I THINK IT WAS SENATOR BLOOMFIELD TALKED ABOUT 20 OF THE 49 OF US HAVE UNIVERSITY DEGREES OF SOME SORT OR ANOTHER. I'M NOT ONE OF THOSE 20; MY DEGREE COMES FROM BELLEVUE UNIVERSITY. BUT I DIDN'T HAVE TO GRADUATE FROM ONE OF OUR FINE INSTITUTIONS THAT MAKE UP THE UNIVERSITY SYSTEM TO KNOW AND APPRECIATE WHAT THE SYSTEM, UNIVERSITY SYSTEM, MEANS TO OUR STATE IN SO MANY WAYS. SENATOR HADLEY IS CORRECT IN THAT BEING PART OF THE BIG TEN CONFERENCE IS A BIG DEAL. IT IS. THE ACADEMIC REALITIES THAT ARE A PART OF THE BIG TEN MEAN THAT ANY STUDENT THAT GRADUATES FROM A BIG TEN UNIVERSITY IS AUTOMATICALLY--BY ALL ACCOUNTS FROM HUMAN RESOURCE MANAGERS, IF YOU WERE...I THINK ANY OF US WERE TO ASK THEM--AUTOMATICALLY IS IN A PROMINENT POSITION FOR ANY JOB THAT THEY MIGHT APPLY FOR, BECAUSE OF THE RESPECT THAT'S GIVEN TO THE CONFERENCE AS A WHOLE. WE'RE A NEW MEMBER TO THE CONFERENCE BUT WE'RE NOT A NEW UNIVERSITY, OF COURSE. WE TAKE GREAT PRIDE IN OUR UNIVERSITY. ONE OF THE NEATEST THINGS THAT I GOT A CHANCE TO SEE YEARS AGO WAS A BOWL GAME THAT I HAD THE OPPORTUNITY TO BE PART OF IN ANOTHER STATE WHEN NEBRASKA PLAYED ANOTHER FINE BIG TEN UNIVERSITY. OF COURSE, THIS WAS PRIOR TO US JOINING THE BIG TEN. [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR McCOY: AND TO SEE MULTIPLE GENERATIONS...I HAD AN OPPORTUNITY TO ATTEND A PREGAME RALLY, HAD THE OPPORTUNITY TO VISIT WITH AN

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ELDERLY COUPLE FROM NEBRASKA WHO FOR OVER 40 YEARS HAD RARELY EVER MISSED A HOME OR AWAY FOOTBALL GAME. THEY HAD FOUR GENERATIONS OF UNIVERSITY OF NEBRASKA GRADUATES AT THAT GAME. WHAT ALL OF US APPRECIATE IS TRANSPARENCY, RESPONSIBILITY, AND ACCOUNTABILITY. AND WHEN YOU HAVE STUDENTS THAT EXPRESS DISPLEASURE WITH WHERE THIS BILL IS GOING AND THEY'RE OUR FUTURE, THAT IS HIGHLY PROBLEMATIC AND IT'S WHY I DON'T SUPPORT THIS BILL. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR McCOY. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB1109]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE, WHAT THE BOARD OF REGENTS HAS TO REALIZE AND WHAT THE PEOPLE ON THIS FLOOR NEED TO REALIZE, IS THAT THE UNIVERSITY OF NEBRASKA IS NOT A FIEFDOM. THE MEMBERS OF THE BOARD OF REGENTS ARE NOT DUKES, THEY'RE NOT LORDS, THEY DON'T OWN THAT PROPERTY, THEY DON'T OWN THE STUDENTS AND THE FACULTY AS SERFS OR PEONS. TO EVEN CONVEY THAT NOTION BY TAKING SOMETHING LIKE THIS AND SAYING, WELL, THE REGENTS, THEY LIKE IT BECAUSE IT CONCENTRATES POWER IN THEIR HANDS AND THEY'RE ACCOUNTABLE TO NOBODY, IS A MISTAKE IF THE LEGISLATURE GOES ALONG WITH THAT NOTION. SENATOR MURANTE WAS PUT IN A QUANDARY AND DESPITE WHAT HE SAID ABOUT WAITING TO TALK ABOUT THE BILL, HE HAD TO TALK ABOUT THE BILL. I MAKE PEOPLE DO WHAT THEY DON'T WANT TO DO. YOU HEARD HIM GIVE RATIONALES FOR THE BILL. AND THE REST OF YOU ARE GOING TO BE IN A QUANDARY BECAUSE MY INTENT IS TO TAKE THE FULL SIX HOURS. AND IF YOU SPEAK FOR THE BILL, YOU ARE HELPING ME TO FILL THE SIX HOURS. AND, FRANKLY, SENATOR BLOOMFIELD, I VERY MUCH RESENT THAT, BECAUSE I THINK THAT PEOPLE ARE TRYING TO SHOW HOMAGE TO ME BECAUSE OF MY AGE. OR AS SOME PEOPLE SAY--THEY LIKE TO USE FRENCH--THEY'RE PAYING THEIR DEVOIR TO THE VIRTUE OF ACKNOWLEDGING OLD PEOPLE. BUT I WANT THE OLD PEOPLE WATCHING TO SEE THAT BECAUSE YOU'RE OLD, YOU DON'T HAVE TO THROW IN THE TOWEL. YOU DON'T HAVE TO SIT IN A CHAIR AND IN THE MORNING ROCK FROM SIDE TO SIDE. THEN AT NIGHT OR IN THE AFTERNOON ROCK FROM FRONT TO BACK, AND THEN IF YOU ARE CREATIVE, KIND OF ALTERNATE BETWEEN ROCKING FROM SIDE TO SIDE, ROCKING FROM FRONT TO BACK. AND YOU ALL KNOW HOW OLD PEOPLE ARE REGARDED IN THIS SOCIETY AND I CERTAINLY KNOW. BUT AS WE GO ALONG, NATURALLY I WILL DIGRESS AND TALK ABOUT OTHER THINGS. BUT BEFORE DIGRESSING TOO MUCH, I WANT TO REMIND YOU THAT I SHALL READ

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THINGS INTO THE RECORD. SOMETHING HANDED OUT TO ALL OF THE SENATORS WAS A LETTER SIGNED BY JOHN R. BENDER, Ph.D., PRESIDENT OF THE UNL FACULTY SENATE, PROFESSOR, COLLEGE OF JOURNALISM AND MASS COMMUNICATION. THE SENATORS MAY NOT HAVE EVEN READ IT. BUT TO LET THAT PERSON'S OPINION BE BEFORE THE PUBLIC--AND THEY WILL KNOW AS MEMBERS OF THE PUBLIC THAT NOT EVERYBODY GOES ALONG WITH WHAT THAT COMMITTEE AND WHAT CERTAIN REGENTS AND ENTITIES WANT FOR THE UNIVERSITY--THE PUBLIC NEEDS TO KNOW THERE ARE PEOPLE AT THAT UNIVERSITY WHO WILL OPPOSE IT AND DO SO OPENLY. I ALSO DID NOT GRADUATE FROM THE UNIVERSITY, BUT I DID TAKE A COURSE THERE. I GRADUATED FROM CREIGHTON UNIVERSITY, A PRIVATE SCHOOL, A JESUIT SCHOOL. AND THEY HAD CROSSES ON THE WALL. AND THEY...STUDENTS WOULD SIGN THEIR PAPER JMJ, WHICH STOOD FOR JESUS, MARY, AND JOSEPH. AND THEY'D OPEN CLASSES WITH A PRAYER: COME, HOLY GHOST, REPLENISH THE HEARTS OF THE FAITHFUL AND KINDLE IN THEM A HARD, GEM-LIKE FLAME, AND ON AND ON. [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR CHAMBERS: BUT THE TEACHERS THAT I HAD DIDN'T CARE IF I DIDN'T SHOW UP FOR THAT PART OF IT, KNEW THAT I WOULDN'T. AND, IN FACT, I DIDN'T SHOW UP FOR MOST OF THE CLASSES. WHEN I WENT TO LAW SCHOOL, I NEEDED A COURSE AND SO I TOOK IT IN SUMMER SCHOOL AT THE UNIVERSITY OF NEBRASKA'S LAW SCHOOL. SO I HAVE ONE COURSE THAT I TOOK AT THE UNIVERSITY. MAYBE THAT'S ENOUGH TO GIVE ME A FOOTHOLD IF BEING A CITIZEN OF THIS STATE AND A MEMBER OF THIS LEGISLATURE DOES NOT. BUT ALL OF THOSE AND OTHER THINGS I'LL HAVE THE OPPORTUNITY TO DISCUSS AT GREAT LENGTH. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR CHAMBERS. SENATOR BLOOMFIELD, YOU'RE RECOGNIZED. [LB1109]

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. SENATOR McCOY GAVE ME CREDIT FOR SOMETHING I DIDN'T DO. I HAVE NO IDEA HOW MANY PEOPLE IN HERE HOLD A DEGREE FROM THE UNIVERSITY. I CERTAINLY DON'T. MY DEGREE COMES FROM 70 YEARS OF LIVING. BUT I DO HAVE A QUESTION FOR SENATOR MURANTE, IF HE WOULD YIELD. [LB1109]

SENATOR KRIST: SENATOR MURANTE, WILL YOU YIELD TO A QUESTION? [LB1109]

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SENATOR MURANTE: I WILL. [LB1109]

SENATOR BLOOMFIELD: THANK YOU, SENATOR MURANTE. YOU EXPLAINED AND OTHERS DID, TOO, DURING TESTIMONY IN COMMITTEE, HOW THAT IF WE LET THE BOARD OF REGENTS NARROW IT DOWN TO THIS ONE INDIVIDUAL, THAT HE WOULD...HE OR SHE WOULD HAVE 30 DAYS TO GO TO THE OTHER PARTS OF THE UNIVERSITY, TO KEARNEY OR WHEREVER, AND BE EXPOSED TO THE PUBLIC. WHAT...HOW WOULD THAT WORK IF, SAY, HE WAS SELECTED HERE, KNOWING THAT HE WOULDN'T BE HIRED UNTIL HE WENT THROUGH THE OTHER CAMPUSES? WHAT WOULD KEARNEY HAVE TO DO IN ORDER TO KEEP HIM OR HER FROM BEING HIRED? HOW WOULD THAT PROCESS WORK IF ONE OF THE CAMPUSES DIDN'T AGREE WITH WHAT WAS GOING ON? [LB1109]

SENATOR MURANTE: WELL, WHAT'S HAPPENING ON THE CAMPUS IS A PUBLIC HEARING. ULTIMATELY, THE INSTITUTION WHICH IS RESPONSIBLE FOR THE HIRE IN THE CASE OF THE PRESIDENT OF THE UNIVERSITY, IS THE BOARD OF REGENTS. IN THE CASE OF THE CHANCELLOR, IT IS THE PRESIDENT. THAT...WE'RE NOT TAKING THAT AUTHORITY AWAY, BUT WE ARE GETTING PUBLIC INPUT AND PUTTING THAT REQUIREMENT TO HAVE PUBLIC INPUT INTO STATE LAW UNDER LB1109 THAT DOES NOT CURRENTLY EXIST TODAY. [LB1109]

SENATOR BLOOMFIELD: BUT HOW WOULD SOMEONE DURING THAT PUBLIC HEARING, IF THEY DISAGREED WITH THE HIRING OF THE ONE SINGLE CANDIDATE, HOW WOULD THEY EXPRESS THEMSELVES AND WHAT POWER WOULD THEY HAVE TO PREVENT THAT HIRING? [LB1109]

SENATOR MURANTE: THE POWER IS THE POWER OF THE CITIZENS OF NEBRASKA AS THEY HAVE IN ANY PUBLIC HEARING THAT WE HAVE HERE IN THE NEBRASKA STATE LEGISLATURE. AT THE END OF THE DAY, IT'S IMPORTANT TO REMEMBER THAT THESE REGENTS ARE CONSTITUTIONAL OFFICERS WHO ARE HELD ACCOUNTABLE BY THEIR CONSTITUENTS. AND IF THERE IS A CAMPUS OR A PUBLIC HEARING IN WHICH THE TAXPAYERS OF NEBRASKA OR THE FACULTY, THE STUDENTS, OR THE STAFF REJECT THAT CANDIDATE, THE BOARD OF REGENTS ARE GOING TO BE BOUND BY THE FUNCTIONS OF REPRESENTATIVE DEMOCRACY OF LISTENING TO THAT. AND IF THEY IGNORE THEM, THEY'RE GOING TO PAY THE PRICE AT THE BALLOT BOX AND THE PEOPLE ARE GOING TO THROW THEM OUT. [LB1109]

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SENATOR BLOOMFIELD: OKAY, THANK YOU. MR. PRESIDENT, I SUBMIT THAT THE BOARD OF REGENTS IS BOUND BY NOTHING THAT TAKES PLACE AT ONE OF THESE HEARINGS. AND I'D YIELD THE REMAINDER OF MY TIME TO SENATOR MURANTE, IF HE'D LIKE TO HAVE IT. [LB1109]

SENATOR KRIST: SENATOR MURANTE, 1:30. [LB1109]

SENATOR MURANTE: SURE. I'LL RESPOND TO THAT POINT. I UNDERSTAND WHERE SENATOR BLOOMFIELD IS COMING FROM. BUT IT'S IMPORTANT TO NOTE THAT THE PUBLIC HEARINGS WE'RE TALKING ABOUT HERE ARE FUNCTIONALLY THE SAME AS THE PUBLIC HEARINGS WE HAVE HERE IN THE LEGISLATURE. AND I WOULD SUBMIT THAT WE TAKE THE OPINIONS OF OUR CONSTITUENTS AND OF THE PEOPLE OF NEBRASKA VERY SERIOUSLY WHEN WE'RE VOTING IN COMMITTEE AND WHEN WE'RE HEARING WHAT HAPPENS IN OTHER COMMITTEES. I KNOW WE DO THAT ON THE GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE AND WE ASK A LOT OF GOOD QUESTIONS AND IT'S IMPORTANT. I DON'T BELIEVE THAT IT IS, IN A PRACTICAL WORLD, THAT REPRESENTATIVES WHO ARE FUNDAMENTALLY ACCOUNTABLE TO THE PEOPLE, REPRESENTATIVES WHO ARE CONSTITUTIONAL OFFICERS ARE GOING TO IGNORE... [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR MURANTE: ...THE OVERWHELMING MAJORITY OF THEIR CONSTITUENTS AND JUST INSTALL WHOMEVER THEY WANT TO REGARDLESS OF THE CONSEQUENCES. AT THE END OF THE DAY, THE VOTERS WILL DECIDE. AND IN THE CASE OF THE BOARD OF REGENTS, I THINK ULTIMATELY THEY ARE JUDGED BY THE HIRES OF THE PRESIDENT AND THE CHANCELLORS OF THE UNIVERSITY AND MAYBE THE SUCCESS OR FAILURE OF THE FOOTBALL TEAM--DEPENDS ON WHAT YEAR IT IS--BUT AT THE END OF THE DAY, THEY'RE HELD ACCOUNTABLE JUST LIKE US AND ANY OTHER CONSTITUTIONAL OFFICERS AND THAT'S HOW IT SHOULD BE. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR BLOOMFIELD AND SENATOR MURANTE. SENATOR GROENE, YOU'RE RECOGNIZED. [LB1109]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. I WAS TOLD I SHOULD NOT HELP SENATOR CHAMBERS IN HIS...QUITE FRANKLY, I'M NOT HELPING HIM. WHAT I'M DOING STANDING HERE IS REPRESENTING MY CONSTITUENTS, SOMETHING I

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TRY TO DO EVERY DAY. I DON'T HELP OR HINDER ANYBODY. I REPRESENT WHAT MY CONSTITUENTS WANT. THERE WAS 13 GROUPS THAT WERE OPPONENTS OF THIS BILL: MEDIA OF NEBRASKA, UNIVERSITY OF NEBRASKA-LINCOLN, AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS, LINCOLN JOURNAL STAR, KOLN, COMMON CAUSE NEBRASKA, MEDIA OF NEBRASKA, UNL FACULTY SENATE, NEBRASKA PRESS ASSOCIATION, NORTHEAST NEBRASKA NEWS COMPANY, NEBRASKA PRESS ASSOCIATION, UNIVERSITY OF NEBRASKA-LINCOLN STUDENTS, OMAHA WORLD-HERALD, THE BERKSHIRE HATHAWAY MEDIA GROUP. DO WE TRUST THE FREE PRESS OR DO WE NOT? THEY KNOW, THEY COVER IT EVERY DAY. THEY KNOW PUBLIC...HUMAN NATURE, HOW WE HIDE THINGS. I TRUST THEM. I'VE BEEN CALLED BY MY LOCAL RADIO STATIONS. I'VE BEEN CALLED BY MY LOCAL TV STATION, MY LOCAL NEWSPAPER SAYING, WHAT'S GOING ON? WE MADE A DEAL IN 2007 BECAUSE IN '06, I BELIEVE IT WAS-- I MIGHT BE CORRECTED BY SOMEBODY--THAT IN '06 THE REGENTS SECRETLY WENT DOWN TO KANSAS CITY AND INTERVIEWED A CANDIDATE. IN '07 AFTER SITTING DOWN WITH THE MEDIA, THE LEGISLATURE CAME TO AN AGREEMENT, AND THE UNIVERSITY. FOUR CANDIDATES, THE PRESS WOULDN'T DIG ANY DEEPER THAN FOUR CANDIDATES THAT THEY COULD VET BECAUSE, I AGREE WITH SENATOR CHAMBERS, TRANSPARENCY VETS THE BAD ONES ALREADY, THE ONES THAT DON'T BELIEVE IN TRANSPARENCY, THAT GOT SOMETHING TO HIDE, THAT ARE NOT THAT GOOD A CANDIDATE THAT THEY'RE AFRAID THAT THEY'LL LOSE THEIR JOB WHERE THEY WORK NOW IF THEY APPLY FOR ANOTHER JOB. WE DON'T WANT THOSE FOLKS. WE WANT THE FOLKS WHO WHEN THEIR PRESENT EMPLOYER FINDS OUT THAT THEY'RE LOOKING FOR ANOTHER JOB, BEG THEM TO STAY. AND THAT'S WHAT WE DO WITH THIS SYSTEM. WE VET THEM EARLY. BUT IN 2007, THEY MADE THAT AGREEMENT. IT'S WORKED WELL, EXCEPT THE TIME SENATOR BLOOMFIELD TALKED ABOUT AT THE UNIVERSITY OF NEBRASKA MEDICAL CENTER WHERE THEY PUT UP FOUR STRAW DOGS, CANDIDATES, STRAW MEN CANDIDATES, AND THEN REJECTED THEM ALL AND THEN GOT AROUND THE BILL BY HIRING THE ONE PERSON THEY WANTED WHO PROBABLY DIDN'T WANT TRANSPARENCY IN THE FIRST PLACE. DON'T KNOW THAT FOR TRUE, BUT YOU FOLLOW THE DOTTED LINES. WE ARE A PUBLIC UNIVERSITY. AND BY THE WAY, I WROTE A COLUMN, ONE OF MY COLUMNS...WEEKLY COLUMNS THAT I MENTIONED THIS. GOT A LOT OF CALLS. WHAT? WHO WANTS THIS SECRECY? I DON'T. THESE WERE COMMON TAXPAYERS, COMMON CITIZENS. WHY WOULD THEY DO THIS? MADE NO SENSE TO THE COMMON MAN. I JUST MET DOWNSTAIRS WITH A GROUP OF YOUNG LEADERS IN OUR HIGH SCHOOL AND SUPERINTENDENT OF SCHOOL, HE BROUGHT THEM DOWN HERE. I ASKED HIM, DID YOU HAVE A PUBLIC VETTING? YES. HE LOOKED ME RIGHT IN THE EYE. HE'S THE TYPE OF PERSON WHO CAN STAND UP AND SAY,

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YEAH, I HAVE CONFIDENCE IN MY ABILITIES. I'LL STAND UP THERE IN THE CROWD. I DON'T HAVE TO HIDE. BUT THAT'S WHAT HAPPENS IN YOUR HIRING OF SUPERINTENDENTS OF SCHOOLS IN A LOCAL PUBLIC POSITION. SO, WHY? WHY? I SAID IN THE GOVERNMENT COMMITTEE THE OTHER DAY, ONE THING I LEARNED HERE IS THAT WE HAVE FOUR BRANCHES OF GOVERNMENT IN THIS STATE. WE HAVE THE EXECUTIVE, THE LEGISLATIVE, THE JUDICIARY, AND THE UNIVERSITY OF NEBRASKA. THEY DICTATE A LOT. THEY COME IN AND SAY WHAT THEY WANT AND HOW THEY WANT IT AND I GUESS THIS BRANCH... [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

SENATOR GROENE: ...BOWS TO THEM IN A LOT OF INSTANCES, NOT ALWAYS, BUT A LOT OF TIMES. AND THAT WASN'T A JOKE, I ACTUALLY BELIEVE THAT. WE OWN THAT UNIVERSITY, WE, THE PEOPLE. FIVE HUNDRED AND EIGHTY-SIX MILLION DOLLARS THIS NEXT YEAR WE ARE GIVING STATE AID. I'VE SAID IT OVER AND OVER AGAIN, YOU LOOK AT THE BRIGHT SIDE. IF THE UNIVERSITY WANTS TO ACT LIKE A PRIVATE INSTITUTION, THEN LET'S FUND THEM LIKE A PRIVATE INSTITUTION; LET THEM FUND THEMSELVES. MAYBE WE CAN START FINALLY CUTTING BACK ON SOME OF THAT FUNDING. IF YOU WANT TO ACT LIKE A PRIVATE INSTITUTION, THEN BE A PRIVATE INSTITUTION. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR GROENE. (VISITORS INTRODUCED.)  
SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB1109]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT AND SENATOR GROENE, THERE ARE SO MANY TIMES THAT PEOPLE ARE AFRAID AND FRIGHTENED AWAY FROM SOMETHING BY SAYING, YOU'RE LINING UP WITH SENATOR CHAMBERS. THE GOVERNOR EVEN DID IT ON THE DEATH PENALTY BILL. HE DIDN'T SAY YOU'RE LINING UP WITH THE POPE, THE CATHOLIC CHURCH, AND ALL THESE SENATORS. YOU'RE LINING UP WITH SENATOR CHAMBERS. THAT'S THE TACTIC THAT IS USED HERE TOO. ALL THEY DO IS SHOW THE INFLUENCE THAT I HAVE. THEIR ENTIRE STRATEGY IS BASED ON CAUSING YOU, IN A KNEE-JERK WAY, TO JUMP ONE WAY OR THE OTHER BECAUSE OF WHAT I DO. THAT'S WHY IT'S SO HARD FOR ME TO REMAIN HUMBLE. BUT SENATOR MURANTE OF ALL PEOPLE, HAVING BEEN A CONSUMMATE POLITICIAN WHEN HE WORKED FOR A SENATOR, HAVING HELPED PRODUCE BOUNDARIES THAT WOULD BENEFIT HIM WHEN HE DECIDED TO RUN, AND THEN THINKING ABOUT RUNNING FOR THE HOUSE BUT GOT SOME INFORMATION THAT MADE HIM CHANGE HIS MIND, HE UNDERSTANDS



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POLITICS. SO FOR HIM TO INDICATE IN RESPONSE TO SENATOR BLOOMFIELD THE PUBLIC CAN VOTE A CERTAIN WAY, HE KNOWS THAT'S NOT GOING TO HAPPEN. AND HE ALSO KNOWS THAT CANDIDATES WIN THOSE KIND OF POSITIONS BASED ON THE AMOUNT OF MONEY THAT THEY HAVE AND THE ENDORSEMENTS THEY GET AND THE POLITICAL CONNECTIONS. SO FOR HIM OF ALL PEOPLE TO SAY THAT IS, I SAY, HYPOCRITICAL. HE KNOWS THAT HE HAS NO RESPONSE THAT MAKES SENSE TO WHAT SENATOR BLOOMFIELD ASKED. WHEN THEY HAVE GOT THIS ONE CANDIDATE, NOTHING ANYBODY SAYS IS GOING TO MAKE ANY DIFFERENCE. IT'S A DOG AND PONY SHOW. THIS IS WHAT WE'VE DONE. YOU'RE GOING TO SWALLOW IT WHETHER YOU WANT IT OR NOT AND IF YOU DON'T LIKE IT, VOTE ME OUT OF OFFICE. HOW MANY TIMES HAVE YOU HEARD POLITICIANS SAY THAT BECAUSE THEY KNOW THE PUBLIC IS NOT GOING TO DO IT? AND IF THE PEOPLE ON THIS FLOOR SWALLOW WHAT SENATOR MURANTE SAID, THEN ALL DISCUSSION REALLY IS POINTLESS, EXCEPT THERE ARE PEOPLE WHO WATCH US, I FIND OUT, IN OTHER PARTS OF THE WORLD EVEN, DUE TO THAT GADGET THAT I DON'T KNOW MUCH ABOUT. SO THEY WONDER ABOUT WHAT KIND OF BODY THIS IS TO LISTEN TO NONSENSE AND HAVE THAT NONSENSE BE ACCEPTED AS A RESPONSE. THAT'S WHY I TAKE ISSUE WITH THINGS SAID ON THIS FLOOR SO THAT I SEPARATE MYSELF FROM ALL OF THAT. EVERYTHING AND ANYTHING THAT CAN BE SAID WOULD BE APPROPRIATE TO WHAT WE'RE TALKING ABOUT HERE. EVEN IF THIS PERSON IS TAKEN ON A TOUR, THAT PERSON GOES WHEREVER THE TOUR GUIDE TAKES HIM OR HER. THERE ARE SOME PEOPLE WHO WILL NOT PARTICIPATE IN A DOG AND PONY SHOW BECAUSE THEY KNOW IT MEANS NOTHING. THE DIE IS CAST. AND THAT EXPRESSION COMES, THE DIE IS CAST, CAESAR HAS CROSSED THE RUBICON. WELL, THE RUBICON HAS ALREADY BEEN CROSSED WHEN THEY GIVE YOU THIS ONE PERSON. WHAT WE ARE TALKING ABOUT IS THE NEED TO BE ABLE TO OFFER INPUT WHEN IT CAN MAKE A DIFFERENCE. HOW ARE YOU GOING TO COMPARE A TO A? THERE IS NOTHING WITH WHICH TO COMPARE A, IF A IS THE ONLY OBJECT, ITEM, OR PERSON. THERE MUST BE AT LEAST ONE OTHER ALTERNATIVE. AND WE'RE GOING TO HAVE A CHANCE TO LISTEN TO ALL THESE WONDERFUL DISCUSSION POINTS THAT SENATOR MURANTE IS HOLDING BACK AND I'M GOING TO SEE HOW NAIVE YOU POLITICIANS ARE. YOU SHOULD MAKE HIM UNDERSTAND HE'S NOT TALKING TO THE NAIVE PUBLIC WHO DOESN'T UNDERSTAND WHAT GOES ON WHEN MONEY IS APPROPRIATED TO THE UNIVERSITY,... [LB1109]

SENATOR KRIST: ONE MINUTE. [LB1109]

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SENATOR CHAMBERS: ...HOW THESE PEOPLE WHO ARE ON THE BOARD OF REGENTS GET ELECTED, HOW POLICIES CAN BE ESTABLISHED WHERE WHEN LARGE PROJECTS ARE LET--NOT FOR BIDS, BUT GRANTED--THERE IS NO BIDDING, EVEN THOUGH PUBLIC MONEY IS INVOLVED. AND YOU MAY FIND ONE VERY WEALTHY PERSON IN OMAHA WHOSE COMPANY GETS A LOT OF THESE JOBS. THE PUBLIC DOESN'T KNOW THAT AND THEY DON'T WANT IT KNOWN. THAT'S WHY THEY WANT A NO-BID PROCESS AND NEXT SESSION I INTEND TO DO SOMETHING ABOUT THAT LEGISLATIVELY SHOULD I BE REELECTED. NOTHING IS CERTAIN. SOME PEOPLE SAY DEATH. THAT IS NOT EVEN CERTAIN I DON'T THINK, BUT I REALLY DON'T KNOW. AND I WON'T KNOW UNTIL THAT DAY COMES. AND IF THE DAY COMES, I CERTAINLY WON'T KNOW AFTER THAT. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR CHAMBERS. SENATOR BLOOMFIELD, YOU'RE RECOGNIZED. [LB1109]

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. I JUST WANT TO CLARIFY A LITTLE SOMETHING HERE. SENATOR GROENE MENTIONED THAT HE'S BEEN TOLD HE SHOULDN'T BE HELPING SENATOR CHAMBERS ON THIS. IT WAS NOT SENATOR MURANTE THAT MADE THAT SUGGESTION. I GOT THE SAME SUGGESTION THAT THE CONSERVATIVES SHOULD NOT BE HELPING SENATOR CHAMBERS ON THIS. COLLEAGUES, I LOOK AROUND THE ROOM, I SEE THE TWO OTHER OPPONENTS OR TWO PRIMARY OPPONENTS THAT VOTED AGAINST THIS IN COMMITTEE; THAT'S SENATOR GROENE AND SENATOR McCOY. I'VE ALWAYS KIND OF THOUGHT OF THEM AS A LITTLE BIT CONSERVATIVE. SO ARE WE SUPPOSED TO LINE UP AND EAT OUR OWN HERE, BECAUSE I'VE KIND OF CONSIDERED MYSELF TO BE JUST A TAD BIT CONSERVATIVE. SO THE IDEA THAT ANYBODY THAT OPPOSES THIS IS DOING IT TO HELP SENATOR CHAMBERS IS NONSENSE. ALSO THE IDEA THAT ANY ONE INDIVIDUAL SHOULD WALK AROUND THIS ROOM AND TELL OTHER SENATORS HOW OR HOW NOT TO BE INVOLVED IS ALSO NONSENSE. IT'S HAPPENED BEFORE. I'VE CALLED THE INDIVIDUAL ON IT BEFORE AND I DO AGAIN NOW. THERE ARE 49 OF US IN HERE; 49 DIFFERENT OPINIONS. NO ONE INDIVIDUAL HAS THE RIGHT OR THE AUTHORITY TO WALK AROUND AND TELL THE OTHER 48 WHAT THEY SHOULD OR SHOULD NOT DO. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR KRIST: THANK YOU, SENATOR BLOOMFIELD. SEEING NO ONE ELSE IN THE QUEUE, SENATOR CHAMBERS, YOU'RE RECOGNIZED TO CLOSE ON YOUR MOTION. [LB1109]

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SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. OH, AND, SENATOR BLOOMFIELD, I DIDN'T SAY THAT AND YOU DIDN'T SAY I SAID IT. I DIDN'T SAY SENATOR MURANTE WAS THE ONE WHO SAID IT. BUT HERE IS WHAT I UNDERSTAND AS A POLITICIAN, I AM THE MOST FEARED MAN ON THIS FLOOR. NAME ME ONE OTHER PERSON THAT PEOPLE WILL INVOKE HIS OR HER NAME AND EXPECT IT TO SWAY PEOPLE. HOW CAN A MAN BE HUMBLE UNDER CIRCUMSTANCES LIKE THAT? BUT, SENATOR BLOOMFIELD, I'M TOO HUMBLE NOT TO REMAIN HUMBLE DESPITE ALL OF THESE THINGS THAT WOULD MAKE THE AVERAGE PERSON'S EGO EXPAND TO THE POINT OF BURSTING. BUT REGARDLESS OF WHAT REASONS PEOPLE HAVE FOR DOING WHAT THEY DO OR REFRAIN FROM DOING ANYTHING, I'M GOING TO DO WHAT I BELIEVE I OUGHT TO DO. AND I BELIEVE THAT I SHOULD FIGHT THIS BILL FANG AND CLAW AND I INTEND TO DO IT. BUT WHOEVER THAT UNNAMED PERSON IS WHO TOLD PEOPLE, DON'T HELP SENATOR CHAMBERS, I'M GOING TO SEE IF THAT PERSON CAN PERSUADE EVERYBODY TO JUST BE QUIET AND GIVE ME WHAT I WANT, WHICH IS TO DOMINATE THE SIX HOURS BY OFFERING MOTIONS, OFFERING AMENDMENTS, AND NOBODY SAY ANYTHING BECAUSE I KIND OF LIKE WHAT THAT PERSON SAID AS I THINK ABOUT IT. IF YOU SAY ONE WORD, YOU ARE HELPING ME. YOU ARE LINING UP BEHIND SENATOR CHAMBERS. SENATOR CHAMBERS OWNS YOU. SENATOR CHAMBERS IS YOUR BOSS. YOU ARE A MERE PEON. YOU ARE A SERF. YOU ARE A SHARECROPPER AND SENATOR CHAMBERS OWNS YOU. BUT SENATOR CHAMBERS DOESN'T KNOW THE EXTENT OF ALL HIS POSSESSIONS. SO I'M GOING TO SEE WHO ARE MY POSSESSIONS BY WATCHING WHO WILL DARE TO SPEAK. MAYBE THEY MEAN ONLY THOSE WHO SPEAK AGAINST THE BILL. BUT THOSE WHO SPEAK FOR IT ARE IN THE SAME CATEGORY BECAUSE MY AIM IS TO TAKE THE TIME. BUT IN THE PROCESS, THE READING THAT I DO WILL NOT COME FROM THE PHONE BOOK. IT WILL NOT COME FROM RECIPES. IT WILL COME FROM STATEMENTS OF PEOPLE WHO ARE IN A POSITION TO BE EITHER AFFECTED BY THIS BAD BILL OR WHO HAVE VERY WORTHWHILE OPINIONS EXPRESSED AGAINST THIS BAD BILL AND THE ONLY WAY THEY CAN BE MADE A MATTER OF PUBLIC RECORD IS IF I READ THEM INTO THE RECORD. AND DURING THE TIME THAT WE'RE GOING TO SPEND TOGETHER DISCUSSING THIS BILL, OR WHATEVER YOU WANT TO CALL OUR EXCHANGES, I INTEND TO DO A GOOD BIT OF READING AND I WILL MAKE ATTRIBUTION TO THE SOURCE. SENATOR GROENE READ OFF THE LIST OF THOSE WHO OPPOSED THIS BILL. THOMAS JEFFERSON, WHOSE NAME PEOPLE OFTEN INVOKE, SAID THAT IF I HAD TO CHOOSE BETWEEN A FREE GOVERNMENT OR IF I HAD TO CHOOSE BETWEEN GOVERNMENT AND A FREE PRESS, I WOULD CHOOSE THE FREE PRESS, ALTHOUGH LATER ON IN HIS CAREER HE WAS IN A POSITION WHERE HE SAID HE WISHED HE COULD MUZZLE THEM AND KEEP THEM FROM SAYING ANYTHING BECAUSE THERE WERE THINGS HE

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DIDN'T WANT TO BE TRANSPARENT THAT INVOLVED HIM. SO, PERSONALLY,...  
[LB1109]

SPEAKER HADLEY PRESIDING

SPEAKER HADLEY: ONE MINUTE. [LB1109]

SENATOR CHAMBERS: ...EVEN THOUGH I HAVE HAD GREAT DISAGREEMENTS WITH THE WORLD-HERALD'S EDITORIAL POSITION, THEIR CHOICE OF ARTICLES, THE WAY THEY EMPHASIZE SOME THINGS AND DE-EMPHASIZE OTHERS IN ARTICLES, IT'S THEIR PREROGATIVE TO DO WITH THEIR PAPER WHAT THEY PLEASE. BUT ON OCCASIONS WHEN THEY ARE RIGHT, I WILL NOT REFRAIN FROM SUPPORTING THAT POSITION SIMPLY BECAUSE THE WORLD-HERALD HOLDS TO IT. IT SHOWS THAT EVEN THOSE WHO ARE WRONG MOST OF THE TIME CAN BE RIGHT ON OCCASION. AND THE STANDARD FOR MEASURING WHEN A PERSON IS RIGHT, IN THE SENSE OF BEING CORRECT, IS WHEN THAT PERSON DOES LINE UP WITH ME. SO THERE WILL ALWAYS BE MORE THAN ONE WAY TO VIEW A SITUATION. AND I SEE SENATOR MURANTE GOING TO HIS SEAT. I CAN'T WAIT FOR ALL THESE MAGNIFICENT DISCLOSURES THAT WE ARE GOING TO BE TREATED TO DURING THIS DISCUSSION. AND I AM ALWAYS WILLING... [LB1109]

SPEAKER HADLEY: TIME, SENATOR. [LB1109]

SENATOR CHAMBERS: ...TO HAVE MY EDUCATION IMPROVE. MR. PRESIDENT, ON THIS ONE, I WILL ASK FOR A CALL OF THE HOUSE AND A ROLL CALL VOTE.  
[LB1109]

SPEAKER HADLEY: THERE HAS BEEN A REQUEST TO PUT THE HOUSE UNDER CALL. THE QUESTION IS, SHALL THE HOUSE GO UNDER CALL? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB1109]

CLERK: 20 AYES, 0 NAYS TO PLACE THE HOUSE UNDER CALL. [LB1109]

SPEAKER HADLEY: THE HOUSE IS UNDER CALL. SENATORS PLEASE RECORD YOUR PRESENCE. THOSE UNEXCUSED SENATORS OUTSIDE THE CHAMBER PLEASE RETURN TO THE CHAMBER AND RECORD YOUR PRESENCE. ALL UNAUTHORIZED PERSONNEL PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. SENATOR KINTNER, WOULD YOU PLEASE CHECK IN? SENATOR

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WATERMEIER, SENATOR MORFELD, SENATOR BURKE HARR, SENATOR GLOOR, SENATOR MELLO, SENATOR COASH, SENATOR STINNER, SENATOR FRIESEN, SENATOR GARRETT, THE HOUSE IS UNDER CALL. PLEASE RETURN TO THE CHAMBER. SENATOR MORFELD, WILL YOU PLEASE CHECK IN? SENATORS WATERMEIER, GLOOR, AND GARRETT, PLEASE RETURN TO THE CHAMBER. THE HOUSE IS UNDER CALL. ALL ARE PRESENT. THERE'S BEEN A REQUEST FOR A ROLL CALL VOTE IN REGULAR ORDER. MR. CLERK. [LB1109]

CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGE 893.) 5 AYES, 32 NAYS, MR. PRESIDENT, ON THE MOTION TO RECONSIDER. [LB1109]

SPEAKER HADLEY: THE MOTION TO RECONSIDER FAILS. I WILL RAISE THE CALL. MR. CLERK. SENATOR MURANTE, YOU ARE RECOGNIZED TO OPEN ON LB1109. [LB1109]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT. MEMBERS, GOOD MORNING AGAIN. I WOULD LIKE TO SPEND A LITTLE BIT OF TIME TALKING ABOUT WHAT LB1109 DOES AND WHAT IT DOES NOT DO. AND I THINK IT'S IMPORTANT TO HAVE THIS CONVERSATION IN THE CONTEXT OF UNDERSTANDING WHERE WE ARE WITH PUBLIC POLICY TODAY AND WHAT CURRENT STATE LAW REQUIRES WITH RESPECT TO THE HIRING OF THE PRESIDENT AND CHANCELLOR OF THE UNIVERSITY OF NEBRASKA AS WELL AS ANY OTHER PUBLIC EMPLOYEE. FIRST OF ALL, AT THE END OF THE DAY THE PROCESS AND THE STATUTORY REQUIREMENTS REALLY BEGIN AND END WITH NAMING FOUR FINALISTS. ONCE FOUR FINALISTS ARE NAMED, THAT'S THE END OF THE STATUTORY REQUIREMENT FOR THE UNIVERSITY FOR ANY OTHER PUBLIC HIRE, WHICH MEANS--IT'S IMPORTANT TO NOTE--THAT ONE OF THE FOUR FINALISTS DOESN'T HAVE TO BE HIRED. WHETHER IT'S THE UNIVERSITY OR ANY OTHER PUBLIC EMPLOYER, ONCE THEY NAME FOUR FINALISTS, THEY CAN REJECT ALL FOUR AND AT THAT POINT THEY HAVE MET THEIR STATUTORY BURDEN AND ARE PERMITTED UNDER STATE LAW TO HIRE WHOMEVER THEY WANT TO WHETHER THEY APPLIED OR NOT. THAT IS NOT A TRANSPARENT PROCESS. THAT IS CURRENT STATE LAW, BUT THAT IS NOT A TRANSPARENT PROCESS AND IT HAS HAPPENED BEFORE. WHAT WE'RE TALKING ABOUT UNDER LB1109...AND IT'S IMPORTANT TO NOTE, THERE IS ABSOLUTELY NO REQUIREMENT UNDER STATE LAW FOR THE UNIVERSITY OR FOR ANY OTHER PUBLIC EMPLOYER TO REQUIRE ANY SORT OF PUBLIC SCRUTINY, ANY SORT OF HEARING. THEY CAN ANNOUNCE THE FOUR FINALISTS AND HIRE ON THE SAME DAY. THERE IS NOTHING IN STATE LAW TO PREVENT ANY PUBLIC EMPLOYER FROM DOING THAT. THEY CAN DO IT WITHOUT ASKING A SINGLE QUESTION, WITHOUT LISTENING TO A SINGLE

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CONSTITUENT. THAT'S NOT PUBLIC SCRUTINY AND THAT'S NOT TRANSPARENCY. WHAT WE ARE TALKING ABOUT IN LB1109 IS TO SAY, OKAY, WE'RE GONNA HAVE ONE PRIORITY CANDIDATE, BUT YOU'RE NOT GOING TO DROP THAT CANDIDATE IN AT THE LAST MINUTE. IT'S NOT GOING TO BE A CLOSED PROCESS. WE ARE GOING TO MAKE SURE THAT THE PEOPLE OF NEBRASKA ARE HEARD AND THAT THEY HAVE A SAY IN THE PROCESS. SO WE'RE GOING TO HAVE A 30-DAY COOLING OFF PERIOD. IT'S GOING TO BE A VETTING PERIOD. WE'RE CALLING IT THE ENHANCED PUBLIC SCRUTINY HIRING PROCESS. AND DURING THAT TIME THERE NEEDS TO BE PUBLIC HEARINGS CONDUCTED AT EVERY UNIVERSITY CAMPUS SO THAT EVERYONE CAN BE HEARD AS A MATTER OF STATE LAW. THERE ARE NO SURPRISES, THERE ARE NO GIMMICKS. EVERYONE WILL HAVE AN OPPORTUNITY TO BE HEARD. ANYONE WHO WANTS TO BE HEARD WILL BE HEARD. THAT PERSON WILL MAKE THEMSELVES AVAILABLE TO THE FACULTY, THE STUDENTS, AND THE STAFF. THEY WILL MAKE THEMSELVES AVAILABLE TO THE MEDIA. THEY'LL MAKE THEMSELVES AVAILABLE TO THE TAXPAYERS, WHICH IN MY VIEW IS AN ENHANCEMENT OF TRANSPARENCY. IT GIVES THE PEOPLE OF NEBRASKA MORE OF A SAY IN ITS HIRES, NOT LESS. SO WHAT'S THE CONCERN AND WHAT'S THE PROBLEM? THE PRACTICAL REALITY IS WE ARE ONE OF THE ONLY UNIVERSITIES, ONE OF THE ONLY STATES IN THE COUNTRY WHO HIRES THEIR PRESIDENT AND THEIR CHANCELLORS OF THE UNIVERSITY THIS WAY. WE ARE AT A COMPETITIVE DISADVANTAGE. AND AS A CONSEQUENCE, AS SENATOR HADLEY RIGHTLY STATED, THE POOL OF CANDIDATES WHO APPLY TO THE UNIVERSITY OF NEBRASKA IS SMALLER THAN OUR PEER INSTITUTIONS AND THEIR ACADEMIC CREDENTIALS IT IS...WE LOSE OUT ON SITTING CHANCELLORS AND PRESIDENTS OF OTHER SYSTEMS. THAT'S A FACT. THAT'S THE PROBLEM. WHAT LB1109 ATTEMPTS TO DO TO REMEDY THAT PROBLEM IS TO SAY WE WILL HAVE THE ONE PRIORITY CANDIDATE AND WE WILL HAVE A LENGTHY VETTING PERIOD. NOW, IT'S BEEN STATED ON THE FLOOR THAT, YEAH, IT'S THE BOARD OF REGENTS. THEY'LL JUST DO WHATEVER THEY WANT TO. WE'LL HAVE A 30-DAY VETTING PERIOD AND THEY WON'T CARE ABOUT THEIR CONSTITUENTS. IF THE CONSTITUENTS COME OUT AGAINST IT, THEY'LL JUST IGNORE IT ANYWAY. AND I SHOULD KNOW THAT, OF ALL PEOPLE, APPARENTLY, BECAUSE THAT'S JUST THE WAY REPRESENTATIVE DEMOCRACY WORKS. ELECTED OFFICIALS DON'T PAY ATTENTION TO THEIR CONSTITUENTS. I GOT TO TELL YOU, THAT HAS NOT BEEN MY EXPERIENCE EITHER IN THIS LEGISLATURE OR WITH ANY OTHER REPRESENTATIVE FORM OF GOVERNMENT ANYWHERE. MAYBE FOR SENATOR CHAMBERS WHO HAS BEEN REELECTED TEN TIMES THAT MAKES SENSE. BUT FOR THOSE OF US WHO GO BACK TO A CONSTITUENCY WHERE WE MIGHT ACTUALLY LOSE REELECTION, WHAT OUR CONSTITUENTS THINK ABOUT US ACTUALLY MATTERS. OUR VOTES MATTER. WHAT WE SAY

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MATTERS. AND I'D LIKE TO REITERATE THAT THESE REGENTS--YOU MAY LIKE THEM, YOU MAY HATE THEM, YOU MAY HATE THE UNIVERSITY, YOU MAY THINK THEY'RE CORRUPT--BUT THEY ARE CONSTITUTIONAL OFFICERS. THEY ARE ELECTED OFFICIALS AND WE CONTROL THE PURSE STRINGS. AND IF YOU WANT TO USE THIS LEGISLATURE AS A PLATFORM TO MALIGN THE UNIVERSITY, THAT'S YOUR PREROGATIVE. BUT I WOULD SUBMIT TO YOU THAT LB1109 IS NOT THE PLACE. WE WILL HAVE A TIME WHEN THE BUDGET IS COMING UP WHERE WE CAN DISCUSS HOW MUCH MONEY THE UNIVERSITY TAKES, HOW IT SPENDS IT AND ALL THE OTHER THINGS. BUT WHAT WE'RE TALKING ABOUT IS A VERY SPECIFIC QUESTION UNDER LB1109. HOW IS THE PRESIDENT AND THE CHANCELLORS OF THE UNIVERSITY OF NEBRASKA HIRED? WHAT WE HAVE LAID OUT ENSURES THAT LB1109 IS ONE OF THE MOST TRANSPARENT PROCESSES IN THE ENTIRE COUNTRY. AND IN A LOT OF WAYS, THE PEOPLE OF NEBRASKA WILL HAVE A BETTER OPPORTUNITY, THEY WILL BE AFFORDED A SEAT AT THE TABLE OF THAT DECISION-MAKING PROCESS AND THAT SEAT DOES NOT CURRENTLY EXIST IN STATE LAW. SO I KNOW THERE ARE A LOT OF PEOPLE WITH THEIR LIGHTS ON WHO HAVE BEEN WAITING A VERY LONG TIME TO HAVE THE DISCUSSIONS ABOUT THEIR EXPERIENCES WITH THE HIRING PROCESS. I WILL HAPPILY LISTEN TO THEIR STORIES. I'D ENCOURAGE YOU, COLLEAGUES, TO THINK ABOUT...IT WAS STATED EARLIER THAT THERE MUST BE SOMETHING WRONG WITH CANDIDATES WHO DON'T WANT THEIR NAMES TO BE MADE PUBLIC. THERE MUST BE SOME SORT OF INFIRMITY ABOUT THEM. THERE MUST BE SOME SORT OF CHARACTER FLAW WITH SOMEONE WHO DOESN'T WANT TO GO BACK TO THEIR EMPLOYER AND TELL THEM THAT THEY'RE LOOKING FOR ANOTHER JOB. BUT INSTEAD OF APPLYING IT EXTERNALLY, I WOULD ASK YOU TO APPLY THAT ARGUMENT TO YOURSELVES. MOST OF THE PEOPLE IN THIS CHAMBER HAVE OR HAVE HAD JOBS OVER THE COURSE OF THEIR CAREER. I'D ASK THE MEMBERS OF THIS BODY HOW MANY TIMES WHEN YOU WERE GOING OUT LOOKING FOR A BETTER JOB, LOOKING FOR A JOB WITH A HIGHER SALARY DID YOU TELL THE EMPLOYER THAT...YOUR CURRENT EMPLOYER THAT YOU WERE GOING OUT LOOKING FOR ANOTHER JOB BEFORE YOU GOT THE OTHER JOB? I CAN TELL YOU I'VE EMPLOYED A LOT OF PEOPLE OVER THE PAST FEW YEARS, HUNDREDS OF PEOPLE. I HAVE NEVER ONCE HAD AN INSTANCE OF AN EMPLOYEE COMING TO ME AND SAID, HEY, BOSS, JUST WANT YOU TO KNOW I'M LOOKING FOR ANOTHER JOB, I DON'T HAVE ONE YET, I WANT TO STILL WORK FOR YOU, I'M JUST LOOKING. NOBODY HAS EVER COME AND TOLD ME THAT BEFORE. AND I DOUBT THAT MANY OF THE MEMBERS OF THIS BODY WHO HAVE GONE OUT LOOKING FOR OTHER JOBS, BETTER JOBS, HAVE DONE THAT AS WELL. IT'S A NATURAL REACTION, IT'S UNDERSTANDABLE WHY SOMEONE WHO HAS A JOB ELSEWHERE DOESN'T WANT THEIR NAME TO BE MADE PUBLIC. THERE IS

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NOTHING WRONG WITH THEM BECAUSE OF IT. IT DOESN'T SPEAK TO THEIR CHARACTER. IT'S PERFECTLY RATIONAL. AND WHAT WE SEEK TO DO WITH LB1109 IS NOT FORCE THEM TO MAKE THAT CHOICE. IF THEY WANT TO COME LEAD THE UNIVERSITY OF NEBRASKA, THEY DON'T HAVE TO MAKE THAT CHOICE. BUT AT THE SAME TIME, WE ENSURE THAT THE PUBLIC SCRUTINY AND THE PUBLIC VETTING OF THESE CANDIDATES IS PARAMOUNT. [LB1109]

SENATOR SCHEER PRESIDING

SENATOR SCHEER: ONE MINUTE. [LB1109]

SENATOR MURANTE: SO I'D ENCOURAGE YOUR CONTINUED SUPPORT OF LB1109 AND I LOOK FORWARD TO HEARING ADDITIONAL DISCUSSION. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR SCHEER: (VISITORS INTRODUCED.) MR. CLERK. [LB1109]

ASSISTANT CLERK: MR. PRESIDENT, I HAVE A PRIORITY MOTION. SENATOR CHAMBERS WOULD MOVE TO RECOMMIT LB1109 TO COMMITTEE. [LB1109]

SENATOR SCHEER: SENATOR CHAMBERS, YOU'RE WELCOME TO OPEN ON YOUR RECOMMIT MOTION. [LB1109]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, I LISTENED TO SENATOR MURANTE AND I HAD TO FIND A WAY TO RESPOND. I'D LIKE TO ASK HIM A QUESTION OR TWO IF HE WILL RESPOND. [LB1109]

SENATOR SCHEER: SENATOR MURANTE, WILL YOU YIELD, PLEASE? [LB1109]

SENATOR MURANTE: I WOULD ABSOLUTELY LOVE TO RESPOND TO A QUESTION FROM SENATOR CHAMBERS. [LB1109]

SENATOR CHAMBERS: SENATOR MURANTE, WHAT IS THE NATURE OF THE BUSINESS THAT YOU EMPLOY PEOPLE IN? [LB1109]

SENATOR MURANTE: WE'RE A RESTAURANT. [LB1109]



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SENATOR CHAMBERS: AND WHAT IS YOUR SPECIALTY? [LB1109]

SENATOR MURANTE: WE LOVE PIZZA. [LB1109]

SENATOR CHAMBERS: SO YOU HIRE PEOPLE TO WORK IN A PIZZA RESTAURANT. DO YOU EQUATE THAT WITH THE PRESIDENT OF A UNIVERSITY BEING HIRED BY THE BOARD OF REGENTS? [LB1109]

SENATOR MURANTE: I EQUATE THE LOGIC OF SOMEONE WHO DOES NOT WANT TO TELL THEIR EMPLOYER THAT THEY'RE LOOKING FOR ANOTHER JOB, BECAUSE WHETHER WE'RE TALKING ABOUT A PUBLIC JOB OR A PRIVATE JOB, THAT PSYCHOLOGICAL PROCESS IS THE SAME. IT DOESN'T MAKE ANY DIFFERENCE. [LB1109]

SENATOR CHAMBERS: SENATOR MURANTE, I HAVE DIFFICULTY BEING UNDERSTOOD SO I'M GOING TO TRY TO REPHRASE THE QUESTION IN BETTER, MORE PRECISE ENGLISH. IF A PERSON IS HIRING SOMEBODY TO WORK IN A RESTAURANT, IS THAT OF THE SAME MAGNITUDE AS A BOARD OF REGENTS HIRING THE PRESIDENT OF A PUBLIC UNIVERSITY? [LB1109]

SENATOR MURANTE: IS IT OF THE SAME MAGNITUDE? I AM OF THE BELIEF, SENATOR CHAMBERS, THAT EVERY JOB MATTERS RIGHT TO THE HILT,... [LB1109]

SENATOR CHAMBERS: THANK YOU. [LB1109]

SENATOR MURANTE: ...WHETHER IT'S A JANITOR AT A PUBLIC SCHOOL OR THE PRESIDENT OF THE UNIVERSITY, THEY'RE ALL PART OF THE SAME TEAM. [LB1109]

SENATOR CHAMBERS: THANK YOU. DO YOU SEE WHAT I MEAN ABOUT HIM BEING A POLITICIAN? HE KNOWS THE ANSWER AND IF HE DOESN'T, I'M GOING TO TELL HIM. HIRING SOMEBODY TO WORK IN A PIZZA RESTAURANT IS NOT THE SAME AS THE BOARD OF REGENTS HIRING THE PRESIDENT OF A UNIVERSITY WHICH IS A MEMBER OF THE BIG TEN CONFERENCE. NOW, TO ELABORATE FURTHER ON WHAT HE SAID, A PERSON WHO IS IN OFFICE CANNOT IGNORE THE VOTERS OR OTHERWISE THE VOTERS ARE NOT GOING TO PUT THAT PERSON BACK IN. SO IF THE PERSON GETS BACK IN, THEN YOU CAN PRESUME THAT HE OR SHE PLEASED THE VOTERS. PRESIDENT OBAMA WAS REELECTED, SO THAT

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OBVIOUSLY MEANS THAT HE DID WHAT THE VOTERS WANTED AND HE PLEASED VOTERS TO SUCH AN EXTENT THAT HE WAS REELECTED. BUT WHAT DOES THE REPUBLICAN PARTY SAY? HE HAS RUINED THE COUNTRY. NOTHING HE DID WAS RIGHT HIS FIRST TERM. WE'RE GOING TO UNDO ALL OF THAT. SO THESE MEMBERS OF THE REPUBLICAN PARTY WILL STATE WHAT IS SUPPOSED TO BE A PRINCIPLE, BUT IT DOES NOT REALLY APPLY. THEIR PRINCIPLES ARE ELASTIC, THEY'RE CHANGEABLE, THEY'RE MALLEABLE. WE'RE NOT TALKING ABOUT SOMEBODY GETTING A JOB IN A PIZZA RESTAURANT. FOR SENATOR MURANTE'S INFORMATION--AND I'VE READ THINGS ABOUT WHAT WE'RE TALKING ABOUT--IN THIS FIELD OF PRESIDENTS OF LARGE UNIVERSITIES, IT IS NOT EXPECTED THAT ONE IS GOING TO BE THERE FOR A LIFETIME. IT IS KNOWN BY THE UNIVERSITY WHERE A PRESIDENT WORKS THAT THAT PRESIDENT MAY BE SOUGHT BY OTHERS AND MAY BE LOOKING FOR WORK SOMEPLACE ELSE. THIS MIGHT BE SOMETHING THAT SHOCKS A PERSON LIKE SENATOR MURANTE WHO OBVIOUSLY KNOWS HOW TO RUN A PIZZA RESTAURANT BECAUSE HE'S BEEN DOING IT FOR YEARS. BUT WE'RE NOT TALKING ABOUT THAT NOW. WE'RE TALKING ABOUT THE UNIVERSITY SYSTEM, THE UNIVERSE WITHIN WHICH THAT UNIVERSITY EXISTS. AND HERE IS SOMETHING I WOULD SUGGEST TO MY COLLEAGUES. IF YOU HAVE A SYSTEM THAT HAS WORKED VERY WELL FOR A LARGE NUMBER OF YEARS AND THEN YOU FIND DEFECTS IN IT, WHAT HAS BEEN SAID OVER AND OVER? DON'T THROW OUT THE SYSTEM, CORRECT IT. IF THIS IDEA OF GOING AROUND TO THE CAMPUSES FOR A 30-DAY VETTING PERIOD IS GOOD, APPLY THAT AS AN IMPROVEMENT TO THE EXISTING SYSTEM AND LET THESE FOUR PEOPLE MAKE THAT TOUR. LET THEM GO TO THE PUBLIC HEARINGS AND DO ALL OF THE THINGS THAT SENATOR MURANTE HAS TOLD US IS SO WONDERFUL ABOUT LB1109. IF SENATOR MURANTE IS ON THE PREMISES, I'D LIKE TO ASK HIM A QUESTION ABOUT THE BILL ITSELF. [LB1109]

SENATOR SCHEER: SENATOR MURANTE, WILL YOU PLEASE YIELD? [LB1109]

SENATOR MURANTE: I WOULD. [LB1109]

SENATOR CHAMBERS: SENATOR MURANTE, WHAT IS THE PRECISE TERM APPLIED TO THIS FINAL INDIVIDUAL WHO IS GOING TO BE TAKEN ON THIS TOUR FOR THIS 30-DAY VETTING PERIOD? THERE'S A TERM IN THE BILL APPLIED TO THAT PERSON. WHAT IS THAT TERM? [LB1109]

SENATOR MURANTE: THE PRIORITY CANDIDATE. [LB1109]

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SENATOR CHAMBERS: ALL RIGHT. NOW, HOW IS THAT PERSON ABLE TO ACHIEVE THAT PRIORITY STATUS? WHO DETERMINES THAT THAT PERSON SHALL HAVE THAT STATUS? [LB1109]

SENATOR MURANTE: IT WOULD BE THE...THE PROCESS STARTS WITH THE SELECTION COMMITTEE APPOINTED BY THE UNIVERSITY OF NEBRASKA. THAT SELECTION COMMITTEE THEN FORWARDS RECOMMENDATIONS TO THE BOARD OF REGENTS WHO SELECT A PRIORITY CANDIDATE. [LB1109]

SENATOR CHAMBERS: AND THE BOARD OF REGENTS THEN WILL SEE THAT THIS PERSON GOES TO THE CAMPUSES AND THEY HAVE THESE PUBLIC HEARINGS. IS THAT TRUE OR FALSE? [LB1109]

SENATOR MURANTE: THAT THEY WILL SEE TO IT? [LB1109]

SENATOR CHAMBERS: WELL, I MEANT, THEY...UNDER THEIR AEGIS, THIS OCCURS. DO THEY HAVE A PROFESSOR ARRANGE THIS AND CARRY IT OUT OR HOW IS THAT DONE? IF THE PRIORITY CANDIDATE DOESN'T KNOW WHERE THE CAMPUSES ARE, HOW WILL HE OR SHE FIND HIS OR HER WAY AROUND? YOU DON'T UNDERSTAND WHAT THE QUESTION IS THAT I'M ASKING YOU AND I'LL TRY TO REPHRASE IT. [LB1109]

SENATOR MURANTE: I THINK PROBABLY A GOOGLE SEARCH WOULD SOLVE THAT PARTICULAR PROBLEM. [LB1109]

SENATOR CHAMBERS: WHO DETERMINES, AFTER THIS PERSON HAS BEEN NAMED A PRIORITY CANDIDATE, THAT THIS SYSTEM OR PROCESS THAT YOU MENTIONED WHEN YOU WERE DISCUSSING IT, THAT THE BILL CALLS FOR? IS THAT JUST OUT THERE AND IT CAN BE DONE OR IGNORED OR IS THAT A PROCESS BUILT INTO THIS SYSTEM THAT IS BEING CREATED UNDER LB1109? [LB1109]

SENATOR MURANTE: UNDER LB1109, THE MANDATE OF A 30-DAY VETTING PERIOD AND THEN PUBLIC HEARINGS AT EACH OF THE UNIVERSITY CAMPUSES BECOMES A MATTER OF STATE LAW. SO IF YOU'RE ASKING WHO WOULD IMPLEMENT... [LB1109]

SENATOR CHAMBERS: IF THE CANDIDATE DOESN'T WANT TO GO. [LB1109]

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SENATOR MURANTE: THE CANDIDATE WOULD BE REQUIRED TO GO UNDER THE STATUTE. [LB1109]

SENATOR CHAMBERS: BUT IF THE CANDIDATE DOESN'T WANT TO GO, WHAT HAPPENS? WHAT DOES THE STATUTE SAY WILL HAPPEN IF A CANDIDATE DOES NOT WANT TO PARTICIPATE? [LB1109]

SENATOR MURANTE: THE STATUTE DOESN'T SPEAK TO IF THE CANDIDATE JUST DOESN'T SHOW UP. [LB1109]

SENATOR CHAMBERS: SO THE CANDIDATE IS...IT IS NOT NECESSARY THAT THE CANDIDATE DO THIS, IS IT? YOU TALK ABOUT THE TERMS OF THE LAW. UNDER THE TERMS OF LB1109, YOUR BILL THAT YOUR COMMITTEE PUT OUT HERE THAT YOU ALL DID SO MUCH RESEARCH ON DOES NOT INCLUDE A WAY TO BE SURE THAT THE CANDIDATE VISITS THESE CAMPUSES OR ATTENDS PUBLIC HEARINGS, IS THERE? [LB1109]

SENATOR MURANTE: IT SOUNDS LIKE THE HYPOTHETICAL THAT YOU'RE SETTING UP IS THAT THE BOARD OF REGENTS WOULD SELECT A PRIORITY CANDIDATE, THAT PRIORITY CANDIDATE WOULD THEN IGNORE STATE LAW, IGNORE THE PUBLIC HEARINGS, NOT SHOW UP TO ANYTHING AND THEN AT THE END OF THE DAY--THE ULTIMATE DECISION-MAKING PROCESS IS BY THE BOARD OF REGENTS--THAT THE BOARD OF REGENTS WOULD THEN JUST RATIFY THE INITIAL DECISION, NOTWITHSTANDING THE FACT THAT THE PRIORITY CANDIDATE HAS IGNORED THE LAW. THAT SEEMS TO BE EXCEPTIONALLY UNLIKELY. [LB1109]

SENATOR CHAMBERS: THAT'S NOT WHAT I ASKED YOU. DON'T BE EVASIVE. WHERE IN THE LAW DOES IT SAY THERE IS ANY SANCTION IF THE CANDIDATE DOES NOT TAKE THIS TOUR AND DOES NOT ATTEND THESE PUBLIC HEARINGS? WHERE IS THAT IN THE LAW? [LB1109]

SENATOR MURANTE: IT DOESN'T EXIST AND IT SHOULD NOT EXIST. [LB1109]

SENATOR CHAMBERS: ALL RIGHT. MEMBERS OF THE LEGISLATURE, YOU SEE WHAT HE'S ADMITTING NOW? THERE'S NO ASSURANCE THAT THERE IS GOING TO BE A PUBLIC HEARING. THERE'S NO ASSURANCE THAT THE OTHER CAMPUSES WILL HAVE THE OPPORTUNITY FOR THE INPUT. HE SAID THIS IS THE MOST

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TRANSPARENT SYSTEM IN THE COUNTRY. MAYBE HE MEANS, INSTEAD OF TRANSPARENCY, THE MOST NONEXISTENT SYSTEM. I WANT YOU TO HEAR WHAT HE SAID. THERE IS NO GUARANTEE, NOT EVEN A REQUIREMENT, THAT THERE BE A SINGLE PUBLIC HEARING ATTENDED BY A CANDIDATE. THERE IS NO REQUIREMENT THAT A SINGLE CAMPUS IS VISITED. AND I WANT ALL THESE PEOPLE WHO SUPPORT THIS BILL TO STAND UP AND SAY, WELL, THEY KNEW THAT AND THEY SUPPORT IT ANYWAY. [LB1109]

SENATOR SCHEER: ONE MINUTE. [LB1109]

SENATOR CHAMBERS: I BET MOST PEOPLE WHO ARE GOING TO SUPPORT IT HAVEN'T READ IT, WON'T UNDERSTAND IT. BUT I'M GOING TO HAVE AN OPPORTUNITY TO MAKE A LIST OF THOSE WHO SPEAK FOR IT AND THEN SEE HOW MUCH THEY KNOW ABOUT THIS BILL AND IF THEY SUPPORT A BILL THAT IS AS FLAWED AS WHAT SENATOR MURANTE JUST ESTABLISHED. AND WITH THAT, MR. PRESIDENT, I WILL WITHDRAW THAT MOTION. [LB1109]

SENATOR SCHEER: WITHOUT EXCEPTION, THE MOTION IS WITHDRAWN. GOING BACK TO THE QUEUE AND DISCUSSION OF LB1109, WAITING TO SPEAK ARE: SENATORS KRIST, HADLEY, WILLIAMS AND OTHERS. SENATOR KRIST, YOU'RE RECOGNIZED. [LB1109]

SENATOR KRIST: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. GOOD MORNING, NEBRASKA. THERE ARE MANY THINGS THAT YOU GET TO SEE WHEN YOU SIT IN THAT CHAIR AND I JUST FINISHED PRESIDING A LITTLE WHILE AGO. ONE OF THE THINGS THAT'S PRETTY OBVIOUS IS THAT THERE WAS A SENATOR GOING FROM PLACE TO PLACE, MAKING SURE THAT YOU UNDERSTOOD IF YOU WEREN'T CONSERVATIVE ENOUGH OR YOU WEREN'T REPUBLICAN ENOUGH OR THIS IS THE WAY YOU SHOULD VOTE OR THIS IS THE PERSON YOU SHOULD SUPPORT OR THESE ARE THE PEOPLE THAT YOU SHOULD SUPPORT. IT'S ALSO A PERSON IN OUR PRESENCE THAT SEEMS TO THINK THAT CAUCUSING IS JUST SOMETHING THAT'S A WAY OF LIFE, BRINGING WASHINGTON, D.C., HERE TO NEBRASKA. WHEN YOU GET A CHANCE, I'D LIKE YOU TO GO GOOGLE HUEY LONG. HUEY LONG WAS A SENATOR AND, BEFORE THAT, THE GOVERNOR OF THE STATE OF LOUISIANA. HE HAS A GREAT RESEMBLANCE TO THAT SENATOR HERE IN THIS BODY WITH A CIGAR HANGING OUT OF HIS POCKET, WHO SEEMS TO BE ABLE TO TELL PEOPLE OR THINKS HE CAN TELL PEOPLE HOW TO VOTE. YOU CAN'T, SENATOR KINTNER. YOU CAN DO ALL YOU CAN DO, BUT YOU CAN'T CAUCUS ME. MY VOTE IS MY VOTE. YOU CAN TAKE CREDIT FOR KILLING BILLS.

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YOU CAN GET ON YOUR FACEBOOK PAGE AND BELITTLE THE REST OF US. YOU CAN WRITE ALL ABOUT THE MONKEYS. BUT YOU CAN'T CONVINC ME TO VOTE ANY OTHER WAY THAN I WILL VOTE, REPRESENTING MY CONSTITUENTS, THE CONSTITUENTS THAT VOTED ME HERE, AND THE VOICE THAT I HAVE BECAUSE OF THAT VOTE. IF YOU'RE VOTING IN LOCKSTEP AND CAUCUSING ON THINGS, COLLEAGUES, THAT IS NOT THE WAY WE DO THINGS IN NEBRASKA. WE LOOK AT EACH ITEM, ITEM BY ITEM. CLEAR VISION OF A PERSON WALKING FROM PLACE TO PLACE MAKING SURE THAT YOU UNDERSTAND IF YOU'RE A REAL REPUBLICAN, IF YOU'RE A REAL CONSERVATIVE, IF YOU'RE A REAL ATHEIST, IF...WHATEVER THE CASE MIGHT BE, THIS IS THE WAY YOU NEED TO VOTE. CAN YOU TELL HE GOT MY DANDER UP THIS MORNING? SOUNDS A LITTLE BIT LIKE MIKE FRIEND ON THIS MIKE, DOESN'T IT? WELL, HERE'S THE DEAL. CAUCUS ALL YOU WANT TO, BUT IF YOU DON'T HAVE AN INDIVIDUAL VOTE, IF YOU DON'T HAVE A VOICE, THEN YOU WILL BE JUDGED BY THE PEOPLE WHO PUT YOU HERE PAYING GREAT ATTENTION TO WHAT'S BEING SAID ON THE MIKE, AND I APPRECIATE THAT. I THINK I'VE SAID ENOUGH FOR THIS MORNING. BUT I DO WANT TO THANK YOU FOR THE OPPORTUNITY TO ADDRESS YOU ON SOMETHING OTHER THAN LB1109. I RESERVE THAT FOR A LATER TIME IN THE DEBATE. WE'LL BE HERE TILL 5:15 TALKING ABOUT LB1109, BECAUSE IT IS SENATOR CHAMBERS' RIGHT, AND OTHERS', TO HAVE AN ACTIVE DISCUSSION ON THEIR OWN USING THEIR OWN MINDS AND THEIR OWN VOTES. THANK YOU. [LB1109]

SENATOR SCHEER: THANK YOU, SENATOR KRIST. SENATOR HADLEY, YOU'RE RECOGNIZED. [LB1109]

SPEAKER HADLEY: MR. PRESIDENT, MEMBERS OF THE BODY, I'D LIKE TO SPEND JUST A LITTLE BIT OF TIME, IF I COULD, TO TELL YOU AT LEAST MY EXPERIENCES OF HOW SEARCHES IN HIGHER EDUCATION WORK. AND THE FIRST THING I'M GOING TO DO IS SAY THAT GENERALLY, IN FACT, 100 PERCENT, I'VE NEVER HAD A SITUATION WHERE THERE HASN'T BEEN A SEARCH COMMITTEE, WHERE THERE HASN'T BEEN A COMMITTEE MADE UP THAT IS CALLED THE SEARCH COMMITTEE. IN FACT, IF YOU WANT TO GO LOOK, YOU CAN LOOK IN THE REGENTS' BYLAWS, SECTION 2.1(a): WHENEVER A VACANCY OCCURS IN THE POSITION OF PRESIDENT OR IS IMMINENT, THE BOARD SHALL BE THE APPOINTING AUTHORITY AND SHALL PROMPTLY APPOINT ONE OR MORE PRESIDENTIAL SEARCH ADVISORY COMMITTEE(S) TO ASSIST THE BOARD IN THE SEARCH FOR SUITABLE CANDIDATES TO FILL THE POSITION AND DESIGNATING ONE OF ITS MEMBERS OF THE PRESIDENTIAL SEARCH COMMITTEE(S) TO SERVE AS ITS CHAIR. THE PRESIDENTIAL SEARCH COMMITTEE(S) WILL CONSULT BROADLY WITH THE PRINCIPAL CONSTITUENCIES IN WHICH THE PRESIDENT

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INTERACTS AND SHALL DEFINE THE RESPONSIBILITIES OF AND PREPARE THE QUALIFICATIONS AND PROFILE OF THE NEXT PRESIDENT IN A MANNER CONSISTENT WITH THE BYLAWS. THE SIZE, RESPONSIBILITIES, COMPOSITION OF, AND REPRESENTATION ON THE SEARCH COMMITTEE SHALL BE DETERMINED BY THE BOARD. PART (b) GOES ON TO SAY THE EXACT SAME THING FOR THE SENIOR ADMINISTRATIVE POSITION AT THE LEVEL OF CHANCELLOR OR VICE PRESIDENT. SO, FOLKS, THERE IS INPUT. WE'VE HEARD A LOT THAT THERE ISN'T INPUT FROM THESE CONSTITUENCIES. THEY WILL BE ON THE SEARCH COMMITTEE. THERE WILL BE ALUMNI. THERE WILL BE FACULTY. THERE WILL BE STUDENTS. THERE WILL BE JUST PEOPLE OF THE GENERAL PUBLIC. THERE WILL BE PEOPLE FROM GROUPS WHO HAVE STAKES IN THE UNIVERSITY. SO THERE WILL BE INPUT. BUT THE REGENTS BECOME, OR THE PRESIDENT, THE DECIDING FACTOR, JUST THE SAME AS IT IS HERE. WE'RE ELECTED TO DO THE PEOPLE'S BUSINESS. THAT'S WHAT THE REGENTS ARE ELECTED TO DO. THERE WAS ALSO A QUESTION EARLIER ABOUT THE STUDENT WHO TESTIFIED. WE HAD A STUDENT, A FORMER PRESIDENT OF THE...UNMC STUDENT REGENT, PRESIDENT OF THE STUDENT BODY, WHO TESTIFIED IN FAVOR OF THE BILL. DO YOU KNOW THAT THE BOARD OF REGENTS HAS FOUR STUDENTS ON IT? THE PRESIDENT OF THE UNK STUDENT BODY, THE PRESIDENT OF THE UNL STUDENT BODY, THE PRESIDENT OF THE UNO STUDENT BODY, AND THE PRESIDENT OF THE UNMC STUDENT BODY. THEY ARE EX OFFICIO, NONVOTING, BUT THEY'RE ELECTED BY THE STUDENTS IN EACH...ON EACH CAMPUS. THEY WOULD BE PART OF THE BOARD OF REGENTS THAT WOULD BE MAKING THE DECISION ON THE SELECTION OF A PRESIDENT. SO THERE IS INPUT, QUITE A BIT, FROM THE STUDENTS. SO THIS IDEA THAT SOMEHOW WE'RE NOT...THE BOARD OR THE PRESIDENT IS NOT GOING TO GET INPUT FROM THE VARIOUS GROUPS IS JUST NONEXISTENT. IN 35 YEARS, I'VE NEVER SEEN A SEARCH COMMITTEE THAT WASN'T MADE UP OF THE GROUPS I TALKED ABOUT. IT WOULD BE FOOLHARDY FOR A PRESIDENT OR A BOARD OF REGENTS NOT TO WORK WITH THE CONSTITUENCIES. [LB1109]

SENATOR SCHEER: ONE MINUTE. [LB1109]

SPEAKER HADLEY: JUST THE SAME AS OUR CONSTITUENTS ELECT US TO MAKE DECISIONS, THAT SAME CONCEPT WORKS WITH THE BOARD OF REGENTS. THEY'RE ELECTED. THEY HAVE CONSTITUENCIES WHO GIVE THEM INPUT IN MAKING DECISIONS. THIS IS AN IMPORTANT DECISION. WE'VE TALKED ABOUT THAT. WE'VE TALKED ABOUT IF WE WANT TO BE COMPETITIVE...I'M NOT GOING TO DO IT, BUT I COULD GO THROUGH THE LIST OF BIG TEN SCHOOLS THAT JUST PICK THEIR PRESIDENT. MICHIGAN, OHIO STATE, GREAT SCHOOLS, THEY JUST...ON A MONDAY MORNING, THEY ANNOUNCE THEIR PRESIDENT AND THAT'S

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THE WAY IT IS. WHY DO THEY DO THAT? BECAUSE THAT'S THE WAY THEY CAN FEEL THAT THEY GET THEIR BEST PERSON TO DO IT. IF WE WANT TO COMPETE WITH THESE PEOPLE ON THE ACADEMIC PLAYING FIELD... [LB1109]

SENATOR SCHEER: TIME, SENATOR. [LB1109]

SPEAKER HADLEY: ...WE NEED TO DO THIS ALSO. THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR SCHEER: THANK YOU, MR. SPEAKER. SENATOR WILLIAMS, YOU'RE RECOGNIZED. [LB1109]

SENATOR WILLIAMS: THANK YOU, MR. PRESIDENT. AND WELCOME THIS MORNING TO OUR FELLOW NEBRASKA LEGISLATORS. I APPRECIATE THE OPPORTUNITY TO SPEAK BRIEFLY ON THIS TODAY AND SHARE SOME PRACTICAL EXPERIENCE THAT I HAVE HAD IN THE AREA OF SEARCHES. AND I SINCERELY APPRECIATE THE DISCUSSION THAT WE ARE HAVING THIS MORNING BECAUSE IT DOES FOCUS ON IMPORTANT THINGS FOR OUR STATE. IT DOES FOCUS ON THOSE ISSUES OF TRANSPARENCY AND HOW WE MOVE THINGS FORWARD AND HOW WE DO THEM RIGHT. I THINK WE WOULD ALL AGREE THAT WE ARE ALL AFTER A PROCESS THAT WOULD BE OPEN, FAIR, AND AT THE SAME TIME, RESULTS IN THE BEST CANDIDATES BEING POSSIBLE FOR CHOICE AT OUR STATE UNIVERSITY. THE WORD THAT HAS BEEN IN FRONT OF ME CONSTANTLY SINCE I STARTED THINKING ABOUT THIS ISSUE AND, IN PARTICULAR, THE TYPES OF SEARCHES THAT I'VE HAD THE OPPORTUNITY TO BE INVOLVED WITH, IS CONFIDENTIALITY. IN 2009 AND AGAIN IN 2014, I WAS INVOLVED WITH A PERSONAL SEARCH FOR THE CEO OF THE AMERICAN BANKERS ASSOCIATION. IT'S A HIGHLY SOUGHT AFTER POSITION IN WASHINGTON, D.C. THE AMERICAN BANKERS ASSOCIATION IS THE LARGEST FINANCIAL TRADE ASSOCIATION IN THE WORLD AND CANDIDATES THAT APPLY FOR THAT JOB COME FROM VARIED BACKGROUNDS. IN THIS PROCESS THROUGH BOTH TIMES THAT I WAS INVOLVED WITH IT, WE WERE INTERVIEWING SITTING GOVERNORS OF STATES, SITTING AGENCY HEADS OF PLACES LIKE THE FDIC, THE FBI, AND THE TREASURY DEPARTMENT. EVERY ONE OF THESE PEOPLE THAT TALKED TO ME PRIVATELY--AND I WOULD TELL YOU THERE ARE TWO THAT WERE CANDIDATES OVER THOSE TWO TIMES THAT I KNEW VERY PERSONALLY BECAUSE THEY WERE FROM, THEY HAD NEBRASKA TIES--THE FIRST THING THEY HAD TO DO WAS TRUST THE SYSTEM, TRUST THAT THE SYSTEM THAT WAS GOING TO BE USED TO GO THROUGH THE PROCESS WOULD BE FAIR, BUT WOULD BE CONFIDENTIAL. THEY ALSO HAD TO BE



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ASSURED THAT THEY COULD TRUST THE MEMBERS OF THE COMMITTEE, THE PEOPLE THAT WERE GOING TO BE INVOLVED AND KNOW THEIR NAME. THEY HAD TO BE ABLE TO TRUST THAT LEVEL OF CONFIDENTIALITY. AND THEY HAD TO BE ASSURED THAT AT THE END OF THE DAY, THEY WOULD BE TREATED FAIRLY. I'VE SEEN THIS HAPPEN AND THE BOTTOM LINE IS, PEOPLE WILL NOT PUT THEMSELVES THROUGH THIS POSITION IF THEY FEEL THEIR CONFIDENTIALITY CAN BE VIOLATED. OUR GOAL HERE, OUR GOAL IN EVERY ORGANIZATION THAT YOU WORK IN, YOUR GOAL IN ANY BUSINESS THAT YOU OPERATE IS TO RETAIN AND END UP HIRING THE BEST LEADERS THAT ARE POSSIBLE BECAUSE LEADERSHIP IS ABSOLUTELY THE KEY TO SUCCESS IN ANY DISCIPLINE. LEADERS DON'T NECESSARILY, IN THE BANKING INDUSTRY, KNOW HOW TO OPEN A CHECKING ACCOUNT OR FILL OUT THE PAPERWORK ON A LOAN, BUT I TELL YOU WHAT THAT LEADER DOES KNOW: KNOWS HOW TO BUILD A TEAM. IT'S NOT COMPLICATED. IT'S NOT ROCKET SCIENCE. BUT IT BEGINS BY BUILDING THOSE RELATIONSHIPS. I'VE ALWAYS CALLED IT BATTLING TO BOND, GOING THROUGH WARS TOGETHER SO THAT YOU END UP BONDING TOGETHER WITH A RELATIONSHIP THAT LEADS TO SUCCESS. [LB1109]

SENATOR SCHEER: ONE MINUTE. [LB1109]

SENATOR WILLIAMS: GOING THROUGH THIS BUILDS CONFIDENCE, IT BUILDS COMMITMENT, AND IT BUILDS TRUST. AND WHEN THAT PROCESS IS COMPROMISED, IT HURTS THE WHOLE TEAM. AND THAT'S WHY THESE INDIVIDUALS IN MANY CASES WILL NOT GO THROUGH THE CURRENT VETTING PROCESS. WE WEAR MANY HATS AS SENATORS. THINK FOR JUST A MOMENT IF YOU'RE THE UNIVERSITY, YOU WANT TO HAVE THE BEST POOL OF CANDIDATES POSSIBLE AND OUR CURRENT LAW LIMITS THAT. THINK ABOUT WEARING THE HAT OF A CANDIDATE. THESE CANDIDATES ARE ALREADY EMPLOYED IN VERY GOOD JOBS AND THEY ARE COMPROMISING THEIR ABILITY TO STAY IN THAT EMPLOYMENT BY OPENING UP TO THE CURRENT VETTING SYSTEM. AND THEN THINK ABOUT IF YOU'RE THE PUBLIC. [LB1109]

SENATOR SCHEER: TIME, SENATOR. [LB1109]

SENATOR WILLIAMS: THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR SCHEER: SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB1109]

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SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. I'M GLAD THAT SENATOR WILLIAMS HAS NOT SAT DOWN, BECAUSE I HAVE SOME QUESTIONS FOR HIM. SENATOR WILLIAMS, WHAT WAS THE NAME OF THIS ORGANIZATION THAT YOU WERE TALKING ABOUT THAT A LEADER WAS BEING SOUGHT FOR? [LB1109]

SENATOR SCHEER: SENATOR WILLIAMS, WILL YOU PLEASE YIELD? [LB1109]

SENATOR WILLIAMS: YES, I WOULD. IT WAS THE AMERICAN BANKERS ASSOCIATION, SENATOR CHAMBERS. [LB1109]

SENATOR CHAMBERS: IS THAT A PRIVATE OR PUBLIC ORGANIZATION? [LB1109]

SENATOR WILLIAMS: THAT'S A PRIVATE MEMBERSHIP ORGANIZATION. [LB1109]

SENATOR CHAMBERS: TO WHOM DO THEY OWE THEIR LOYALTY, THE PUBLIC OR THEIR ORGANIZATION? [LB1109]

SENATOR WILLIAMS: THEY OWE THEIR LOYALTY TO THEIR MEMBERS, SO IT WOULD NOT BE THE PUBLIC. [LB1109]

SENATOR CHAMBERS: ALL RIGHT. SO THAT DISTINGUISHES RIGHT THERE THE GROUP YOU'RE TALKING ABOUT FROM THE UNIVERSITY, OR DO YOU DISAGREE WITH THAT? [LB1109]

SENATOR WILLIAMS: I AGREE THAT THEY ARE NOT PUBLIC. WHAT I WAS POINTING OUT WAS THE QUALIFICATIONS OF THE PERSON THAT WAS LETTING THEMSELF BE VETTED THROUGH THE PROCESS, NOT ARGUING THAT THEY WERE PUBLIC VERSUS PRIVATE. [LB1109]

SENATOR CHAMBERS: AND IN THE EXAMPLE YOU GAVE, THAT PERSON YOU SAID WAS CONCERNED ABOUT CONFIDENTIALITY, WHICH HE OR SHE HAD A RIGHT TO EXPECT DURING THIS PROCESS. TRUE? [LB1109]

SENATOR WILLIAMS: THEY WERE GUARANTEED CONFIDENTIALITY IN THE PROCESS. [LB1109]

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SENATOR CHAMBERS: AND THAT'S STRICTLY A PRIVATE OPERATION AND THEIR LOYALTY IS TO THE MEMBERS. IN THIS THAT WE'RE TALKING ABOUT, THE LOYALTY BELONGS TO THE PUBLIC. OR DO YOU THINK IT BELONGS TO THE HEADHUNTERS WHO DO THIS SEARCHING AND MAKE MONEY THEREBY?  
[LB1109]

SENATOR WILLIAMS: I THINK THE GOAL OF THE PROCESS IS TO ACHIEVE THE BEST RESULT POSSIBLE AND DO IT IN A WAY THAT THE PUBLIC HAS INPUT. AND I BELIEVE LB1109 ACCOMPLISHES THAT IN A FAIR AND BALANCED MANNER.  
[LB1109]

SENATOR CHAMBERS: YOU AND SENATOR MURANTE MUST HAVE GONE TO THE SAME SCHOOL, SO I'M GOING TO REPEAT THE QUESTION AND REPHRASE IT. TO WHOM WILL THIS PRESIDENT OWE HIS OR HER LOYALTY ONCE HE OR SHE IS HIRED BY THE UNIVERSITY? [LB1109]

SENATOR WILLIAMS: THEY ARE HIRED, AS I UNDERSTAND IT, SENATOR CHAMBERS, BY THE BOARD OF REGENTS... [LB1109]

SENATOR CHAMBERS: BUT THEIR LOYALTY... [LB1109]

SENATOR WILLIAMS: ...SO THEIR FIRST LOYALTY WOULD BE TO THE BOARD OF REGENTS WHO ARE ELECTED BY THE PUBLIC. [LB1109]

SENATOR CHAMBERS: BUT WHO...THIS PRESIDENT...OKAY. I'LL RUN OUT OF TIME. THANK YOU. MEMBERS OF THE LEGISLATURE, HERE IS WHAT I'M GETTING AT AND I THINK YOU ALL MIGHT UNDERSTAND IT. A PERSON IN THE ORGANIZATION THAT WAS MENTIONED BY SENATOR WILLIAMS, WE ALL KNOW, OWES A LOYALTY TO THE MEMBERS. THE PERSON WHO IS THE PRESIDENT OF THIS UNIVERSITY OWES LOYALTY TO THE PUBLIC, NOT TO THE HEADHUNTERS, NOT TO THE BOARD OF REGENTS. AND IF THAT'S THE MIND-SET OF THOSE WHO ARE SUPPORTING LB1109, THEY NEED TO DISABUSE THEMSELVES OF THAT MISPERCEPTION. WE'RE TALKING ABOUT A PUBLIC ENTITY. AND I READ FROM A SUPREME COURT DECISION IN THIS STATE THAT ALL PUBLIC OFFICIALS, WHETHER ELECTED OR APPOINTED, HAVE A FIDUCIARY RELATIONSHIP TO THE PUBLIC WHOM THEY MUST SERVE WITH UNDIVIDED LOYALTY. AND IF THAT PERSON HAS GREATER LOYALTY TO A HEADHUNTER OR TO THE BOARD OF REGENTS, THAT IS A VIOLATION OF THAT PERSON'S FIDUCIARY RELATIONSHIP TO THE PUBLIC WHICH HE OR SHE VOLUNTARILY ASSUMES UPON ENTERING

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OFFICE. SENATOR HADLEY TALKED ABOUT THESE NONVOTING STUDENTS. THAT TELLS YOU THAT THEY DON'T HAVE ANY ROLE TO PLAY THAT ANYBODY CARES ABOUT. [LB1109]

SENATOR SCHEER: ONE MINUTE. [LB1109]

SENATOR CHAMBERS: LOBBYISTS DON'T VOTE HERE AND ONE STUDENT DOESN'T SPEAK FOR ALL OF THE OTHER STUDENTS. I'M GOING TO READ SOME MATERIAL WHERE STUDENTS WHO WENT TO THESE FORUMS WERE GLAD THEY WENT THERE BECAUSE THEY HAD THE CHANCE TO GET THE INFORMATION. YOU THINK THESE REGENTS WOULD CHANGE THE WAY THEY'RE GONNA VOTE FOR SOMEBODY BECAUSE THE STUDENTS WHO DON'T VOTE SAY WE DON'T THINK THIS IS WHAT YOU OUGHT TO DO? THE ONLY REASON THEY'RE THERE IS TO PLACATE THE STUDENTS IN A WAY THAT WILL NOT LET THE STUDENTS GET IN THE WAY OF WHAT THE BOARD WANTS TO DO. AND WHEN SENATOR HADLEY READ OFF THE NAMES OF THOSE ON THE SEARCH COMMITTEE HE DID NOT MENTION, BECAUSE THE RULES DON'T, THE MOST IMPORTANT PERSON AND THAT IS THE HEADHUNTER. THE HEADHUNTER BRINGS THIS PERSON, NOT THE SEARCH COMMITTEE. AND HE KNOWS THAT, BUT IN THE SAME WAY THAT SENATOR MURANTE DID NOT TELL YOU THAT THIS PERSON DOESN'T HAVE TO ATTEND ANY PUBLIC HEARINGS, DOESN'T HAVE TO VISIT ANY CAMPUSES, SENATOR HADLEY DIDN'T TELL YOU THAT THE KEY PERSON IS THE HEADHUNTER AND THAT HEADHUNTER WORKS FOR... [LB1109]

SENATOR SCHEER: TIME, SENATOR. [LB1109]

SENATOR CHAMBERS: ...MONEY. AND THE MORE... [LB1109]

SENATOR SCHEER: TIME, SENATOR. [LB1109]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB1109]

SENATOR SCHEER: THANK YOU, SENATOR CHAMBERS. MR. CLERK. [LB1109]

CLERK: MR. PRESIDENT, COMMITTEE ON REVENUE REPORTS LB774 AND LB1051 TO GENERAL FILE WITH AMENDMENTS. I HAVE A NEW A BILL, LB910A BY SENATOR BOLZ. (READ LB910A BY TITLE FOR THE FIRST TIME.) AMENDMENTS TO BE PRINTED: SENATOR GARRETT TO LB768; SENATOR CHAMBERS TO LB673. I

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HAVE A CONFLICT OF INTEREST STATEMENT FROM SENATOR SCHILZ; THAT WILL BE ON FILE IN THE CLERK'S OFFICE. NAME ADDS: SENATORS DAVIS AND GROENE TO LB817; SCHNOOR, STINNER, SMITH, RIEPE, McCOY TO LB768, AS WELL AS LARSON AND KOLOWSKI. (LEGISLATIVE JOURNAL PAGES 893-897.) [LB774 LB1051 LB910A LB768 LB673 LB817]

SENATOR BLOOMFIELD WOULD MOVE TO RECESS UNTIL 1:30, MR. PRESIDENT.

SENATOR SCHEER: YOU HEARD THE MOTION TO RECESS. ALL THOSE IN FAVOR STATE AYE. ALL THOSE OPPOSED, NAY. THE AYES HAVE IT. WE ARE RECESSED TILL 1:30.

RECESS

SPEAKER HADLEY PRESIDING

SPEAKER HADLEY: GOOD AFTERNOON, LADIES AND GENTLEMEN. WELCOME TO THE GEORGE W. NORRIS LEGISLATIVE CHAMBER. THE AFTERNOON SESSION IS ABOUT TO RECONVENE. SENATORS, PLEASE RECORD YOUR PRESENCE. ROLL CALL. RECORD, MR. CLERK.

CLERK: I HAVE A QUORUM PRESENT, MR. PRESIDENT.

SPEAKER HADLEY: THANK YOU, MR. CLERK. DO YOU HAVE ANY ITEMS FOR THE RECORD?

CLERK: I HAVE NOTHING AT THIS TIME, MR. PRESIDENT.

SPEAKER HADLEY: THANK YOU, MR. CLERK. WE WILL PROCEED TO THE FIRST ITEM ON THIS AFTERNOON'S AGENDA. MR. CLERK.

CLERK: LB1109, CONTINUING FROM THIS MORNING'S DISCUSSION, MR. PRESIDENT, A BILL BY SENATOR MURANTE. THE BILL WAS REFERRED TO GENERAL FILE FROM THE GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE. AT THIS TIME I HAVE NO AMENDMENTS TO THE BILL. [LB1109]

SPEAKER HADLEY: SENATOR GROENE, YOU'RE RECOGNIZED. [LB1109]

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SENATOR GROENE: THANK YOU, MR. PRESIDENT. I DIDN'T THINK I WAS FIRST IN THE QUEUE. I'VE BEEN READING THE EXISTING LAW AND EXISTING LAW SAYS: "JOB APPLICATION MATERIALS SUBMITTED BY APPLICANTS, OTHER THAN FINALISTS...WHO HAVE APPLIED FOR EMPLOYMENT BY ANY PUBLIC BODY AS DEFINED IN SECTION 84-1409. FOR PURPOSES OF THIS SUBDIVISION," EXCEPT THE FINALIST, REMEMBER, "JOB APPLICATION MATERIALS MEANS EMPLOYMENT APPLICATIONS, RESUMES, REFERENCE LETTERS, AND SCHOOL TRANSCRIPTS AND FINALIST MEANS ANY APPLICANT...WHO REACHES THE FINAL POOL OF APPLICANTS, NUMBERING FOUR OR MORE, FROM WHICH SUCCESSFUL APPLICANT IS TO BE SELECTED, WHO IS AN ORIGINAL APPLICANT WHEN THE FINAL POOL OF APPLICANTS NUMBERS LESS THAN FOUR, OR WHO IS AN ORIGINAL APPLICANT AND THERE ARE FOUR OR FEWER ORIGINAL APPLICANTS," BY ANY PUBLIC BODY AS DEFINED IN 84-1409. IN 84-1409, THE TERM IS DEFINED. "PUBLIC BODY MEANS GOVERNING BODIES OF ALL POLITICAL SUBDIVISIONS OF THE STATE OF NEBRASKA, GOVERNING BODIES OF ALL AGENCIES, CREATED BY THE CONSTITUTION OF NEBRASKA, STATUTE, OR OTHERWISE PURSUANT TO LAW..." MY GOOD FRIEND, SENATOR MURANTE, COMPARED UNIVERSITY OF NEBRASKA PRESIDENTS AND CHANCELLORS TO PIZZA DELIVERY GUYS, THAT THEY HAVE THE RIGHT FOR SECRECY IN THEIR APPLICATION. BUT LISTEN, WHEN COUNTY COMMISSIONERS HIRE A NEW ROADS DEPARTMENT DIRECTOR, HE DOESN'T HAVE THE SAME RIGHTS AS THE PIZZA DELIVERY GUY. IF THE STATE COLLEGE, WAYNE STATE, PERU STATE HIRES A NEW COLLEGE PRESIDENT, HE DOESN'T HAVE THE SAME RIGHTS AS THESE FOUR PRIVILEGED INDIVIDUALS, THE CHANCELLOR AND THE PRESIDENTS...THE PRESIDENT AND THE CHANCELLOR OF THE UNIVERSITY. ONLY THEM...THIS IS CARVING OUT OF EXISTING LAW ON PUBLIC RECORDS FIVE EXEMPTIONS OF PEOPLE WHO HAVE THE SAME RIGHTS AS A PIZZA DELIVERY GUY TO KEEP IT, BUT ALL THE REST OF THOSE PUBLIC EMPLOYEES IN BETWEEN THERE AREN'T EQUAL. THEY HAVE TO OBEY THE PUBLIC RECORDS LAWS OF THE STATE OF NEBRASKA. THE FIRE CHIEF WHO GETS HIRED BY OMAHA OR A COMMUNITY, THEY HAVE TO PUT THEIR NAME OUT THERE. THE POLICE CHIEFS, THE COLLEGE PRESIDENTS, THE COMMUNITY COLLEGE PRESIDENTS, EVERY SUPERINTENDENT OF A SCHOOL OF A SCHOOL DISTRICT, THEY HAVE TO FOLLOW THESE PUBLIC BODY...PUBLIC RECORDS LAWS. WE'RE CARVING OUT HERE FOUR ELITE, SPECIAL INDIVIDUALS WITH SPECIAL RIGHTS THAT THEY DON'T HAVE TO...THEY GET THE SAME RIGHTS AS THE PIZZA DELIVERY GUY. THE REST OF THEM DON'T. ALL THE OTHER PUBLIC EMPLOYEES, ARE THEY EQUAL OR NOT? WE'VE GOT THESE PRIVILEGED INDIVIDUALS THAT DON'T HAVE TO FOLLOW THE SAME RULES THAT EVERYBODY ELSE DOES THAT SEEKS EMPLOYMENT IN NEBRASKA IN PUBLIC...IN GOVERNMENT? THAT IS WHAT WE'RE ASKING HERE TO DO. ANY NEWSPAPER

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CAN GO DOWN TO THE LOCAL CITY AND SAY, I UNDERSTAND YOU'RE HIRING A NEW POLICE CHIEF, CAN I SEE THE RESUMES OF YOUR FINALISTS, CAN I SEE THE RECORDS OF YOUR FINALISTS, AND THEY GIVE IT TO THEM. IT'S CALLED PUBLIC RECORDS. [LB1109]

SPEAKER HADLEY: ONE MINUTE. [LB1109]

SENATOR GROENE: IT'S CALLED OPEN RECORDS LAW. WE'RE CARVING OUT THIS SPECIAL GROUP OF INDIVIDUALS. SOMEBODY SAID, MALIGN THE UNIVERSITY. I LOVE THE UNIVERSITY; I'M AN ALUMNI, ALUM. THE STUDENTS, THE FACULTY, THE ALUMNI, THE FOOTBALL TEAM, THAT DEFINES THE UNIVERSITY TO ME, THE KID TRYING TO GET AHEAD IN LIFE GOING TO SCHOOL. IT'S NOT THE TOP LEADERSHIP, EXCUSE ME. THAT IS WHO I'M MALIGNING IF THEY DO NOT WANT TO BE TRANSPARENT. AND THAT IS JUST PRESENT LEADERS, NOT THE HISTORY OF 150 YEARS OF THAT INSTITUTION. THANK YOU. [LB1109]

SPEAKER HADLEY: THANK YOU, SENATOR GROENE. SENATOR SULLIVAN, YOU'RE RECOGNIZED. [LB1109]

SENATOR SULLIVAN: THANK YOU, MR. PRESIDENT, AND GOOD AFTERNOON, COLLEAGUES. I AM A PROUD GRADUATE OF THE UNIVERSITY; I HAVE TWO DEGREES FROM THERE. I WANT US TO HAVE A GREAT UNIVERSITY. I THINK WE HAVE A GREAT UNIVERSITY AND I THINK WE'RE GOING TO CONTINUE TO HAVE A GREAT UNIVERSITY EVEN IF WE DON'T HAVE LB1109. A PUBLIC UNIVERSITY, I BELIEVE, IS HELD TO A HIGHER STANDARD. PUBLIC IS REALLY WHAT IT'S ALL ABOUT, AND LB1109 FLIES IN THE FACE OF IT. WHAT HAPPENS IF THIS BILL PASSES? WELL, WE GO ABOUT OUR BUSINESS. THE UNIVERSITY HAS THEIR CANDIDACIES FOR THEIR HIGHER OFFICE NOT OUT IN THE PUBLIC, WE JUST GO ON ABOUT IT. BUT YOU KNOW WHAT? I THINK THE REAL PROBLEM IS THERE IS NO GOODWILL THAT WILL BE FOSTERED BY LB1109. SENATOR WILLIAMS TALKS ABOUT THE IMPORTANCE OF RELATIONSHIP AND BONDING. WELL, THAT WILL NOT BE FOSTERED BY LB1109. LOOK WHAT'S GOING ON IN OUR COUNTRY. PEOPLE ARE FEELING DISENFRANCHISED, THAT THEY ARE NOT PART OF THE PROCESS, THAT THE BIG GUYS ARE JUST DOING EVERYTHING THEIR WAY AND NOT LISTENING TO THE PEOPLE. WELL, I THINK LB1109 KIND OF SMACKS OF THAT. I THINK OUR CURRENT SYSTEM HAS PRODUCED SOME WONDERFUL ADMINISTRATORS FOR OUR INSTITUTION. IN ADDITION TO RECEIVING MY TWO DEGREES FROM THE UNIVERSITY, I WORKED FOR THE UNIVERSITY FOR ABOUT TEN YEARS IN THE COOPERATIVE EXTENSION SERVICE. I BELIEVE

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WHOLEHEARTEDLY IN THE LAND-GRANT MODEL OF OUR UNIVERSITY OF NEBRASKA, WHICH SAYS THEY HAVE A RESPONSIBILITY TO TEACHING, TO RESEARCH, AND SERVICE. AND NOT ONLY DOES THAT MODEL EXIST BECAUSE THEY'RE A LAND-GRANT UNIVERSITY, THEY ARE A PUBLIC UNIVERSITY. IT IS FOR THE PEOPLE. LB1109, AGAIN, FLIES IN THE FACE OF THAT. WE ARE GETTING ALONG QUITE WELL WITHOUT IT. AND I THINK WE...ONE OF THE OTHER THINGS I SAY ABOUT SOMETIMES TERM LIMITS IN THE LEGISLATURE OR ANYTHING...ANYONE TRYING TO FILL A SLOT, I ALWAYS SAY, NOBODY IS INDISPENSABLE. IN THIS QUEST FOR THE PERFECT CANDIDATE? OH, COME ON. THERE ARE LOTS OF GOOD, QUALITY PEOPLE OUT THERE. AND, QUITE FRANKLY, THE PUBLIC, THE FACULTY, THE PEOPLE OF NEBRASKA NEED TO KNOW WHEN THOSE CANDIDATES ARE BEING BROUGHT FORWARD TO CONSIDERATION TO LEAD THEIR PUBLIC UNIVERSITY. THANK YOU, MR. PRESIDENT. [LB1109]

SPEAKER HADLEY: THANK YOU, SENATOR SULLIVAN. SENATOR CHAMBERS, YOU ARE RECOGNIZED. [LB1109]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, I'M GOING TO READ FROM AN EDITORIAL THAT APPEARED MARCH 3 IN THE LINCOLN JOURNAL STAR, ITS HEADLINE, "LEGISLATORS' WISDOM ON DISPLAY." "THE WISDOM OF NEBRASKA'S STATE SENATORS DESERVES A SALUTE AS THE SEARCH FOR A NEW CHANCELLOR," NOT PRESIDENT, THIS IS A DIFFERENT ISSUE BUT IT'S A HIGH-RANKING POSITION, "FOR THE UNIVERSITY OF NEBRASKA-LINCOLN CONTINUES. THE OPEN PROCESS SET IN LAW BY THE LEGISLATURE GIVES STAKEHOLDERS, RANGING FROM STUDENTS TO FACULTY TO ORDINARY RUN-OF-THE MILL (SIC--BILL) TAXPAYERS, A CHANCE TO MAKE THEIR OWN UP-CLOSE AND PERSONAL ASSESSMENT OF THE FOUR FINALISTS' STRENGTHS AND WEAKNESSES. NOTHING QUITE COMPARES WITH THE CHANCE TO SIZE UP A CANDIDATE IN PERSON. IT'S A MORE VALUABLE AND WORTHWHILE OPPORTUNITY THAN MEETING A CANDIDATE WHO HAS ALREADY BEEN SELECTED BEHIND CLOSED DOORS AND WHO IS TROTTED OUT TO MEET THE PUBLIC AFTER THE FACT. THE OPEN PROCESS IS ESPECIALLY BENEFICIAL IN A SEARCH LIKE THIS ONE, WHEN AN IN-HOUSE CANDIDATE IS ONE OF THE PROSPECTS. THE OPEN PROCESS ENSURES THAT ALTERNATIVE CANDIDATES WERE GIVEN SERIOUS CONSIDERATION. IF UNL SENIOR VICE CHANCELLOR RONNIE GREEN ENDS UP GETTING THE JOB, THERE WON'T BE DOUBT THAT HE ACTUALLY EARNED IT. GREEN'S DAY BEFORE THE PUBLIC AS A FINALIST COMES THURSDAY. THE THREE CANDIDATES WHO HAVE ALREADY VISITED CAMPUS OFFER AN INTRIGUING MIX OF BACKGROUNDS, QUALIFICATIONS AND VISIONS FOR THE FUTURE. SABAH RANDHAWA, PROVOST



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AND EXECUTIVE VICE PRESIDENT AT OREGON STATE UNIVERSITY, SPOKE OF A UNL REPOSITIONING ITSELF AS A 'GLOBAL LAND-GRANT UNIVERSITY,' LEADING THE WORLD IN AREAS LIKE FOOD AND WATER SECURITY, ENERGY AND ADAPTING TO CLIMATE CHANGE. THE OPEN PROCESS ALSO OFFERS A GLIMPSE OF THE FINALIST'S PERSONAL SIDE. FOR EXAMPLE APRIL MASON, CHIEF ACADEMIC OFFICER AT KANSAS STATE, LIKES TO HEAD OUT ON THE HIGHWAY ON A MOTORCYCLE WITH HER HUSBAND. MARK HER DOWN AS ADVENTUROUS. DANIEL REED, VICE PRESIDENT FOR RESEARCH AND ECONOMIC DEVELOPMENT, CREDITED HIS SHARECROPPER GRANDFATHER FOR HELPING SHAPE HIS LEADERSHIP STYLE WITH THE ADAGE, 'YOU CAN DO A LOT IF YOU DON'T CARE WHO GETS THE CREDIT.' WITH THE MERITS OF THE OPEN PROCESS ON DISPLAY IN RECENT DAYS IT'S SOMETHING OF A PUZZLE THAT EFFORTS ARE UNDERWAY ONCE AGAIN TO DRAG THE PROCESS BEHIND CLOSED DOORS. PENDING ON THE FLOOR OF THE LEGISLATURE IS A LB1109, PUSHED BY REGENT HOWARD HAWKS AND OTHERS TO REVERT TO A CLOSED PROCESS IN WHICH ONLY THE FINAL CANDIDATE MAKES A VISIT TO CAMPUS, WITH A MANDATORY 30-DAY VETTING PERIOD. THE UNIVERSITY OF NEBRASKA ALREADY HAS A PROCESS THAT IS THE ENVY OF CONSTITUENCIES AROUND THE COUNTRY. ONLY TWO YEARS AGO STATE SENATORS TURNED BACK AN ATTEMPT TO CLOSE THE SEARCH PROCESS. SINCE THEN A NEW CLASS OF SENATORS HAS MOVED INTO THE CAPITOL. LET'S HOPE THEY ARE JUST AS WISE AS THOSE WHO PRECEDED THEM." THIS POINTS OUT THAT REGENT HOWARD HAWKS IS BEHIND THIS, NOT ALL OF THE REGENTS, NOT THE UNIVERSITY ADMINISTRATION, NOT CANDIDATES WHO HAD APPLIED PRIOR TO THIS, BUT HOWARD HAWKS AND HE IS THE POWER ON THE BOARD OF REGENTS. AND IF SOMEBODY ON THE FLOOR STANDS AND SAYS HE'S NOT, IT SHOWS HOW LITTLE THEY KNOW. THIS LEGISLATURE CANNOT DICTATE TO THE BOARD OF REGENTS HOW THEY OPERATE OR TO WHOM THEY PAY COURT. BUT THIS LEGISLATURE HAS AN OBLIGATION TO DO THAT WHICH IS BEST FOR THIS UNIVERSITY, FOR ITS REPUTATION, FOR ITS INTEGRITY, AND THE INTEGRITY OF THE PROCESS BY WHICH A PRESIDENT IS SELECTED. I WOULD LIKE TO ASK SENATOR--NOT JUST BECAUSE I SAW YOU WALKING NOW--I'D LIKE TO ASK SENATOR MURANTE A QUESTION, IF HE WILL ANSWER. [LB1109]

SPEAKER HADLEY: SENATOR MURANTE, WILL YOU YIELD? [LB1109]

SENATOR MURANTE: YES. YES, I WILL. [LB1109]

SENATOR CHAMBERS: SENATOR MURANTE, WHO DRAFTED THE LANGUAGE TO THIS BILL, IF YOU KNOW? [LB1109]

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SENATOR MURANTE: THE LANGUAGE, AS IT EXISTS RIGHT NOW, WAS DRAFTED BY MY LEGISLATIVE AIDE. [LB1109]

SENATOR CHAMBERS: WHO GAVE ASSISTANCE TO IT FROM THE UNIVERSITY TO THAT EFFORT, IF YOU KNOW? DID ANYBODY? [LB1109]

SENATOR MURANTE: YES. THEY HAVE...THEIR COUNSEL, I BELIEVE, WAS JOEL PEDERSEN, BUT I'LL CHECK ON THAT INFORMATION. [LB1109]

SENATOR CHAMBERS: BUT JUST THE POSITION...THEIR COUNSEL, MEANING THEIR LAWYER... [LB1109]

SPEAKER HADLEY: TIME, SENATOR. [LB1109]

SENATOR CHAMBERS: YOU SAID TIME? [LB1109]

SPEAKER HADLEY: TIME, YES. [LB1109]

SENATOR CHAMBERS: THANK YOU. [LB1109]

SPEAKER HADLEY: SENATOR HILKEMANN, YOU'RE RECOGNIZED. [LB1109]

SENATOR HILKEMANN: THANK YOU, MR. SPEAKER. I'M WONDERING IF SENATOR MURANTE WOULD YIELD TO SOME QUESTIONS. [LB1109]

SPEAKER HADLEY: SENATOR MURANTE, WILL YOU YIELD? [LB1109]

SENATOR MURANTE: ABSOLUTELY. [LB1109]

SENATOR HILKEMANN: SENATOR, I WANT TO PICK UP ON A CONVERSATION THAT WE HAD JUST BEFORE LUNCH. SENATOR CHAMBERS WAS POINTING OUT SOME OF THE PROBLEMS WITH THIS BILL AND THAT THAT CANDIDATE WOULDN'T NECESSARILY...IT WASN'T DEMANDED THAT THEY MEET WITH THE STUDENTS OR IT WASN'T DEMANDED THAT THEY COME TO THE UNIVERSITY. SO I WANT TO FOLLOW UP ON THAT IN THE SENSE THAT, AS I UNDERSTAND IT, ONCE THE UNIVERSITY PARES IT DOWN TO THE ONE CANDIDATE, WE HAVE A 30-DAY PERIOD WHERE THEY VISIT THE CAMPUS AND THAT STUDENTS CAN MEET HIM

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AND SO FORTH. WERE THE LIMITATIONS THAT SENATOR CHAMBERS RAISED CONCERNS, ARE THEY TRUE? IS THAT TRUE IN THE BILL? [LB1109]

SENATOR MURANTE: WHAT SENATOR CHAMBERS SEEMED TO SUGGEST WAS THAT THERE'S NOTHING IN THE BILL THAT MANDATES THAT THE PRIORITY CANDIDATE VISIT THE CAMPUSES. AND THAT'S TRUE, THERE'S NOTHING IN THE LAW WHICH WOULD MANDATE, NOR SHOULD THERE BE. I THINK IT'S...IF THERE IS A PRIORITY CANDIDATE, THE BOARD OF REGENTS CONDUCTS ITS MANDATORY PUBLIC HEARINGS, AND IF THAT PRIORITY CANDIDATE DOESN'T SHOW UP, THAT'S INFORMATION THAT I CERTAINLY WANT TO KNOW AS A REPRESENTATIVE AND A CITIZEN OF NEBRASKA. AND THAT IS INFORMATION THAT THE BOARD OF REGENTS WILL TAKE CERTAINLY INTO ACCOUNT. TO ME, IN A PRACTICAL WORLD, THAT WOULD ELIMINATE THAT CANDIDATE, BUT THAT'S THE...THE BOARD OF REGENTS IS ULTIMATELY RESPONSIBLE FOR MAKING THE HIRE. [LB1109]

SENATOR HILKEMANN: NOW, SENATOR MURANTE, DO THEY NOT MAKE A FINAL DECISION ON THAT CANDIDATE AFTER THAT 30-DAY PERIOD OF TIME? [LB1109]

SENATOR MURANTE: THAT IS CORRECT. [LB1109]

SENATOR HILKEMANN: SO, I THINK, SENATOR CHAMBERS, YOUR CONCERN, IF YOU HAVE A CANDIDATE THAT CAME...THAT WAS ON THE TOP LIST OF THE UNIVERSITY AND THEN DIDN'T SHOW UP FOR THE INTERVIEW PROCESS OR FAILED TO MEET WITH STUDENTS OR FAILED TO MEET WITH THE FACULTY OR FAILED TO MEET WITH THE PUBLIC, I THINK WE COULD BE PRETTY WELL ASSURED THAT THE MEMBERS OF THE BOARD OF REGENTS, IF THEY WANT TO GET REELECTED TO THEIR POSITIONS, I HAVE A FEELING THEY WOULD REJECT THAT CANDIDATE. SO WHILE IT'S NOT IN THE BILL ITSELF, I THINK THAT THAT WOULD...YOUR CONCERNS THERE SHOULD BE PLACATED ON THAT. THE OTHER THING THAT I WANT TO KNOW AND YOU JUST MENTIONED, SENATOR CHAMBERS, THAT THIS IS REGENT HAWKS'S BILL. SENATOR MURANTE, I WANT TO ASK YOU ONE MORE QUESTION THEN. IF I REMEMBER IN YOUR OPENING ON THIS BILL, IT SEEMS TO ME YOU SAID THAT THE UNIVERSITY OF NEBRASKA REGENTS UNANIMOUSLY VOTED TO SUPPORT THIS BILL. AM I...IS THAT CORRECT? [LB1109]

SENATOR MURANTE: THAT'S CORRECT. [LB1109]

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SENATOR HILKEMANN: WELL, THAT'S CERTAINLY BEEN MY UNDERSTANDING IN ANY CONVERSATION THAT I'VE HAD WITH BOARDS OF REGENTS. THEY'VE ALL SAID, WE WANT...AND ALSO WITH SOME MEMBERS OF THE...I'LL TELL YOU, I'M...I WAS REALLY CONCERNED WHEN I READ THE ARTICLE IN THE WORLD-HERALD RECENTLY ABOUT THE CANDIDATES THAT WE HAVE. AND THIS IS NOT TO TAKE AWAY FROM ANY OF THE CANDIDATES, THEY MAY VERY WELL BE OUTSTANDING INDIVIDUALS. SENATOR MURANTE, DO YOU KNOW HOW MANY FOUR-YEAR PUBLIC INSTITUTIONS WE HAVE IN THE UNITED STATES? [LB1109]

SENATOR MURANTE: IN THE ENTIRE COUNTRY, I DON'T KNOW. [LB1109]

SENATOR HILKEMANN: SENATOR, I LOOKED IT UP JUST A LITTLE BIT AGO. I DIDN'T KNOW THE ANSWER. THERE'S 629 PUBLIC, FOUR-YEAR INSTITUTIONS. ISN'T IT INTERESTING THAT WITH 629 PUBLIC FOUR-YEAR INSTITUTIONS THAT OF THE FOUR CANDIDATES, NOT A SINGLE ONE OF THOSE CANDIDATES THAT WAS LISTED HAS THE EXPERIENCE OF BEING A CHANCELLOR OR HAVING BEEN A PRESIDENT OF A UNIVERSITY? [LB1109]

SPEAKER HADLEY: ONE MINUTE. [LB1109]

SENATOR HILKEMANN: AND I WOULD THINK THAT WITH THE UNIVERSITY OF NEBRASKA NOW BEING IN THE BIG TEN CONFERENCE AND BEING ONE OF THE POWER FIVE, PROBABLY THE JOB OF BEING THE CHANCELLOR AT THE UNIVERSITY OF NEBRASKA-LINCOLN WOULD HAVE TO BE CONSIDERED ONE OF THE MORE PLUM JOBS. WOULDN'T IT JUST SEEM LOGICAL THAT MAYBE ONE THOSE CHANCELLORS OF THE 629 UNIVERSITIES MAY HAVE PUT THEIR NAME FORWARD IF THEY DIDN'T HAVE TO GO THROUGH THAT PERIOD OF POSSIBLY SAYING, HEY, I AM LOOKING FOR A NEW JOB? I JUST THINK THAT THIS MAKES GOOD SENSE, BECAUSE I THINK WHAT WE WANT AT THE UNIVERSITY OF NEBRASKA...YES, WE WANT TRANSPARENCY, BUT I ALSO WANT THE BEST CANDIDATE AVAILABLE TO BE RUNNING THE UNIVERSITY AND LEADING OUR UNIVERSITY. WE ARE FORTUNATE,... [LB1109]

SPEAKER HADLEY: TIME, SENATOR. [LB1109]

SENATOR HILKEMANN: ...WE HAVE GOOD PEOPLE AT THE PRESENT TIME. THANK YOU. [LB1109]

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SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED AND THIS IS YOUR THIRD TIME. [LB1109]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, I WOULD LIKE TO ASK SENATOR HILKEMANN A QUESTION. [LB1109]

SPEAKER HADLEY: SENATOR HILKEMANN, WILL YOU YIELD TO A QUESTION? [LB1109]

SENATOR HILKEMANN: YES, SIR. [LB1109]

SENATOR CHAMBERS: SENATOR HILKEMANN, IS THE UNIVERSITY OF IOWA A MEMBER OF THE BIG TEN? [LB1109]

SENATOR HILKEMANN: THEY ARE A MEMBER OF THE BIG TEN. [LB1109]

SENATOR CHAMBERS: DID THEY RECENTLY HIRE A NEW PRESIDENT? [LB1109]

SENATOR HILKEMANN: I READ THE SAME ARTICLE THAT YOU READ EARLIER THIS MORNING, YES. [LB1109]

SENATOR CHAMBERS: AND HE WAS NOT ANY OF THE POSITIONS THAT YOU MENTIONED, WAS HE? IN FACT, HE WAS FROM THE BUSINESS WORLD. HE WAS FROM IBM, WASN'T HE? [LB1109]

SENATOR HILKEMANN: I THINK THAT'S CORRECT. [LB1109]

SENATOR CHAMBERS: WELL, HE WASN'T ONE OF THOSE THAT YOU SAID. YOU CRITICIZED THESE PEOPLE FOR NOT HAVING BEEN A CHANCELLOR OR A PRESIDENT. THIS MAN HAD NOT BEEN A CHANCELLOR OR A PRESIDENT, HAD HE? [LB1109]

SENATOR HILKEMANN: APPARENTLY NOT. [LB1109]

SENATOR CHAMBERS: AND HE WAS HIRED AS PRESIDENT VERY RECENTLY BY IOWA, WHICH IS A BIG TEN SCHOOL. ISN'T THAT RIGHT? [LB1109]

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SENATOR HILKEMANN: THAT'S CORRECT. [LB1109]

SENATOR CHAMBERS: SO IF YOU ALL ARE ARGUING THAT BIG TEN SCHOOLS, NOT MANDATE, BUT IT'S EXPECTED THAT THERE WILL BE THIS PROCESS AND YOU'LL GET THE BEST PERSON AND YOU SUGGEST THAT IT OUGHT TO BE SOMEBODY WHO'S BEEN A CHANCELLOR OR A PRESIDENT, THIS MAN DID NOT MEET YOUR STANDARD, DID HE, IF WHAT WE READ WAS TRUE? [LB1109]

SENATOR HILKEMANN: THAT'S CORRECT. YES, I WOULD AGREE WITH THAT. [LB1109]

SENATOR CHAMBERS: THANK YOU. THAT'S ALL. OKAY. THAT'S ALL I WANT TO ASK. MEMBERS OF THE LEGISLATURE, SOME PEOPLE HAVE THEIR MIND MADE UP. THEY'VE BEEN TOLD THINGS AND FED INFORMATION. AND IF PEOPLE DON'T KNOW THE POWER OF MR. HAWKS ON THAT BOARD OF REGENTS, THEY DON'T KNOW WHAT'S GOING ON. AND SENATOR HILKEMANN IS VERY NAIVE IF HE THINKS THAT A POWERFUL PERSON CANNOT DRAG ALONG THE MEMBERS OF A BOARD OF WHICH HE OR SHE HAPPENS TO BE A MEMBER. THAT HAPPENS ALL THE TIME, ALL THE TIME. BUT WHEN PEOPLE GO BY WHAT THEY'RE FED BY THOSE WHO WANT A CERTAIN OUTCOME--AND I'M SAYING THIS PUBLICLY--LET PEOPLE WHO KNOW TELL THE MEMBERS OF THIS LEGISLATURE THAT HOWARD HAWKS DOES NOT WIELD "UBER" POWER ON THE BOARD OF REGENTS. HE WAS THE ONE THAT I WAS GLAD READ THE INFORMATION I WROTE ABOUT FORMER GOVERNOR HEINEMAN, BECAUSE IF HOWARD HAWKS WAS INTERESTED, EVERYBODY WAS. WHAT WE'RE LOOKING AT HERE IS A SITUATION THAT IS BECOMING INCREASINGLY POLITICIZED. THE NATURE OF THIS BILL SHOWS THAT POLITICIZATION IS OCCURRING. AND SENATOR HILKEMANN IS TOO EASILY ASSUAGED IN TERMS OF HIS CONCERN BY BEING TOLD, WELL, IF THIS PERSON DIDN'T DO THIS OR DIDN'T DO THAT DURING THE 30-DAY VETTING PERIOD, THEN AFTER IT'S OVER THE BOARD OF REGENTS COULD SAY, WELL, NO. WHY EVEN WHEN YOU'RE BUILDING A SITUATION, YOU'RE BUILDING A PROCESS, DO YOU EVEN IGNORE THE FACT THAT THAT SITUATION, THAT CONTINGENCY SHOULD ARISE? HOW DIFFICULT WOULD IT BE TO SAY THAT DURING THIS VETTING PERIOD THIS PERSON SHALL ATTEND PUBLIC HEARINGS, SHALL VISIT THE CAMPUSES, SHALL BE AVAILABLE TO THE MEDIA, THE STUDENTS, AND THE OTHER CONSTITUENCIES? BECAUSE THAT'S NOT WHAT'S WANTED, THEY WANT AN ACCOMPLISHED FACT TO COME OUT OF THE BOARD OF REGENTS WHO CREATE THAT PRIORITY CANDIDATE AND THEN A MONTH LATER HIRE THAT PRIORITY CANDIDATE. YOU THINK THAT THEY'RE GOING TO SELECT SOMEBODY AND THEN NOT HIRE THAT PERSON TO SHOW THAT THEIR JUDGMENT 30 DAYS

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BEFORE THAT WAS WRONG? HOW NAIVE ARE THE PEOPLE ON THIS FLOOR? I WANT THE RECORD TO SHOW WHAT I HAVE SAID. AND THERE ARE PEOPLE OUT THERE VERY CONCERNED ABOUT THIS PROJECT, THE WAY THE LEGISLATURE IS BEING HOODWINKED, BAMBOOZLED, AND MOVED ALONG WILLY-NILLY. BUT AS I STATED, YOU CAN VOTE THE WAY YOU PLEASE, AS YOU WILL; YOU CAN SAY WHATEVER YOU WANT TO, AS YOU WILL; AND I WILL TAKE ALL THE TIME I WANT, AS I SHALL. [LB1109]

SPEAKER HADLEY: ONE MINUTE. [LB1109]

SENATOR CHAMBERS: I'VE GOT A COPY OF THAT BILL AND IT GOES INTO THE OPEN MEETINGS LAW. SO WHAT I CAN DO IS AMEND ANYTHING IN THIS BILL AND IT IS AUTOMATICALLY GERMANE. THERE ARE THINGS THAT ARE NOT COVERED BY THE OPEN MEETINGS LAW THAT I THINK...NOT OPEN MEETINGS, PUBLIC RECORDS THAT I THINK SHOULD BE, FOR EXAMPLE, SOME MATTERS THAT RELATE TO LAW ENFORCEMENT. AND YOU DON'T HAVE TO ACCEPT MY AMENDMENT, BUT YOU'VE GOT TO CONSIDER IT. I HAVE THE OPPORTUNITY TO OPEN, I HAVE THE OPPORTUNITY TO SPEAK. I HAVE THE OPPORTUNITY TO CLOSE, AND I HAVE THE OPPORTUNITY TO AMEND MY AMENDMENT. SO I SHALL SPEAK AND I SHALL BE HEARD, MAYBE BY NOT THE MEMBERS OF THIS LEGISLATURE... [LB1109]

SPEAKER HADLEY: TIME, SENATOR. [LB1109]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB1109]

SPEAKER HADLEY: SENATOR GROENE, YOU'RE RECOGNIZED. [LB1109]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. I JUST TALKED TO ALAN PETERSON, MANY OF YOU KNOW HIM. HE GOES...I SHOULDN'T SAY HE GOES WAY BACK, HE'S A GOOD MAN. HE'S BEEN INVOLVED IN GOVERNMENT AS A LOBBYIST AND AS AN ATTORNEY. A LITTLE HISTORY: HE JUST TOLD ME THAT IN 1979 IS WHAT THE PRESENT OPEN MEETINGS LAW WAS REVISED. AND YOU KNOW HOW WE STRIKE IT AND START A WHOLE NEW ONE. AND IT APPLIES TO EVERYBODY. IF YOU'VE GOT A LITTLE VILLAGE THAT WANTS TO HIRE A NEW DOGCATCHER, THEY HAVE TO HAVE THE FINAL FOUR CANDIDATES AVAILABLE, THEIR RECORDS AND THEIR RESUMES. WE'RE TALKING ABOUT THE UNIVERSITY HERE, BUT THIS ENTIRE LAW APPLIES TO EVERY PUBLIC ENTITY. ALSO THEN, IN 2007, IT WAS CHANGED. MR. PETERSON AGAIN HELPED FORMULATE IT BETWEEN

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NEGOTIATING WITH THE UNIVERSITY AND THE UNICAMERAL, CHANGED THAT...THEY PUT THE FOUR FINALISTS IN THERE. IT WASN'T FOR THE UNIVERSITY. THEY CHANGED OPEN MEETING LAWS, THAT'S FOR THAT LITTLE VILLAGE WITH THE DOGCATCHER TOO. WE TREAT EVERYBODY EQUAL UNDER THE LAW, THAT'S WHAT WE USED TO DO, THE BIG BOYS LIKE THE UNIVERSITY AND THE LITTLE VILLAGE WITH THE DOGCATCHER. A PUBLIC EMPLOYEE IS A PUBLIC EMPLOYEE. THERE'S NO CREAM OF THE CROP. THERE'S NO ONE BETTER THAN THE OTHER. WE'RE DEALING WITH TAX DOLLARS. BUT NOW THE FOURTH BRANCH OF GOVERNMENT--AS I CALL THEM--COMES IN AND SAYS, WE WANT TO BE SPECIAL. THERE ARE FIVE INDIVIDUAL PUBLIC EMPLOYEES IN THIS STATE THAT DON'T HAVE TO GO THROUGH THE PROCESS THAT THE CITY TOWN COP DOES, THE STATE COLLEGE PRESIDENT, THE SUPERINTENDENT OF SCHOOLS IN YOUR HOMETOWN. WE'VE GOT THESE PRIVILEGED INDIVIDUALS. I'M ASSUMING THERE'S FIVE BECAUSE WE HAVE CURTIS AS A CAMPUS ALSO, OUT MY WAY. BUT THESE FIVE INDIVIDUALS ARE BETTER THAN EVERYBODY ELSE. THEY'RE PRIVILEGED. THEY DON'T HAVE TO FOLLOW THE SAME RULES AS EVERYBODY ELSE. AND ONE ELECTED BODY, THE REGENTS, CAN...THEY'RE BRIGHTER, THEY'RE WISER, THEY'RE BETTER THAN THE CITY COUNCIL MEMBER OR THE STATE COLLEGE BOARD OR THE COMMUNITY COLLEGE BOARD MEMBERS. THESE INDIVIDUALS NEED TO HIRE PRIVATELY. THEY'RE BETTER THAN THE REST OF THE PUBLIC EMPLOYEES IN THE STATE, WE ALL KNOW THAT. THEY'VE GOT DEGREES PILED HIGHER AND DEEPER, A LOT OF THEM, THAN THE REST OF US. SO I GUESS WE BETTER JUST SUCCUMB TO THAT AND HAVE THAT UNDERSTANDING, THAT THEY'RE BETTER THAN THE REST OF US, THAN THE TOWN COP, THAN THE FIRE CHIEF, THAN THE PRINCIPAL IN YOUR SCHOOL WHO HAS TO STAND UP AND SAY: I'M WILLING TO BE TRANSPARENT. I'M WILLING TO LET YOU LOOK AT MY RESUME, TAXPAYER. I'M NOT AFRAID. I'M NOT AFRAID OF BEING FIRED AT THE PLACE I PRESENTLY WORK, BECAUSE I'M GOOD AT WHAT I DO. THEY WANT ME, THEY WANT TO KEEP ME. SO WHY WOULD I BE AFRAID TO BE TRANSPARENT IN MY SEARCH FOR ANOTHER JOB TO BETTER MYSELF? THAT'S THE AMERICAN DREAM, TO BETTER YOURSELF. WHAT'S WRONG WITH THAT? I THINK THAT'S A GREAT THING IF SOMEBODY WANTS A BETTER CHALLENGE IN THEIR CAREERS. SO WHY DO YOU GOT TO BE SECRETIVE ABOUT IT IN PUBLIC EMPLOYMENT? SO I GUESS WE TELL THE DOGCATCHER IN THE TOWN THAT HE HAS TO HAVE HIS RESUME OPEN TO THE NEWSPAPERS, BUT WE GOT THESE FIVE PRIVILEGED INDIVIDUALS IN OUR STATE THAT DON'T HAVE TO DO THAT AND THEY'RE GETTING TAX DOLLAR PAYCHECKS TOO. [LB1109]

SPEAKER HADLEY: ONE MINUTE. [LB1109]



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SENATOR GROENE: THEIR WAGES ARE PAID BY THE TAXPAYERS AND THE CHILDREN OF OUR TAXPAYERS THAT GO TO THE UNIVERSITY. SO WE, AS A BODY, ARE GOING TO SAY, YOU'RE SPECIAL. YOU'RE SPECIAL. YOU FIVE INDIVIDUALS ARE SPECIAL. AND THE REGENTS ARE SPECIAL. THEY DON'T HAVE TO FOLLOW THE SAME RULES AS THE TOWN...AS THE COUNTY COMMISSIONERS AND THE CITY MANAGERS AND THE CITY COUNCILS AND THE SCHOOL BOARDS. I DON'T BELIEVE THAT. I BELIEVE THEY'RE JUST TAXPAYERS AND ELECTED OFFICIALS LIKE ANYBODY ELSE AND PUBLIC EMPLOYEES. IF YOU DON'T LIKE IT, GO INTO FREE ENTERPRISE. YOU CAN BE WHAT YOU WANT THERE AND YOU CAN RUN YOUR LITTLE WORLD. THAT'S WHY I'M IN FREE ENTERPRISE; I LIKE IT THAT WAY. THANK YOU. [LB1109]

SPEAKER HADLEY: THANK YOU, SENATOR GROENE. SENATOR BLOOMFIELD, YOU'RE RECOGNIZED. [LB1109]

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. I WONDER IF SENATOR GROENE WOULD YIELD TO A QUESTION OR TWO. [LB1109]

SENATOR GROENE: YES, I WILL, MR. SPEAKER. [LB1109]

SPEAKER HADLEY: SENATOR GROENE. [LB1109]

SENATOR BLOOMFIELD: THANK YOU, SENATOR. CAN YOU NAME THE EIGHT REGENTS? [LB1109]

SENATOR GROENE: HAWKS, CLARE, PHARES... [LB1109]

SENATOR BLOOMFIELD: THAT'S GOOD ENOUGH. THAT KIND OF MAKES MY POINT. [LB1109]

SENATOR GROENE: WHAT'S THAT? [LB1109]

SENATOR BLOOMFIELD: IT MAKES MY POINT. I COULDN'T NAME THEM. I WENT BACK AND PULLED THEM OFF THE GADGET. WE'RE TOLD, COLLEAGUES, THAT IF THESE PEOPLE DON'T DO JUST PRECISELY WHAT WE THINK THEY SHOULD WITH THE UNIVERSITY THAT, WELL, WE'LL JUST SIMPLY VOTE THEM OUT. COLLEAGUES, MOST OF THE STATE DOESN'T KNOW WHO THEY ARE OR WHAT THEY DO. THAT'S OUR RESPONSIBILITY IN HERE. I COULD NAME TWO OF THEM

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BEFORE I WENT BACK AND PULLED UP THEIR PICTURES ON THE iPad AND THEN WENT BACK AND GOT A COPY. THE IDEA THAT WE'RE GOING TO LEAVE THIS UP TO WHERE PEOPLE DON'T GET A CHANCE TO INTERVIEW THESE FOUR, I STILL STRUGGLE WITH. AS I SAID BEFORE, I HAVEN'T MADE UP MY MIND WHAT I'M GOING TO DO ON THIS. BUT WE NEED TO HAVE THIS OPEN TO THE PUBLIC, I BELIEVE. WHAT I WOULD REALLY LIKE TO SEE IS SOMEBODY COME IN NEXT YEAR AND FIX THE PROCESS TO MAKE WHAT WE HAVE IN PLACE MORE SOLID, BECAUSE IT ISN'T. IT CAN BE GOTTEN AROUND TOO EASILY. I WOULD LIKE TO SEE THAT OPENNESS, BUT I'M NOT SURE BUT WHAT MAYBE THIS SINGLE VETTING THING MIGHT BE BETTER THAN WHAT WE GOT BECAUSE THIS CAN BE GOTTEN OUT AROUND SO EASILY AND HAS BEEN. SO I'M GOING TO STRUGGLE WITH THIS. BUT SAYING THAT WE'RE GOING TO "UNELECT" SOMEBODY BECAUSE HE DIDN'T VOTE THE WAY WE THOUGHT HE SHOULD ON THIS, PEOPLE DON'T EVEN KNOW WHO THEY ARE, COLLEAGUES. THINK BACK IN YOUR MINDS HOW MANY OF THESE BOARDS OF REGENT MEMBERS YOU CAN NAME. THANK YOU, MR. PRESIDENT. [LB1109]

SPEAKER HADLEY: SENATOR McCOLLISTER, YOU'RE RECOGNIZED. [LB1109]

SENATOR McCOLLISTER: QUESTION. [LB1109]

SPEAKER HADLEY: THERE'S NO NEED TO CALL A QUESTION, YOU'RE LAST IN THE QUEUE. NO ONE ELSE IS IN THE QUEUE. SENATOR MURANTE, YOU ARE RECOGNIZED TO CLOSE ON LB1109. [LB1109]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT AND MEMBERS. GOOD AFTERNOON. THANK YOU VERY MUCH FOR THE THOUGHTFUL DEBATE TODAY. I APPRECIATE THE ONGOING DISCUSSION AND I APPRECIATE THE MANY CONCERNS THAT WERE BROUGHT BY THE MEMBERS. IT WAS GOOD DISCUSSION. I KNOW THERE WERE A LOT OF PEOPLE WHO WISH TO HAVE GREATER DEBATE AND I APPRECIATE THAT, BUT I'D APPRECIATE YOUR GREEN VOTE ON LB1109. THANK YOU, MR. PRESIDENT. [LB1109]

SPEAKER HADLEY: THANK YOU, SENATOR MURANTE. THE QUESTION BEFORE THE HOUSE IS THE ADOPTION OF LB1109. [LB1109]

SENATOR CHAMBERS: CALL OF THE HOUSE. [LB1109]

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SPEAKER HADLEY: THERE HAS BEEN A REQUEST TO PLACE THE HOUSE UNDER CALL. THE QUESTION IS, SHALL THE HOUSE GO UNDER CALL? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB1109]

CLERK: 26 AYES, 0 NAYS, MR. PRESIDENT, TO PLACE THE HOUSE UNDER CALL. [LB1109]

SPEAKER HADLEY: THE HOUSE IS UNDER CALL. SENATORS PLEASE RECORD YOUR PRESENCE. THOSE UNEXCUSED SENATORS OUTSIDE THE CHAMBER PLEASE RETURN TO THE CHAMBER AND RECORD YOUR PRESENCE. ALL UNAUTHORIZED PERSONNEL PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. SENATORS SCHEER, MORFELD, BURKE HARR, SULLIVAN, BOLZ, GLOOR, COOK, DAVIS, SMITH, BRASCH, LARSON, COASH, SCHUMACHER, THE HOUSE IS UNDER CALL. SENATOR BOLZ, SENATOR GLOOR, SENATOR COOK, SENATOR BRASCH. MR. CLERK, THERE'S BEEN A REQUEST FOR A ROLL CALL VOTE IN REGULAR ORDER. [LB1109]

CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGES 897-898.) 36 AYES, 1 NAY ON THE ADVANCEMENT, MR. PRESIDENT. [LB1109]

SPEAKER HADLEY: LB1109 ADVANCES. MR. CLERK, FOR ANY ANNOUNCEMENTS. SENATOR CHAMBERS, IF YOU'D COME UP, PLEASE. WE'LL RAISE THE CALL. MR. CLERK. [LB1109]

CLERK: MR. PRESIDENT, LB794, THE NEXT BILL FOR CONSIDERATION, OFFERED BY SENATOR BURKE HARR. (READ TITLE.) INTRODUCED ON JANUARY 7 OF THIS YEAR, AT THAT TIME REFERRED TO THE BANKING, COMMERCE AND INSURANCE COMMITTEE. BILL WAS ADVANCED TO GENERAL FILE. I HAVE NO AMENDMENTS TO THE BILL, MR. PRESIDENT. [LB794]

SPEAKER HADLEY: SENATOR HARR, YOU'RE RECOGNIZED TO OPEN ON YOUR BILL. [LB794]

SENATOR HARR: THANK YOU, MR. SPEAKER, MEMBERS OF THE BODY. IN 2014, I INTRODUCED LB749 TO REVISE AND UPDATE THE NEBRASKA MODEL BUSINESS CORPORATION ACT, AND THE LEGISLATURE PASSED THE BILL THE SAME YEAR WITH AN ORIGINAL OPERATIVE DATE OF JANUARY 1, 2016. LAST SESSION SENATOR McCOLLISTER INTRODUCED LB157 TO DELAY THE ACT'S OPERATIVE

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DATE TO JANUARY 1, 2017, TO ALLOW FOR ADDITIONAL CLEANUP AND REVISIONS. I SUBSEQUENTLY INTRODUCED INTERIM STUDY LR263 AND WORKED WITH THE BANKING, COMMERCE AND INSURANCE COMMITTEE'S LEGAL COUNSEL, MR. MARIENAU, TO COME UP WITH THIS BILL. LB794 IS THE PRODUCT OF THE INTERIM STUDY AND CONTAINS SEVERAL CHANGES, MOST, IF NOT ALL, RECOMMENDED BY THE NEBRASKA BAR ASSOCIATION. IN BRIEF, SOME OF THE TECHNICAL CHANGES TO LB794 ARE IT RETURNS FORMER LANGUAGE WHICH ALLOWS SHAREHOLDERS OF CORPORATIONS ORGANIZED BEFORE 1996 TO CONTINUE TO HAVE PREEMPTIVE RIGHT TO ACQUIRE THE CORPORATION'S UNISSUED STOCKS IF THE ARTICLES OF INCORPORATION DID NOT EXPRESSLY ELIMINATE SUCH PREEMPTIVE RIGHTS. IT ALLOWS FOR CORPORATIONS TO AMEND ARTICLES OF INCORPORATION WITHOUT MEETING, WITH WRITTEN CONSENT OF HOLDERS, PROVIDED THE USE OF WRITTEN CONSENT TO ELECT DIRECTORS IS UNANIMOUS. FINALLY, ONE OF THE LAST HIGHLIGHTS IS IT RETURNS FORMER SECTIONS REGARDING FOREIGN CORPORATIONS IN LIEU OF OBTAINING A CERTIFICATE OF AUTHORITY FROM NEBRASKA TO FILE WITH THE SECRETARY OF STATE TO BECOME A BODY CORPORATE OF NEBRASKA AS A FOREIGN DOMESTICATED CORPORATION. WITH THAT, I WOULD ASK FOR YOUR SUPPORT ON LB794. I WOULD LIKE TO THANK THE BANKING, COMMERCE AND INSURANCE COMMITTEE FOR MAKING THIS A COMMITTEE PRIORITY. AND AGAIN, I WOULD LIKE TO THANK MR. MARIENAU, WITHOUT WHOM I COULD NOT HAVE DONE THIS BILL. THANK YOU, MR. SPEAKER. [LB794 LB157 LR263]

SPEAKER HADLEY: FLOOR IS NOW OPEN FOR DEBATE. SENATOR CHAMBERS, YOU ARE RECOGNIZED. [LB794]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, I WOULD ASK SENATOR HARR TO EXPLAIN THIS BILL FOR ME, PLEASE. [LB794]

SPEAKER HADLEY: SENATOR HARR, WILL YOU EXPLAIN THIS BILL? [LB794]

SENATOR HARR: SURE. THIS IS A BILL THAT WORKS WITH THE MODEL BUSINESS CORPORATION ACT. MODEL BUSINESS CORPORATION ACT IS A BILL THAT'S COME UP...WE PASSED THIS, AS I SAID, FOUR YEAR...OR TWO YEARS AGO. THE MODEL BUSINESS CORPORATION ACT IS PART OF, I GUESS YOU'D DESCRIBE IT, A GROUP OF LAWYERS GET TOGETHER, DECIDE HOW TO DO THE CORPORATION AND WHAT'S THE BEST LAW. WE LOOK FOR UPDATES. IT'S CONSTANTLY EVOLVING, AND THAT'S WHAT THIS BILL IS. [LB794]

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SENATOR CHAMBERS: SO WHAT DOES THE BILL DO, THOUGH? [LB794]

SENATOR HARR: OH, SPECIFICALLY. YES. SO IF YOU LOOK, AND I KIND OF ADDRESSED THAT BUT I CAN GO THROUGH AGAIN, SECTION 5, PAGE 10, IT RETURNS FORMER LANGUAGE WHICH ALLOWS SHAREHOLDERS OF CORPORATIONS ORGANIZED BEFORE 1996 TO CONTINUE TO HAVE A PREEMPTIVE RIGHT TO ACQUIRE THE CORPORATION'S UNISSUED SHARES, IF THE ARTICLES OF INCORPORATION DID NOT EXPRESSLY ELIMINATE SUCH A PREEMPTIVE RIGHT, MEANING IF YOU WERE FORMED BEFORE 1996, YOU CAN GO BACK AND GRAB THOSE. ALSO, ON SECTION 7, PAGES 12 THROUGH 13, IT ALLOWS FOR CORPORATIONS TO AMEND ARTICLES OF INCORPORATION WITHOUT A MEETING, WITH WRITTEN CONSENT OF THE HOLDERS, AGAIN, PROVIDED THAT THE USE OF THE WRITTEN CONSENT TO ELECTED DIRECTORS, IT HAS TO BE UNANIMOUS. AND THEN FINALLY, THIS HAS TO DO WITH FOREIGN CORPORATIONS, IN LIEU OF OBTAINING A CERTIFICATE OF AUTHORITY FROM NEBRASKA TO FILE WITH THE SECRETARY OF STATE, TO BECOME A BODY CORPORATE OF NEBRASKA AS A FOREIGN DOMESTICATED CORPORATION. [LB794]

SENATOR CHAMBERS: SENATOR HARR, WHAT IS THE SIGNIFICANCE OF A CORPORATION BEING A FOREIGN CORPORATION? WHAT'S THE DIFFERENCE BETWEEN A FOREIGN CORPORATION AND A DOMESTIC CORPORATION? [LB794]

SENATOR HARR: GOOD QUESTION. SO THERE IS THE BRAINS OF AN ORGANIZATION AND THERE'S BRAWNS OF AN ORGANIZATION. SOMETIMES THEY'RE ONE IN THE SAME. FOR INSTANCE, THERE ARE CERTAIN STATES THAT ARE NOTORIOUS FOR HAVING MORE LENIENT CORPORATE LAWS AND MORE SPELLED OUT AS A RESULT. DELAWARE IS ONE. SO AS A RESULT, DELAWARE HAS A MORE DEVELOPED CASE LAW THAT IS ALSO AROUND THEIR CORPORATE LAW. SO YOU MAY HAVE A CORPORATION THAT DOES BUSINESS IN THE STATE OF NEBRASKA. I'LL GIVE AN EXAMPLE. THE OMAHA WORLD-HERALD DOESN'T EXIST. THEY'RE WITHIN A PART OF BERKSHIRE. BUT PREVIOUSLY, THE OMAHA WORLD-HERALD WAS INCORPORATED IN DELAWARE, BUT WAS...HAD ITS BUSINESS IN NEBRASKA. SO IT WAS A FOREIGN CORPORATION, BUT IT DID BUSINESS IN THE STATE OF NEBRASKA. [LB794]

SENATOR CHAMBERS: SO A FOREIGN CORPORATION WOULD SIMPLY BE REGISTERED OR INCORPORATED SOMEPLACE OTHER THAN THE STATE WHERE IT'S OPERATING. IS THAT TRUE? [LB794]

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SENATOR HARR: YOU SAID THAT...THAT WAS MUCH MORE SUCCINCT THAN I HAD SAID IT, BUT, YES, THAT IS CORRECT. [LB794]

SENATOR CHAMBERS: AND YOU SAID THAT USUALLY IS DONE BECAUSE THE STATE OF INCORPORATION MAY HAVE MORE LENIENT LAWS THAN THE STATE WHERE IT CHOOSES TO OPERATE. [LB794]

SENATOR HARR: MAY. THAT MIGHT BE ONE REASON. IT MIGHT BE THAT THAT CORPORATION WAS ORIGINALLY OUT OF ANOTHER STATE. IT MAY BE BECAUSE THERE'S MORE DEVELOPED CASE LAW IN OTHER STATES. THAT'S ONE OF THE ADVANTAGES OF THE MODEL BUSINESS CORPORATION ACT IS THAT THE MAJORITY OF THE STATES, I WOULD SAY AROUND 40 PERCENT, OR 40 USE, 40 OF THE STATES USE THE MODEL BUSINESS CORPORATION ACT, SO THERE'S MORE DEVELOPED CASE LAW, SO THERE'S MORE CONSISTENCY. [LB794]

SENATOR CHAMBERS: BUT THE MODEL CORPORATION ACT IS NOT THE SAME AS AN INTERSTATE COMPACT, IS IT? [LB794]

SENATOR HARR: NO, IT IS NOT. [LB794]

SENATOR SCHEER PRESIDING

SENATOR SCHEER: ONE MINUTE. [LB794]

SENATOR CHAMBERS: SO THE FACT THAT A PERSON...A STATE...WELL, I CAN SAY A PERSON BECAUSE A CORPORATION IS A PERSON, RIGHT? [LB794]

SENATOR HARR: IT IS NOW. [LB794]

SENATOR CHAMBERS: HOW, SENATOR HARR, COULD A NONHUMAN ENTITY, A NONLIVING ENTITY BE CONSIDERED A PERSON? [LB794]

SENATOR HARR: THAT IS A GREAT QUESTION. YOU WILL HAVE TO ASK JUSTICE ROBERTS. [LB794]

SENATOR CHAMBERS: UNDER THE LAWS THAT EXIST NOW, WHY AND HOW CAN A CORPORATION BE DEEMED A PERSON? [LB794]

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SENATOR HARR: WELL, THERE WAS THE SUPREME COURT RECENTLY RULED THAT A CORPORATION IS AN INDIVIDUAL AND, THUS, WE CAN'T LIMIT THEIR SPEECH. [LB794]

SENATOR CHAMBERS: NO, I DIDN'T SAY INDIVIDUAL. I SAID PERSON. [LB794]

SENATOR HARR: OH, AS A PERSON. EXCUSE ME. YOU'RE CORRECT. THEY ARE A PERSON AND, THUS, WE CAN'T... [LB794]

SENATOR CHAMBERS: JUST ONE...THERE...WORDS MEAN SOMETHING, DON'T THEY? [LB794]

SENATOR HARR: VERY MUCH. [LB794]

SENATOR CHAMBERS: AND WHEN YOU'RE LOOKING AT THE LAW, OFTEN WORDS BECOME TERMS OF ART, MEANING THEY ARE NOT TAKEN IN THEIR ORDINARY, POPULAR... [LB794]

SENATOR SCHEER: TIME, SENATOR. [LB794]

SENATOR CHAMBERS: THANK YOU. [LB794]

SENATOR SCHEER: THANK YOU, SENATOR HARR AND SENATOR CHAMBERS. SENATOR CHAMBERS, YOU ARE NEXT ON THE QUEUE. [LB794]

SENATOR CHAMBERS: I KNEW THAT. [LB794]

SENATOR SCHEER: SO DID I. [LB794]

SENATOR CHAMBERS: SENATOR HARR, DID SENATOR (SIC) ROBERTS DISTINGUISH BETWEEN THE WORD "PERSON" AND THE WORD "INDIVIDUAL," IF YOU KNOW? DID JUDGE...CHIEF JUSTICE ROBERTS DISTINGUISH BETWEEN THOSE TWO WORDS, IF YOU KNOW? [LB794]

SENATOR CHAMBERS: EXCUSE ME, SENATOR CHAMBERS. SENATOR HARR, WOULD YOU YIELD TO A QUESTION, PLEASE? [LB794]

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SENATOR HARR: YES, I WOULD. IN ANSWER TO YOUR QUESTION, FIRST OF ALL, WORDS MATTER. SO I'M GLAD YOU CORRECTED THAT, TOO, FROM SENATOR TO CHIEF JUSTICE. I BELIEVE HE DID. I'LL BE HONEST, I'M NOT...I DIDN'T PREPARE MYSELF FOR THAT. BUT, YES, I BELIEVE HE DID. [LB794]

SENATOR CHAMBERS: BUT I WON'T QUIBBLE ABOUT THAT. LET'S...WE DO KNOW...YOU KNOW THAT A CORPORATION IS CONSIDERED, UNDER THE LAWS OF THIS COUNTRY, TO BE A PERSON. CORRECT? [LB794]

SENATOR HARR: THAT IS...I BELIEVE SO, YES. [LB794]

SENATOR CHAMBERS: WHAT AMENDMENT OF THE U.S. CONSTITUTION IS KNOWN AS THE CORPORATION CLAUSE THAT RENDERS A CORPORATION THE STATUS OF A PERSON, IF YOU KNOW? [LB794]

SENATOR HARR: I DO NOT KNOW. [LB794]

SENATOR CHAMBERS: SENATOR HARR, WHAT LAW SCHOOL DID YOU GRADUATE FROM? [LB794]

SENATOR HARR: THE UNIVERSITY OF NOTRE DAME WHEN THEY ACCEPT ME. THEY DON'T ALWAYS ACCEPT ME AS A GRADUATE. [LB794]

SENATOR CHAMBERS: THE UNIVERSITY OF NOTRE DAME? [LB794]

SENATOR HARR: YES. [LB794]

SENATOR CHAMBERS: I KNOW THEY HAVE A FOOTBALL TEAM. THEY HAVE A LAW SCHOOL? [LB794]

SENATOR HARR: NOT AFTER I GRADUATED. [LB794]

SENATOR CHAMBERS: AND...WELL, BEFORE YOU CAME THERE, DID ANYBODY TELL YOU WHICH AMENDMENT TO THE U.S. CONSTITUTION PROVIDED COVER SO THAT CORPORATIONS WOULD BE DEEMED PERSONS IN CONTEMPLATION OF LAW? [LB794]



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SENATOR HARR: THEY MAY HAVE, BUT IF THEY DID I DON'T RECALL, AND I APOLOGIZE FOR NOT BEING BRIEFED. [LB794]

SENATOR CHAMBERS: IF IT'S NOT THE AMENDMENT THAT PRECEDES THE FOURTEENTH AMENDMENT AND IT'S NOT THE AMENDMENT THAT FOLLOWS THE FOURTEEN AMENDMENT, WHICH ONE WOULD IT BE IF WE WERE STRICTLY GOING TO APPLY LOGIC AND NO KNOWLEDGE OR INFORMATION? [LB794]

SENATOR HARR: I WOULD SAY THE DUE PROCESS CLAUSE, WHICH I BELIEVE IS THE FOURTEENTH AMENDMENT. [LB794]

SENATOR CHAMBERS: AND IT SAYS EVERY PERSON OR NO PERSON. IN OTHER WORDS,... [LB794]

SENATOR HARR: THAT'S RIGHT. [LB794]

SENATOR CHAMBERS: ...IT'S ALL INCLUSIVE OF PERSON. SO ANYTHING THAT APPLIES TO A PERSON, FOR OUR DISCUSSION, WOULD APPLY TO A CORPORATION. THAT'S HOW A CORPORATION OBTAINS PERSONHOOD. SO A CORPORATION WOULD HAVE INCORPORATED IN ONE STATE. WHY THEN MUST ITS STATUS AS A LEGITIMATE CORPORATION BE ACCEPTED IN NEBRASKA IF THEY'RE NOT INCORPORATED IN NEBRASKA? [LB794]

SENATOR HARR: THROUGH THE FULL FAITH AND CREDIT. [LB794]

SENATOR CHAMBERS: THE FULL FAITH AND CREDIT WHAT? [LB794]

SENATOR HARR: CLAUSE, FULL FAITH AND CREDIT CLAUSE. [LB794]

SENATOR CHAMBERS: AND WHAT DOCUMENT IS THAT FOUND IN? [LB794]

SENATOR HARR: THERE WAS JUST A CASE ON THIS YESTERDAY TOO. [LB794]

SENATOR CHAMBERS: YOU DON'T NEED A CASE. IN WHAT DOCUMENT IS THE FULL FAITH AND CREDIT CLAUSE FOUND? [LB794]

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SENATOR HARR: IT'S IN THE UNITED STATES CONSTITUTION, BUT I'M NOT SURE WHERE, A SPECIFIC... [LB794]

SENATOR CHAMBERS: DID YOU HEAR THE WAY I ASKED THE QUESTION, WHICH DOCUMENT? [LB794]

SENATOR HARR: YES. [LB794]

SENATOR CHAMBERS: THAT'S WHY SOME STUDENTS FAIL LAW SCHOOL EXAMS. THEY DON'T ANSWER THE QUESTION THAT'S ASKED. THEY ANSWER SOMETHING ELSE. NOW, IS THERE WHAT IS KNOWN AS THE SUPREMACY CLAUSE IN THE U.S. CONSTITUTION, WHICH MAKES THE CONSTITUTION, ANY LAWS ENACTED PURSUANT TO THE CONSTITUTION, OR ANY TREATIES ENTERED INTO OR INITIATED BY THE UNITED STATES THE SUPREME LAW OF THE LAND, THE PROVISIONS OF ANY STATE CONSTITUTION TO THE CONTRARY NOTWITHSTANDING? IS THERE SUCH A PROVISION AS THAT IN THE U.S. CONSTITUTION? [LB794]

SENATOR HARR: YES, THERE IS. [LB794]

SENATOR SCHEER: ONE MINUTE. [LB794]

SENATOR CHAMBERS: ARE THOSE TWO PROVISIONS IN THE SAME PORTION OF THE CONSTITUTION, IF YOU KNOW? [LB794]

SENATOR HARR: I WILL SAY PORTION, YES, NOT KNOWING WHAT PORTION MEANS, BUT, YES. [LB794]

SENATOR CHAMBERS: SO NOW TO GET BACK TO THIS BILL THAT'S BEFORE US, WHAT IS THE DIFFERENCE BETWEEN A FOREIGN CORPORATION AND A DOMESTIC CORPORATION IN CONTEMPLATION OF LAW? [LB794]

SENATOR HARR: ONE IS INCORPORATED IN A STATE OUTSIDE OF, IN THIS CASE, THE STATE OF NEBRASKA, AND ONE IS ONE THAT IS INCORPORATED INSIDE THE STATE OF NEBRASKA. [LB794]

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SENATOR CHAMBERS: AND THIS THAT YOU'RE OFFERING WOULD APPLY TO BOTH FOREIGN AND DOMESTIC CORPORATIONS? [LB794]

SENATOR HARR: IT WOULD APPLY TO THEM IF THEY ARE...AGAIN, IT'S THE BRAINS VERSUS THE BRAWNS, BUT, YES, IT WOULD APPLY TO THEM IF THEY DO BUSINESS IN THE STATE OF NEBRASKA. [LB794]

SENATOR CHAMBERS: AND WOULD NEBRASKA LAW GOVERN THEM WHILE THEY'RE OPERATING HERE, OR WOULD THE LAW IN THE STATE WHERE THEY WERE INCORPORATED GOVERN THEM? [LB794]

SENATOR HARR: IT WOULD DEPEND ON THE SITUATION. [LB794]

SENATOR SCHEER: TIME, SENATORS. AND, SENATOR CHAMBERS, THIS WILL BE YOUR THIRD TIME. [LB794]

SENATOR CHAMBERS: THANK YOU. WHICH STATE'S LAW WOULD GOVERN? [LB794]

SENATOR HARR: AS FAR AS FOR CORPORATE...I MEAN... [LB794]

SENATOR CHAMBERS: CONDUCT OF THE CORPORATION. [LB794]

SENATOR HARR: CONDUCT OF THE CORPORATION,... [LB794]

SENATOR CHAMBERS: YES. [LB794]

SENATOR HARR: ...IT IS THE STATE WHERE THEY ARE INCORPORATED WOULD BE THE ONE THAT WOULD... [LB794]

SENATOR CHAMBERS: IF THERE WERE AN ISSUE OF CONFLICT BETWEEN THE STATE WHERE THIS CORPORATION IS OPERATING AND THE STATE WHERE IT IS INCORPORATED, WHICH STATE'S LAW WOULD HAVE PRIORITY, IF YOU KNOW? HAD YOU BEEN ASKED A QUESTION LIKE THAT BEFORE? [LB794]

SENATOR HARR: YEAH, I'M SORRY, BECAUSE IT WAS A NEW LIGHT, I THOUGHT I HAD TO BE ASKED IF I WOULD ANSWER YOUR QUESTIONS. AND I WILL ANSWER.

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THE ANSWER IS IT'S FACT SPECIFIC, SO IT DEPENDS ON THE CIRCUMSTANCES OF THE SPECIFIC CASE OR THE ISSUE AT HAND. [LB794]

SENATOR CHAMBERS: IF THE...THIS CORPORATION, ALTHOUGH OPERATING IN NEBRASKA, COULD BE DEEMED A FOREIGN CORPORATION. IS THAT CORRECT? [LB794]

SENATOR HARR: YES, THAT IS POSSIBLE. [LB794]

SENATOR CHAMBERS: IF IN THE STATE WHERE THAT CORPORATION IS INCORPORATED WOULD HAVE ITS INCORPORATION PAPERS REVOKED, COULD IT CONTINUE TO OPERATE IN NEBRASKA? [LB794]

SENATOR HARR: NO, NOT LEGITIMATELY, NOT LEGALLY. [LB794]

SENATOR CHAMBERS: WHY COULD IT NOT OPERATE LEGALLY IN NEBRASKA? [LB794]

SENATOR HARR: BECAUSE IT WOULD NOT BE A CORPORATION. [LB794]

SENATOR CHAMBERS: AND IT IS NOT A CORPORATION BASED ON ANYTHING IN NEBRASKA BUT, RATHER, WHERE IT ORIGINATED. [LB794]

SENATOR HARR: THAT IS CORRECT, SENATOR. [LB794]

SENATOR CHAMBERS: NOW, APPLY THIS BILL TO A FOREIGN CORPORATION. [LB794]

SENATOR HARR: OKAY. [LB794]

SENATOR CHAMBERS: IT'S YOUR BILL. APPLY IT. TELL ME HOW IT APPLIES. [LB794]

SENATOR HARR: IT APPLIES TO HOW THEY ARE RECOGNIZED IN THE STATE OF NEBRASKA. [LB794]

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SENATOR CHAMBERS: AND HOW ARE THEY RECOGNIZED, BY HEIGHT, WEIGHT, OR WHAT? [LB794]

SENATOR HARR: WELL, THERE ARE A NUMBER OF WAYS THEY'RE RECOGNIZED. FIRST OF ALL IS DOING... YOU HAVE TO BE DOING BUSINESS IN THE STATE OF NEBRASKA. SECOND OF ALL, YOU HAVE TO FILE WITH THE SECRETARY OF STATE. AND SO WHAT THIS BILL DOES IS IT RETURNS TO HOW WE DO IT OF OBTAINING THE CERTIFICATE OF AUTHORITY FROM THE STATE OF NEBRASKA TO BE A BODY CORPORATE AS A FOREIGN DOMESTICATED CORPORATION. INSTEAD OF USING THE MODEL BUSINESS CODE ACT, WE KEEP THE NEBRASKA WAY. [LB794]

SENATOR CHAMBERS: SO THEN THAT MODEL BUSINESS CODE, IS THAT DIFFERENT FROM THAT CORPORATION, THAT MODEL CORPORATION ACT YOU HAD MENTIONED? [LB794]

SENATOR HARR: WELL, THE MODEL BUSINESS CORPORATION ACT,... [LB794]

SENATOR CHAMBERS: OH, MODEL CORPORATION. [LB794]

SENATOR HARR: ...WE...YEAH,... [LB794]

SENATOR CHAMBERS: OKAY. [LB794]

SENATOR HARR: ...BUSINESS CORP. WE'VE ADOPTED THE VAST MAJORITY OF IT. BUT AS YOU KNOW, WE SOMETIMES DO THINGS A LITTLE BIT PECULIAR OR DIFFERENT IN NEBRASKA SO IT'S NOT... WE DON'T ACCEPT IT WRIT LARGE BUT WE ACCEPT THE THEME AND WE ACCEPT 99 PERCENT OF IT. [LB794]

SENATOR CHAMBERS: BUT FOR THE SAKE OF THE RECORD AND CLARITY, THERE ARE NOT TWO DIFFERENT ACTS, ONE RELATED TO BUSINESS AND ONE RELATED TO CORPORATIONS, THAT WE'RE TALKING ABOUT. THERE IS ONE ACT THAT DEALS WITH CORPORATIONS. [LB794]

SENATOR HARR: THAT IS CORRECT. SORRY. [LB794]

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SENATOR CHAMBERS: NOW, WHY IS THIS BILL NEEDED? IF THIS BILL WERE NOT ENACTED, WHAT WOULD BE THE NEGATIVE CONSEQUENCES, AND TO WHOM? [LB794]

SENATOR HARR: TO WHOM IS A LARGER QUESTION. THERE ARE...WELL, FOR INSTANCE,... [LB794]

SENATOR CHAMBERS: LET'S TAKE THE EASY ONE THEN. [LB794]

SENATOR HARR: OKAY. [LB794]

SENATOR CHAMBERS: WHAT WOULD HAPPEN IF THIS LAW WERE NOT ENACTED? THIS BILL WERE NOT ENACTED INTO LAW, WHAT WOULD THE CONSEQUENCES BE? [LB794]

SENATOR HARR: WELL, WE WOULD HAVE SOME CONFUSION, AND THERE WOULD BE SOME CORPORATIONS THAT WOULD BE AFFECTED IN THE THREE WAYS THAT...THESE ARE SMALL, MINOR AMENDMENTS. WE ALREADY PASSED THE WRIT LARGE CHANGE IN THE LAW. WHAT WE'RE DOING IS LOOKING,... [LB794]

SENATOR SCHEER: ONE MINUTE. [LB794]

SENATOR HARR: ...HAVING MET WITH THE BAR ASSOCIATION TO SAY, HEY, THESE ARE SOME NEBRASKA-CENTRIC RULES THAT WE HAVE FOR WHATEVER REASON. MAYBE OUR SECRETARY OF STATE WANTS SOMETHING DIFFERENT. MAYBE IT'S FOR A TAX REASON. MAYBE IT'S FOR SHAREHOLDER RIGHTS ISSUES. MAYBE IT'S FOR EASE OF CHOOSING... [LB794]

SENATOR CHAMBERS: BUT IT DOES...IT'S NOT OF ANY CONSEQUENCE IF IT PASSES OR NOT, IS IT? [LB794]

SENATOR HARR: IT WOULD BE CONSEQUENTIAL TO THOSE BUSINESSES AFFECTED, YES. [LB794]

SENATOR CHAMBERS: WHAT'S THE WORST CONSEQUENCE? [LB794]

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SENATOR HARR: WELL, IF THEY TRY...IT WOULD BE THAT THEY COULDN'T DO THE THREE THINGS THAT I'VE OUTLINED IN THIS BILL. [LB794]

SENATOR CHAMBERS: IN ORDER TO CONTINUE OUR DISCUSSION, I'M GOING TO HAVE TO PUT UP A MOTION BECAUSE I THINK I SPOKE MY THIRD TIME. [LB794]

SENATOR HARR: AND I HAVE ENJOYED THIS. THANK YOU. [LB794]

SENATOR SCHEER: MR. CLERK. [LB794]

CLERK: MR. PRESIDENT, SENATOR CHAMBERS WOULD MOVE TO INDEFINITELY POSTPONE. SENATOR HARR, I HESITATE TO ASK, BUT YOU HAVE THE OPTION TO LAY THE BILL OVER, SENATOR. [LB794]

SENATOR SCHEER: SENATOR HARR. [LB794]

SENATOR HARR: NO, I WOULD NOT ACCEPT THIS. [LB794]

SENATOR SCHEER: SENATOR CHAMBERS, YOU'RE WELCOME TO OPEN ON YOUR IPP MOTION. [LB794]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, WE'RE HAVING SOME INTERESTING DISCUSSION. SENATOR HARR SAID, NO, I WILL NOT ACCEPT IT. SENATOR HARR, FOR THE RECORD, WHAT WILL YOU NOT ACCEPT? YOU HAD THE OPPORTUNITY TO LAY IT OVER IF YOU CHOSE. THAT'S WHAT THEY PRESENTED TO YOU. AND YOU WANT TO TAKE IT UP NOW. [LB794]

SENATOR SCHEER: SENATOR, EXCUSE ME, SENATOR CHAMBERS. [LB794]

SENATOR CHAMBERS: YES. [LB794]

SENATOR SCHEER: SENATOR HARR, WILL YOU YIELD, PLEASE? [LB794]

SENATOR HARR: I WILL YIELD. [LB794]

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SENATOR CHAMBERS: AND YOU, TO MAKE IT CLEAR, YOU WANT TO TAKE IT UP NOW, CORRECT? [LB794]

SENATOR HARR: YES, I WANT TO TAKE UP THE MOTION. I DO NOT...WELL, LET ME APPROACH. [LB794]

SENATOR SCHEER: SENATOR HARR, COULD YOU PLEASE RESTATE YOUR POSITION ON THIS. [LB794]

SENATOR HARR: THANK YOU, MR. PRESIDENT. I WOULD ASK THAT WE TAKE UP THIS MOTION SO THAT WE MAY DEBATE THIS ISSUE. [LB794]

SENATOR SCHEER: SENATOR CHAMBERS, YOU'RE ABLE TO CONTINUE. [LB794]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. MEMBERS OF THE LEGISLATURE, THIS DISCUSSION IS PRODUCTIVE AS FAR AS I'M CONCERNED. SO WHAT I WAS ASKING YOU WAS, WHAT WOULD BE THE CONSEQUENCE IF THIS BILL WERE NOT PASSED? FIRST OF ALL, WE KNOW THAT THE STATUS QUO WOULD REMAIN; THINGS WOULD BE UNCHANGED. SPECIFICALLY, WHAT WOULD THIS BILL CHANGE THAT IS OF ANY CONSEQUENCE? [LB794]

SENATOR HARR: IT...OKAY, I DIDN'T KNOW I WAS ON THE MIKE. YES, WHAT THIS WOULD DO IS CHANGE...THIS IS CLEANUP LANGUAGE. IT HAS TO DO WITH SHAREHOLDER RIGHTS AS FAR AS...AND THEN HOW BOARD MEETINGS CAN BE CONDUCTED AND HOW WE RECOGNIZE FOREIGN CORPORATIONS. [LB794]

SENATOR CHAMBERS: LET'S TAKE THE FIRST ONE. [LB794]

SENATOR HARR: OKAY. [LB794]

SENATOR CHAMBERS: YOU SAID SHAREHOLDER RIGHTS. WHICH RIGHTS WOULD BE AFFECTED AND HOW? [LB794]

SENATOR HARR: THIS WOULD RETURN FORMER LANGUAGE WHICH ALLOWS SHAREHOLDERS OF A CORPORATION ORGANIZED BEFORE 1996 TO CONTINUE TO HAVE A PREEMPTIVE RIGHT TO ACQUIRE THE CORPORATION'S UNISSUED



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SHARES IF THE ARTICLES OF INCORPORATION DID NOT EXPRESSLY ELIMINATE SUCH PREEMPTIVE RIGHTS. [LB794]

SENATOR CHAMBERS: DID YOU START BY SAYING IT RESTORES THAT LANGUAGE? [LB794]

SENATOR HARR: YES, RETURNS BUT RESTORES, YEAH. [LB794]

SENATOR CHAMBERS: SO AT ONE TIME THAT LANGUAGE WAS THERE AND HAD BEEN TAKEN OUT. AND NOW YOU ARE TRYING TO PUT BACK... [LB794]

SENATOR HARR: YEAH. [LB794]

SENATOR CHAMBERS: ...WHAT HAD BEEN TAKEN OUT. [LB794]

SENATOR HARR: WE TOOK IT OUT INADVERTENTLY TWO YEARS AGO WHEN WE PASSED THE MODEL BUSINESS CODE ACT. AND SO WE ARE NOW RETURNING IT INTO THE MODEL BUSINESS...WELL, INTO THE BUSINESS CORPORATION ACT, YES. [LB794]

SENATOR CHAMBERS: AND IF I HAD BEEN THERE AND PAYING ATTENTION TO THAT AND INTERROGATED YOU ABOUT THE BILL, THAT MIGHT HAVE BEEN CAUGHT AND THAT LANGUAGE WOULD NOT HAVE BEEN REMOVED BECAUSE THE INTENT WAS NOT TO REMOVE IT ACTUALLY. WHEN I SAY "THE INTENT," YOU USED THE WORD "INADVERTENT." IT WAS TAKEN OUT. IT WAS KNOWN THAT THIS LANGUAGE WAS BEING TAKEN OUT. BUT THE CONSEQUENCES WERE NOT RECOGNIZED AT THE TIME. [LB794]

SENATOR HARR: I THINK THAT'S AN ACCURATE WAY OF STATING IT, YES. [LB794]

SENATOR CHAMBERS: OKAY. SO WHAT IS BEING PUT IN BY YOUR OFFERING THIS BILL IS SOMETHING THAT IS NOT FOREIGN TO NEBRASKA LAW. IT HAD BEEN THERE BEFORE. [LB794]

SENATOR HARR: THAT IS CORRECT. [LB794]

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SENATOR CHAMBERS: AND WHATEVER DECISIONS IN COURT, IF THERE HAD BEEN ANY, WITH REFERENCE TO THAT LANGUAGE WOULD STILL OBTAIN NOW BECAUSE THAT VERY LANGUAGE WOULD HAVE BEEN CONSTRUED BY THE COURT. [LB794]

SENATOR HARR: YES. [LB794]

SENATOR CHAMBERS: OKAY. NOW THIS, BASED ON YOUR BRINGING IT BACK, IS SOMETHING THAT WOULD BENEFIT SHAREHOLDERS, IS THAT CORRECT, OR IT WON'T HAVE ANY IMPACT ON THEM ONE WAY OR THE OTHER? [LB794]

SENATOR HARR: WELL, IT ONLY HAS AN EFFECT IF THE RIGHT IS EXERCISED. [LB794]

SENATOR CHAMBERS: AND IF...WHAT RIGHT WOULD BE EXERCISED? [LB794]

SENATOR HARR: WHICH IS THE RIGHT TO ACQUIRE THE CORPORATION'S UNISSUED SHARES. [LB794]

SENATOR CHAMBERS: AND WITHOUT THIS LANGUAGE, THE SHAREHOLDER COULD NOT DO THAT? [LB794]

SENATOR HARR: WELL, THIS ALLOW...YEAH, ALLOWS SHAREHOLDERS OF A CORPORATION TO HAVE A PREEMPTIVE RIGHT TO ACQUIRE THE CORPORATION'S UNISSUED SHARES. [LB794]

SENATOR CHAMBERS: OH. SO PREEMPTIVE MEANS YOU CAN GET IT BEFORE SOMEBODY ELSE WHO MAY HAVE AN INTEREST IN GETTING IT. YOU GET FIRST RIGHT OF REFUSAL, IN OTHER WORDS,... [LB794]

SENATOR HARR: IT'S SIMILAR...WELL... [LB794]

SENATOR CHAMBERS: ...IF THERE'S SOME KIND OF ANALOGY. ALL RIGHT. NOW THE NEXT ONE, THE NEXT ITEM YOU MENTIONED. [LB794]

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SENATOR HARR: YEP. IT ALLOWS FOR A CORPORATION TO AMEND THE ARTICLES OF INCORPORATION WITHOUT A MEETING BUT IT DOES REQUIRE WRITTEN CONSENT OF THE HOLDERS, OF THE SHAREHOLDERS. [LB794]

SENATOR CHAMBERS: AND RIGHT NOW THE THING...CORPORATIONS CAN AMEND. THE WRITTEN CONSENT IS WHAT IS NECESSARY IN ORDER TO AVOID HAVING TO DO IT AT A MEETING. [LB794]

SENATOR HARR: YEAH. [LB794]

SENATOR CHAMBERS: LET ME ASK IT A DIFFERENT WAY. WITHOUT THIS LANGUAGE, THE AMENDMENTS COULD OCCUR ONLY AT A MEETING. [LB794]

SENATOR HARR: THAT'S RIGHT, SPECIALLY CALLED OR OTHERWISE, YES. [LB794]

SENATOR CHAMBERS: OKAY. [LB794]

SENATOR HARR: AND I WANT TO CLARIFY, IF IT IS BY WRITTEN, IT HAS TO BE UNANIMOUS. [LB794]

SENATOR CHAMBERS: YOU MEAN EVERY... [LB794]

SENATOR HARR: IF YOU DO IT WITHOUT A MEETING AND JUST DO IT THROUGH WRITTEN CONSENT, EVERY DIRECTOR HAS TO APPROVE IT. IT HAS TO BE UNANIMOUS. [LB794]

SENATOR CHAMBERS: OH, I SEE WHAT YOU MEAN. AND THEN ONCE THAT CONSENT IS WRITTEN, IS THAT DISTINCT FROM THE AMENDMENT? LIKE DO YOU SAY, I WANT TO HAVE A MEETING TO OFFER THIS AMENDMENT, AND ALL THAT CAN BE DONE ON ONE PIECE PAPER OR IN ONE DOCUMENT? OR DO THEY HAVE TO GET PERMISSION TO AMEND AND THEN, AFTER THAT IS OBTAINED, THEN THEY OFFER IT? OR CAN THEY OFFER THE PROPOSED AMENDMENT AT THE SAME TIME THEY'RE ASKING THAT IT BE DONE WITHOUT A MEETING? [LB794]

SENATOR HARR: OKAY. SO YOU'RE...AND I'LL HIT MY LIGHT IF I RUN OUT, TOO, IF YOU RUN OUT AT THREE TIMES. SO YOU'RE SAYING THERE IS AN AMENDMENT AND IT'S A WRITTEN ONE INSTEAD OF A SPECIALLY CALLED MEETING. AND I'M

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A DIRECTOR AND I WANT TO AMEND THAT. CAN I DO THAT? AND THE ANSWER IS, I DO NOT BELIEVE YOU CAN. IT'S EITHER, IT'S AN UP OR DOWN VOTE ON THAT AMENDMENT TO THE ARTICLE AS WRITTEN, SO YOU CAN'T AMEND THE AMENDMENT. [LB794]

SENATOR CHAMBERS: NO, BUT HERE'S WHAT I MEAN. MUST THERE BE AN AGREEMENT IN ADVANCE THAT THEY WILL ALLOW AN AMENDMENT WITHOUT A MEETING? OR WHEN YOU'RE TRYING TO GET THE BOARD MEMBERS TO AGREE TO AN AMENDMENT WITHOUT HAVING A MEETING, CAN THAT PROPOSED AMENDMENT BE ON THE SAME PIECE OF PAPER WHERE YOU'RE ASKING THAT IT BE DONE WITHOUT A MEETING? OR DO YOU HAVE TO GET AN AGREEMENT THAT AN AMENDMENT WILL BE ALLOWED AND THEN EVERYBODY AGREES AND THEN YOU SUBMIT THE AMENDMENT? IF THIS IS DONE, I WANT TO KNOW IN DETAIL AND EVERYBODY ELSE SHOULD TOO. [LB794]

SENATOR HARR: YEAH. AND... [LB794]

SENATOR CHAMBERS: SUPPOSE YOU HAVE SOMEBODY LIKE ME ON THE BOARD AND WE ALL AGREE THAT WE'RE GOING TO HAVE THIS AMENDMENT WITHOUT HAVING A MEETING. [LB794]

SENATOR HARR: YEAH. IT'S... [LB794]

SENATOR CHAMBERS: AND... [LB794]

SENATOR HARR: THERE WERE A NUMBER OF QUESTIONS IN THERE, AND IT WAS KIND OF LONG. IF I CAN TRY TO ANSWER IT, SO I WANT TO CHANGE MY ARTICLES OF INCORPORATION. I WANT TO AMEND IT. [LB794]

SENATOR CHAMBERS: UH-HUH. [LB794]

SENATOR HARR: ALL RIGHT. THE QUESTION IS, DO I FIRST SAY, DO YOU CONSENT TO A WRITTEN INSTEAD OF A SPECIAL MEETING? AND THEN ONCE YOU CONSENT TO THE WRITTEN, DOES THAT THEN, THE AMENDMENT, HAVE TO BE UNANIMOUS? AND THE ANSWER IS, YOU WOULD SEND IT OUT AND BOTH WOULD BE HANDLED AT ONCE. YOU WOULD DO A WRITTEN CONSENT AND IT HAS TO BE UNANIMOUS. AND IF ONE MEMBER SAYS, NO, I WANT TO HAVE A

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MEETING, YOU HAVE THE MEETING OR THE UNDERLYING AMENDMENT FAILS.  
[LB794]

SENATOR CHAMBERS: BUT ONCE YOU HAVE THE AGREEMENT TO HAVE IT WRITTEN, THERE DOESN'T HAVE TO BE UNANIMOUS CONSENT OR UNANIMOUS AGREEMENT ON THE AMENDMENT. [LB794]

SENATOR HARR: YES, THERE STILL HAS TO BE UNANIMOUS CONSENT. [LB794]

SENATOR CHAMBERS: ON THE AMENDMENT ITSELF. [LB794]

SENATOR HARR: YES. IT'S BEEN A WHILE SINCE I'VE DONE CORPORATE LAW, BUT, YES, I BELIEVE SO. [LB794]

SENATOR CHAMBERS: SO ARTICLES CANNOT BE AMENDED BY A MAJORITY VOTE OF THE BOARD? [LB794]

SENATOR HARR: IF IT'S WRITTEN; IF IT'S A WRITTEN CONSENT AS OPPOSED TO HOLDING A BOARD MEETING. [LB794]

SENATOR CHAMBERS: AND IS THAT WHAT... [LB794]

SENATOR HARR: IF YOU HAVE A BOARD MEETING, SPECIAL BOARD MEETING... [LB794]

SENATOR CHAMBERS: WELL, IS YOUR LANGUAGE WRITTEN IN SUCH A WAY THAT A PERSON WOULD KNOW THAT IF YOU HAVE THIS DONE BY WAY OF A WRITTEN AGREEMENT INSTEAD OF A SPECIALLY CALLED MEETING, YOU NOW HAVE TO HAVE A HIGHER STANDARD TO ADOPT THAT AMENDMENT THAN IF IT WERE DONE AT A MEETING? [LB794]

SENATOR SCHEER: ONE MINUTE. [LB794]

SENATOR HARR: AS I READ IT, YES. [LB794]

SENATOR CHAMBERS: AND THAT'S WHAT YOU INTEND. [LB794]

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SENATOR HARR: THAT'S WHAT I INTEND. [LB794]

SENATOR CHAMBERS: AND THOSE WHO WORK WITH YOU HAD THAT UNDERSTANDING AND THEY INTEND IT ALSO? [LB794]

SENATOR HARR: I DON'T WANT TO SPEAK FOR THEM, BUT THAT WAS MY INTENT. [LB794]

SENATOR CHAMBERS: HERE'S MY NEXT QUESTION. IF SOME OF THEM HAPPEN TO BE PAYING ATTENTION TO OUR DISCUSSION AND THEY WOULD SAY THAT WHAT WE WANT TO BE UNANIMOUS IS THE AGREEMENT TO ALLOW THE AMENDING BY WAY OF WRITING INSTEAD OF A MEETING, BUT WE DON'T WANT THERE HAVE TO BE UNANIMOUS AGREEMENT ON THE AMENDMENT, IT CAN BE AMENDED BY A MAJORITY OF THOSE PARTICIPATING IN THE WRITING. IN OTHER WORDS, YOU MIGHT HAVE, LET'S SAY, TEN PEOPLE ON THE BOARD. ALL TEN OF THEM AGREE THAT THIS AMENDMENT CAN BE DONE IN A WRITTEN PROCEEDING. BUT THEY DON'T REALIZE THAT THE AMENDMENT ITSELF WOULD HAVE TO BE UNANIMOUSLY AGREED TO. [LB794]

SENATOR SCHEER: TIME, SENATOR CHAMBERS. YOU ARE THE NEXT IN THE QUEUE, AND I'M ASSUMING IF THE DISCUSSION IS GOING ON, SENATOR HARR WILL YIELD. [LB794]

SENATOR CHAMBERS: YES, ON AND ON AND ON AND ON AND ON. [LB794]

SENATOR SCHEER: THANK YOU. [LB794]

SENATOR CHAMBERS: THE ONE WHO WANTS THE AMENDMENT MIGHT NOT BE UNDERSTANDING THAT THE AMENDMENT ITSELF HAS TO BE AGREED TO BY ALL TEN OF THE BOARD MEMBERS. IF THE MEETING IS CALLED, IF THE MEETING IS CALLED, IT'S ALLOWED BY ALL TEN SAYING OKAY. THEN AN AMENDMENT IS SUBMITTED. BEFORE WE GET TO THAT, KEEP THAT, LET'S SAY IT'S AT A MEETING. HOW MANY VOTES OF A TEN-MEMBER BOARD WOULD IT TAKE TO AMEND THE ARTICLES? WOULD THAT BE STATED IN THE ARTICLES OF INCORPORATION? [LB794]

SENATOR HARR: YEAH. IT WOULD BE. AND SO IT WOULD DEPEND. AND IT WOULD ALSO DEPEND ON WHAT YOU'RE LOOKING TO CHANGE WITHIN THE

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ARTICLES OF INCORPORATION, WHETHER YOU'RE LOOKING TO CHANGE THE NUMBER OF SHAREHOLDERS, WHETHER YOU'RE LOOKING TO CHANGE...SO IT'S VERY FACT SPECIFIC. [LB794]

SENATOR CHAMBERS: AND HERE'S WHAT WE NOW CAN GET TO. EVEN THOUGH THE AGREEMENT TO ALLOW THE AMENDING PROCESS TO BE DONE BY WRITING, THAT DOES NOT CHANGE THE NUMBER OR PERCENTAGE OF VOTES NECESSARY TO ADOPT THE AMENDMENT. IS THAT TRUE? AND HERE IS WHY I AM ASKING. LET'S SAY THAT A MAJORITY OF MEMBERS AT THE BOARD, YOU HAVE A QUORUM. DOES THE MAJORITY OF A QUORUM ALLOW YOU TO AMEND THE ARTICLES OR WOULD THERE BE A SPECIFIC NUMBER OF THE TOTAL THAT WOULD HAVE TO VOTE TO AMEND THE ARTICLES, NOT JUST TO TRANSACT BUSINESS? [LB794]

SENATOR HARR: I CAN ALWAYS... [LB794]

SENATOR CHAMBERS: FOR MY PURPOSE, LET'S SAY IT WOULD TAKE EIGHT. [LB794]

SENATOR HARR: OKAY. OKAY. [LB794]

SENATOR CHAMBERS: SO WE'VE GOT THE WRITTEN AGREEMENT UNANIMOUSLY TO ALLOW THE AMENDMENT TO BE PRESENTED. AND EIGHT PEOPLE AGREE TO THE AMENDMENT. WOULD THAT, SINCE IT'S DONE BY WRITING, BE SUFFICIENT? OR THE WAY YOU'RE CHANGING THE LAW, IF IT'S DONE BY WRITING, DOES IT NOW RAISE THAT TO WHAT AMOUNTS TO A UNANIMOUS VOTE OF THE BOARD MEMBERS? IT'S YOUR BILL. THAT'S WHY I'M ASKING YOU. [LB794]

SENATOR HARR: YEP. [LB794]

SENATOR CHAMBERS: THIS IS THE STUFF OF LAW CLASS, ISN'T IT? [LB794]

SENATOR HARR: YES, THAT'S WHY I WAS DONE. THIS SEEMS LIKE THREE YEARS TOO. [LB794]

SENATOR CHAMBERS: AND LAW IS METICULOUS, ISN'T IT? [LB794]

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SENATOR HARR: IT IS. [LB794]

SENATOR CHAMBERS: AND THIS IS AN IMPORTANT MATTER--THE NUMBER OF VOTES REQUIRED. SO WHY DON'T WE JUST FORGET THIS ALTOGETHER AND ELIMINATE THAT ABOUT ALLOWING THIS TO BE DONE BY WRITING AND IT HAS TO BE DONE AT A MEETING? THERE CAN BE NO AMENDING THAT WAY. [LB794]

SENATOR HARR: WELL, I THINK THERE ARE THOSE WHO WOULD DISAGREE WITH YOU, AND I HAVE THE ARGUMENT... [LB794]

SENATOR CHAMBERS: WELL, ARE YOU SURE? ARE YOU SURE OF HOW YOUR LAW IMPACTS ON WHAT WE'RE TALKING ABOUT? [LB794]

SENATOR HARR: NO. AGAIN, I WANT TO BE CLEAR WHAT THIS BILL DOES IS THESE ARE, I WILL SAY, HYPERTECHNICAL CHANGES BASED ON CONVERSATIONS WITH THE BAR ASSOCIATION. BUT WHAT THEY DO IS, FOR INSTANCE, WHAT WE KEEP TALKING ABOUT IS THE WRITTEN CONSENT TO ELECT BOARD MUST BE UNANIMOUS. SO IT'S CONSENT, I MEAN IT'S WRITTEN, BUT YOU DON'T...THERE ISN'T A SEPARATE DO WE DO A WRITING AND THEN, IF THAT'S YES, WE VOTE ON THIS. IT'S HERE IS THE WRITTEN, YES OR NO. IT'S KIND OF LIKE CONSENT CALENDAR. IT IS EITHER A YES OR A NO. [LB794]

SENATOR CHAMBERS: WHERE IS THE VOTE ACTUALLY TAKEN? IT'S NOT TAKEN AT A MEETING. OTHERWISE YOU DON'T NEED THIS WRITING. [LB794]

SENATOR HARR: NO, IT'S MAILED IN. IT'S MAILED IN TO THE SECRETARY OF THE CORPORATION. [LB794]

SENATOR CHAMBERS: ALL RIGHT. SO TEN PEOPLE MAIL IN, YES, WE'LL DO IT BY WRITING. BUT... [LB794]

SENATOR SCHEER: ONE MINUTE. [LB794]

SENATOR HARR: NO, THEY DON'T SAY WE'LL DO IT BY WRITING. IT'S THEY SEND IT OUT. THEY SAY, HEY, WE WANT TO HAVE THIS VOTE BY WRITING. AND THAT IS A DECISION THAT'S MADE AND IT'S SENT OUT AND THEN HAS TO COME BACK UNANIMOUSLY. [LB794]



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SENATOR CHAMBERS: TO HAVE IT DONE THAT WAY, OR THE AMENDMENT?  
[LB794]

SENATOR HARR: THE AMENDMENT MUST BE UNANIMOUSLY AGREED UPON.  
[LB794]

SENATOR CHAMBERS: JUST SO THAT'S CLEARLY IN THE RECORD. [LB794]

SENATOR HARR: YEAH. [LB794]

SENATOR CHAMBERS: EVEN THOUGH THE...THIS WOULD SUPERSEDE ANYTHING  
WRITTEN IN THE...IN ARTICLES OF INCORPORATION. [LB794]

SENATOR HARR: THE ARTICLES OF INCORPORATION ALWAYS SUPERSEDE  
BECAUSE THAT'S A PRIVATE AGREEMENT. [LB794]

SENATOR CHAMBERS: THEN IF THEY SAY IT TAKES EIGHT OUT OF TEN, OR 75  
PERCENT OF THE MEMBERS TO AMEND, YOU'RE NOW SAYING IT TAKES A  
UNANIMOUS VOTE OF THE BOARD TO AMEND IF IT'S DONE BY THIS PROCESS  
YOU'RE TALKING ABOUT. [LB794]

SENATOR HARR: YEAH, IT... [LB794]

SENATOR CHAMBERS: SO IT RAISES IT HIGHER THAN WHAT THE ARTICLES OF  
INCORPORATION... [LB794]

SENATOR HARR: MAY OR MAY NOT SAY. MAY OR MAY NOT SAY. SO WHAT THIS  
DOES IS THIS FILLS IN THE GAPS IF THERE ARE ANY IN ARTICLES OF  
INCORPORATION, BECAUSE THE ARTICLES OF INCORPORATION ARE A PRIVATE  
AGREEMENT. THAT'S PRIVATE... [LB794]

SENATOR SCHEER: TIME, SENATOR. [LB794]

SENATOR HARR: ...LAW. [LB794]

SENATOR SCHEER: SENATOR CHAMBERS, THERE'S NO ONE IN THE QUEUE,  
WOULD YOU LIKE TO PROCEED TO CLOSE? [LB794]

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SENATOR CHAMBERS: HAVE I SPOKEN THREE TIMES ON THIS MOTION? [LB794]

SENATOR SCHEER: NO, YOU HAVE NOT, SENATOR. [LB794]

SENATOR CHAMBERS: I'VE GOT ONE MORE TIME? OR I HAVE? [LB794]

SENATOR SCHEER: YOU HAVE ANOTHER OPPORTUNITY IF YOUR LIGHT GOES ON.  
SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB794]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, WHAT I BELIEVE IN DOING WHEN WE'RE CRAFTING LEGISLATION IS TO ENSURE THAT THE INTRODUCER OF THE BILL KNOWS WHAT THE BILL SAYS AND WHAT THE BILL DOES. THIS IS PROBABLY OF INTEREST TO NOBODY ON THE FLOOR, BUT IT'S OF GREAT INTEREST TO ME. AND I WANT TO ASK THE QUESTION AGAIN BECAUSE I SAW SENATOR HARR CONSULTING WITH HIS COUNSEL. SO, SENATOR HARR, WOULD YOU LIKE TO TELL ME EXACTLY HOW THIS THAT YOU ARE DOING WOULD IMPACT...FIRST OF ALL, WE'RE TALKING ABOUT A VOTE THAT'S NOT TAKEN AT A MEETING. AT THE MEETING, ALL WE DO IS LOOK AT THE ARTICLES OF INCORPORATION. THAT TELLS US EVERYTHING WE NEED TO KNOW ABOUT THIS MEETING, THE QUORUM, AND HOW MANY VOTES IT WOULD TAKE TO AMEND THE ARTICLES. THAT'S TRUE, ISN'T IT, IF WE'RE AT A MEETING? THAT'S COVERED IN THE ARTICLES OF INCORPORATION. [LB794]

SENATOR SCHEER: SENATOR HARR, WOULD YOU YIELD? [LB794]

SENATOR HARR: YES. SO THE WAY A MEETING...WELL, ARTICLES OF INCORPORATION, THERE IS NO SET ARTICLES OF INCORPORATION. SO WHAT THIS LEGISLATION DOES IS HELP FILL IN THE GAPS IF SOMETHING IS NOT IN THE ARTICLES OF INCORPORATION. SO THEY CAN ALWAYS BE DIFFERENT THAN THE MODEL BUSINESS CORPORATION ACT, BUT JUST WITH REGARDS TO THE ARTICLES OF INCORPORATION. BUT THEN THERE ARE OTHER CORPORATE GOVERNANCE THAT'S OUTSIDE OF THE ARTICLES OF INCORPORATION THAT THIS COVERS. AND THEN WE ALSO HAVE WHAT'S CALLED THE CONSTITUTION AND SO A LOT OF THE ISSUES THAT WE ARE BRINGING HERE TODAY DEAL WITH THE CUMULATIVE VOTING REQUIREMENTS, AS REQUIRED BY OUR STATE CONSTITUTION, WHERE THIS MODEL BUSINESS...THE MODEL BUSINESS CORPORATION ACT IS DIFFERENT THAN OUR STATE REQUIREMENT OR DID NOT CONTEMPLATE OUR STATE REQUIREMENT. SO THESE ARE CHANGES THAT WERE

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MADE TO INCORPORATE THE NEBRASKA SPECIFIC WAY AS FAR AS FOR CUMULATIVE VOTING RIGHTS. [LB794]

SENATOR CHAMBERS: NOW WITH ALL OF THAT HAVING BEEN SAID, ARE YOU TELLING ME THAT IF A CORPORATION'S ARTICLES COVER AND SPECIFY HOW VOTES FOR AMENDMENTS ARE TAKEN AND WHERE, THAT THEY HAVE TO BE TAKEN AT A MEETING? IS THIS SAYING, NOTWITHSTANDING WHAT IS IN THE ARTICLES, IF THEY CHOOSE, THE BOARD MEMBERS, TO DO IT BY WRITING, THEY CAN DO IT WITHOUT WRITING, PURSUANT TO WHAT'S IN THIS LAW, NOTWITHSTANDING WHAT MAY BE WRITTEN CONTRARY TO THAT IN THEIR ARTICLES? OR WOULD THEIR ARTICLES TRUMP THIS THAT YOU'RE PUTTING INTO THE LAW? [LB794]

SENATOR HARR: THEIR ARTICLES WOULD TRUMP, ASSUMING THEY DON'T VIOLATE THE STATE'S CUMULATIVE VOTING RIGHTS. [LB794]

SENATOR CHAMBERS: RIGHT. RIGHT. [LB794]

SENATOR HARR: YES. [LB794]

SENATOR CHAMBERS: WE'RE GOING TO ASSUME ALL THAT BECAUSE I DON'T NEED ANOTHER ISSUE. [LB794]

SENATOR HARR: OKAY. [LB794]

SENATOR CHAMBERS: SO IF THE ARTICLES DO NOT ALLOW FOR THIS KIND OF VOTING,... [LB794]

SENATOR HARR: IF THEY SPECIFICALLY DO NOT ALLOW FOR IT, THEN THEY WOULD NOT BE ALLOWED. [LB794]

SENATOR CHAMBERS: ALL RIGHT. SO THIS APPLIES ONLY IF THE ARTICLES DO NOT STATE, YEA OR NAY, THAT IT HAS TO BE DONE AT A MEETING OR IT CAN BE DONE OUTSIDE OF A MEETING. [LB794]

SENATOR HARR: CORRECT. IF THE ARTICLES OF INCORPORATION ARE SILENT,... [LB794]

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SENATOR CHAMBERS: YES. [LB794]

SENATOR HARR: ...THEN YOU WOULD REVERT BACK TO THE STATUTE. [LB794]

SENATOR CHAMBERS: AND THE MEMBERS OF THE BOARD, IF THEY ARE AWARE OF THIS, COULD SAY WE'RE GOING TO INVOKE THIS PARTICULAR PROVISION OF LAW, AND PURSUANT TO THIS ALLOWING US TO DO IT, WE HAVE TO GET THIS UNANIMOUS AGREEMENT TO DO IT THIS WAY. [LB794]

SENATOR HARR: YES. [LB794]

SENATOR CHAMBERS: BUT HAVING GOTTEN UNANIMOUS AGREEMENT TO DO IT THIS WAY, DOES THAT ALSO MEAN THAT... [LB794]

SENATOR SHEER: ONE MINUTE. [LB794]

SENATOR CHAMBERS: ...THEY WOULD HAVE TO HAVE A UNANIMOUS VOTE TO ADOPT THE AMENDMENT? BECAUSE LET'S SAY THEY WOULD HAVE IN THEIR CORPORATIONS THE NUMBER OF MEMBERS NECESSARY TO ADOPT THE AMENDMENT, BUT THEY DON'T HAVE ANYTHING RELATIVE TO WHETHER IT HAS TO BE DONE AT THE BOARD OR IT CAN BE DONE IN THIS WAY. IF THEY SAY SEVEN OUT OF TEN IN THEIR ARTICLES OF INCORPORATION, ALTHOUGH IT TAKES A UNANIMOUS AGREEMENT TO DO IN IT THIS MANNER, YOU STILL ONLY NEED SEVEN OUT OF TEN VOTES TO ADOPT THE AMENDMENT? OR YOU ALSO NEED NOW TEN VOTES TO ADOPT THE AMENDMENT, TOO, WHICH WOULD BE THREE VOTES MORE THAN WHAT THE ARTICLES REQUIRE? [LB794]

SENATOR HARR: YEP. AND AGAIN, BECAUSE WORDS MATTER, WE'RE UNDER THE ASSUMPTION THAT IT'S COMPLETELY SILENT AND THAT MAJORITY PASSES SOMETHING, CORRECT? [LB794]

SENATOR CHAMBERS: OKAY, YES. [LB794]

SENATOR HARR: OKAY. BASED ON THOSE TWO ASSUMPTIONS, I BELIEVE, AS IS STATED... [LB794]

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SENATOR SCHEER: TIME, SENATOR. SENATOR CHAMBERS, THERE'S NO ONE ELSE WISHING TO SPEAK. YOU ARE RECOGNIZED TO CLOSE ON YOUR MOTION. [LB794]

SENATOR CHAMBERS: AND IN CLOSING, I'D LIKE TO ENGAGE SENATOR HARR, IF HE WOULD YIELD. [LB794]

SENATOR SCHEER: SENATOR HARR, WILL YOU YIELD? [LB794]

SENATOR HARR: YES. [LB794]

SENATOR CHAMBERS: SENATOR HARR, YOU WERE ABOUT TO SAY THAT...AND IT WOULD SIMPLIFY WHAT WE'RE TALKING ABOUT, A MAJORITY VOTE, A MAJORITY OF THE BOARD MEMBERS CAN AMEND THE ARTICLES AND THAT'S IN THEIR ARTICLES. THIS THAT YOU'RE PUTTING INTO THE LAW WOULD ALLOW A CORPORATION, WHERE THEIR ARTICLES ARE SILENT ABOUT THIS WRITTEN THING, IN LIEU OF A MEETING, THAT AGREEMENT TO DO IT THAT WAY MUST BE UNANIMOUS. [LB794]

SENATOR HARR: YEP. [LB794]

SENATOR CHAMBERS: MUST THE ADOPTION OF THE AMENDMENT NOW BE UNANIMOUS, OR WOULD STILL A MAJORITY VOTE BE SUFFICIENT TO ADOPT THE AMENDMENT TO THE ARTICLES? [LB794]

SENATOR HARR: AGAIN, ASSUMING THAT ALL THAT IS REQUIRED FOR THE MOTION IS A MAJORITY, ALL THAT WOULD BE REQUIRED IS A MAJORITY, I BELIEVE. [LB794]

SENATOR CHAMBERS: THANK YOU. NOW WHAT'S THAT THIRD ITEM? [LB794]

SENATOR HARR: THE THIRD ITEM CAN BE FOUND, SECTIONS 11 THROUGH 14, PAGES 20 THROUGH 21, WHICH RETURNS, AND I THINK WE ALREADY ADDRESSED THIS, THE FORMER SECTIONS REGARDING FORMER CORPORATIONS, IN LIEU OF OBTAINING A CERTIFICATE OF AUTHORITY FOR NEBRASKA, TO FILE WITH THE SECRETARY OF STATE TO BECOME A BODY CORPORATE OF NEBRASKA AS A FOREIGN DOMESTICATED CORPORATION. [LB794]

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SENATOR CHAMBERS: THANK YOU, SENATOR HARR. YOU'VE BEEN VERY HELPFUL. AND I'M NOT GOING TO VOTE AGAINST YOUR BILL, BY THE WAY. [LB794]

SENATOR HARR: THANK YOU. [LB794]

SENATOR CHAMBERS: BUT I THINK I'M GOING TO PURSUE SOME OF THESE OTHER BILLS AS I'M DOING THIS. BECAUSE I KNEW THAT THE SKIDS WERE GREASED ON THAT OTHER BILL, I COULD LISTEN AND WATCH AROUND THIS CHAMBER. I'M TALKING ABOUT THE ONE THAT BLOCKS OUT THE PUBLIC WHEN IT COMES TO BEING AWARE OF WHO MIGHT BE SELECTED AS PRESIDENT OF THE UNIVERSITY. I HAD SAID THAT I WAS GOING TO GET A CERTAIN AMOUNT OF TIME THIS AFTERNOON, DIDN'T I? [LB794]

SENATOR HARR: YES, YOU DID. [LB794]

SENATOR CHAMBERS: AM I ON THE WAY TO DOING THAT, DO YOU THINK? [LB794]

SENATOR HARR: IT FEELS LIKE IT. [LB794]

SENATOR CHAMBERS: BUT IN THE PROCESS, WE DID ADDRESS SOME SUBSTANTIVE ISSUES IN YOUR BILL, DIDN'T WE? [LB794]

SENATOR HARR: WE DID. [LB794]

SENATOR CHAMBERS: AND ALTHOUGH YOU'RE OFFERING THE BILL, YOU DID HAVE TO DO A LITTLE COGITATING TO BE SURE WHAT THE ANSWER MIGHT BE. [LB794]

SENATOR HARR: YES. IT HAD BEEN A WHILE SINCE I'D LOOKED AT IT. WE WORKED ON IT LAST SUMMER. [LB794]

SENATOR CHAMBERS: AND IT DOESN'T HURT IN A LEGISLATIVE PROCESS TO GO THROUGH THAT THINKING PROCESS, DOES IT? [LB794]

SENATOR HARR: THAT WHICH DOES NOT KILL YOU MAKES YOU STRONGER. [LB794]

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SENATOR CHAMBERS: AND WE JUST DON'T ORDINARILY DO IT HERE, THOUGH, DO WE? [LB794]

SENATOR HARR: NOT ALWAYS. [LB794]

SENATOR CHAMBERS: BUT ORDINARILY WHEN IT'S DONE, I'M THE ONE WHO DOES IT. ISN'T THAT SO? [LB794]

SENATOR HARR: THE VAST MAJORITY OF THE TIME, YES. [LB794]

SENATOR CHAMBERS: AND SOMETIMES I READ BILLS THAT OTHER PEOPLE DON'T READ WHEN THEY BRING THEM, RIGHT? [LB794]

SENATOR HARR: I HOPE NOT. [LB794]

SENATOR CHAMBERS: I AM ASKING FOR A SPECULATION ON YOUR PART. I WISH THAT WERE NOT THE CASE. BUT THAT'S ALL THAT I HAVE TO ASK. AND, MR. PRESIDENT, I WILL WITHDRAW THAT MOTION. [LB794]

SENATOR SCHEER: WITHOUT OBJECTION, MOTION WITHDRAWN. SEEING NO OTHERS WISHING TO SPEAK, SENATOR HARR, YOU'RE OPEN TO CLOSE ON LB794. [LB794]

SENATOR HARR: FIRST, I WOULD LIKE TO THANK SENATOR CHAMBERS. IT'S BEEN A WHILE SINCE I'VE HAD THE SOCRATIC QUESTION USED ON ME, SO THANK YOU. I WOULD ASK FOR YOUR SUPPORT. THESE ARE TECHNICAL CHANGES. AS YOU CAN SEE, THERE'S NOTHING TOO CONTROVERSIAL IN THIS...WELL, NOTHING CONTROVERSIAL IN THIS BILL. I WOULD ASK FOR YOUR SUPPORT ON LB794. THANK YOU. [LB794]

SENATOR SCHEER: THANK YOU, SENATOR HARR. THE QUESTION IS THE ADVANCEMENT OF LB794 TO E&R INITIAL. ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. HAVE ALL VOTED THAT WISH TO? RECORD, MR. CLERK. [LB794]

CLERK: 27 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADVANCEMENT OF LB794. [LB794]

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SENATOR SCHEER: THE BILL ADVANCES TO E&R INITIAL. MR. CLERK. [LB794]

CLERK: MR. PRESIDENT, SOME ITEMS. THANK YOU. JUDICIARY COMMITTEE REPORTS LB707, LB815, LB971 TO GENERAL FILE, AND LB847 TO GENERAL FILE WITH AMENDMENTS. I HAVE AN AMENDMENT TO BE PRINTED FROM SENATOR CHAMBERS TO LB1109. THAT'S ALL THAT I HAVE. (LEGISLATIVE JOURNAL PAGES 898-899.) [LB707 LB815 LB971 LB847 LB1109]

SENATOR SCHEER: MR. CLERK, WE'LL PROCEED TO GENERAL FILE, LB867. [LB867]

CLERK: LB867 IS A BILL BY THE PERFORMANCE AUDIT COMMITTEE, IT'S SIGNED BY ITS MEMBERS; RELATES TO THE ADMINISTRATIVE PROCEDURES ACT. (READ TITLE.) INTRODUCED ON JANUARY 11; REFERRED TO THE GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE; THE BILL WAS ADVANCED TO GENERAL FILE. THERE ARE COMMITTEE AMENDMENTS, MR. PRESIDENT. (AM1976, LEGISLATIVE JOURNAL PAGE 665.) [LB867]

SENATOR SCHEER: THANK YOU MR. CLERK. SENATOR WATERMEIER, YOU'RE RECOGNIZED TO OPEN ON LB867. [LB867]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE BODY. TODAY I'M BRINGING YOU LB867 TODAY AS THE CHAIRMAN OF THE LEGISLATIVE PERFORMANCE AUDIT COMMITTEE. LB867 WOULD AMEND THE ADMINISTRATIVE PROCEDURE ACT WHICH SETS FORTH THE FORMAL PROCESS FOR AGENCIES TO FOLLOW WHEN ADOPTING ADMINISTRATIVE REGULATIONS. THE BILL IS A RESULT OF A 2015 AUDIT. IN THAT AUDIT, THE COMMITTEE FOUND THAT THE EXISTING LANGUAGE OF THE ADMINISTRATIVE PROCEDURE ACT DOES NOT PROVIDE ADEQUATE GUIDANCE TO AGENCIES ABOUT WHAT TYPES OF POLICIES MUST BE PROMULGATED THROUGH THE FULL ADMINISTRATIVE PROCEDURE ACT PROCESS AND DOES NOT REFLECT CURRENT BEST PRACTICES. THE FIRST THING THE BILL DOES IS CHANGE INTENT LANGUAGE. LB867 IS TO ADD INTENT LANGUAGE TO THE ADMINISTRATIVE PROCEDURE ACT. THE INTENT LANGUAGE EMPHASIZES THAT THE PURPOSE OF THE APA PROCESS IS TO ENSURE PUBLIC KNOWLEDGE OF RULES THAT COULD IMPACT THEIR LIVES AND GIVE THEM THE ABILITY TO PARTICIPATE IN THAT PROCESS. THE SECOND IS A RULE DEFINITION. THIS CHANGE LB867 MAKES TO THE APA IS A DEFINITION OF A RULE OR A REGULATION. LB867 WOULD RESOLVE A LACK OF CLARITY IN THE CURRENT DEFINITION. IN ORDER TO DO SO, THE BILL ELIMINATES A NUMBER OF TERMS FROM THE RULE DEFINITION THAT WERE UNDEFINED. WHILE LB867



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CHANGES THE ACTUAL LANGUAGE OF WHAT A RULE IS, IT DOES NOT CHANGE THE INTENT BEHIND THE ORIGINAL RULE DEFINITION. ANYTHING THAT AFFECTS AN INDIVIDUAL'S RIGHTS OR INTERESTS, ANYTHING THAT PRESCRIBES A PENALTY WOULD BE A RULE. THE BILL ALSO ADDS LANGUAGE STATING THAT A RULE MUST BE...MUST HAVE GENERAL APPLICATION, MEANING THAT IT APPLIES TO A BROAD CLASS OF PEOPLE AS OPPOSED TO AN ORDER WHICH WOULD APPLY TO JUST ONE PERSON. IN ORDER TO BETTER ARTICULATE THE TYPES OF AGENCY'S ACTIONS NEEDED TO GO THROUGH THE FORMAL RULE-MAKING PROCESS, THE NEW RULE DEFINITION STATES CLEARLY THE ONLY TYPES OF THINGS THAT ARE NOT A RULE. FIRST, UNDER LB867 THE ONLY INTERNAL DOCUMENTS THAT WOULD BE EXEMPTED FROM APA REQUIREMENTS ARE PROCEDURAL DOCUMENTS THAT GUIDE STAFF ON HOW THE AGENCY AND ITS OPERATIONS ARE SUPPOSED TO WORK. INTERNAL PROCEDURAL DOCUMENTS WOULD INCLUDE THINGS LIKE PERSONNEL POLICIES WITHOUT PENALTIES AND CRITERIA USED BY STAFF OR AGENCY INVESTIGATIVE FUNCTIONS SUCH AS AN AUDIT OR AN INSPECTION. ANOTHER CHANGE TO THE RULE DEFINITION IS THE ADDITION OF GUIDANCE DOCUMENTS AS AGENCY PUBLICATIONS THAT ARE NOT RULES. AS STATED IN THE INTENT, THE ADDITION OF THE GUIDANCE DOCUMENT DEFINITION AND THE PROCEDURE IS IMPORTANT BECAUSE IT ENCOURAGES AGENCIES TO MAINTAIN A DIALOGUE WITH THE PUBLIC AS IT ALLOWS AN OPPORTUNITY FOR PUBLIC COMMENT. ALSO INCLUDED IN THE LIST OF WHAT IS NOT A RULE ARE FORMS AND THEIR INSTRUCTIONS THAT ARE DEVELOPED BY THAT AGENCY. AS NONE OF THESE TYPES OF DOCUMENTS ARE RULES, THEY DO NOT HAVE THE FORCE OF LAW AND DO NOT BIND THE PUBLIC. THE THIRD CHANGE IS IN GUIDANCE DOCUMENTS, DEFINITIONS, AND PROCEDURES. AS STATED PREVIOUSLY, ADDING THE TERM "GUIDANCE DOCUMENT" TO THE LIST OF DOCUMENTS THAT ARE NOT RULES OR REGULATIONS ALLOWS AGENCIES TO CONTINUE TO OFFER AN EXPLANATION OF AN AGENCY'S INTERPRETATION OF STATUTE OR RULE TO THE PUBLIC, AS WELL AS ADVISEMENT ABOUT HOW AN AGENCY IS GOING TO BE IMPLEMENTING A LAW. THESE TYPES OF DOCUMENTS CALLED INTERPRETIVE STATEMENTS, OR POLICY STATEMENTS IN OTHER STATES, DO NOT HAVE THE FORCE OF LAW LIKE RULES DO. TO GIVE YOU SOME CONCRETE EXAMPLES, THE NEW DEFINITION INCLUDES THINGS LIKE: FREQUENTLY ASKED QUESTIONS, DOCUMENTS COMMONLY USED ON AGENCY WEB SITES, REVENUE RULINGS ISSUED BY THE DEPARTMENT OF REVENUE, AND THE NEBRASKA ACCOUNTABILITY AND DISCLOSURE COMMISSION'S ADVISORY OPINIONS. INTERNAL PROCEDURAL DOCUMENTS FOR STAFF ONLY, HOWEVER, ARE NOT GUIDANCE DOCUMENTS AND DO NOT HAVE TO FOLLOW THE GUIDANCE DOCUMENT PROCEDURE. THE GUIDANCE DOCUMENT PROCEDURE REQUIRES AGENCIES TO MAKE ALL

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GUIDANCE DOCUMENTS AVAILABLE TO THE PUBLIC WHEN ISSUED. GUIDANCE DOCUMENTS UNDER THIS PROCESS MUST INCLUDE A NOTICE STATING THAT THE DOCUMENT IS ADVISORY ONLY, ALTHOUGH BINDING ON THE AGENCY UNLESS AMENDED, AND INFORMING THE READER THAT AN INDIVIDUAL CAN PETITION THE AGENCY FOR REVIEW OF THE DOCUMENT IF HE OR SHE BELIEVES IT SHOULD BE A RULE. THE FOURTH ITEM IS EMERGENCY RULES. THE FOURTH MAJOR CHANGE THAT LB867 MAKES TO THE APA IS TO PUT INTO PLACE A PROCESS FOR THE ADOPTION OF EMERGENCY RULES WHICH CAN BE ADOPTED WITHOUT FOLLOWING THE TYPICAL NOTICE AND HEARING REQUIREMENTS OF THE APA. DURING THE AUDIT, THE COMMITTEE DISCOVERED THAT NEBRASKA IS THE ONLY STATE THAT DOES NOT HAVE THE PROVISION IN ITS APA. JUSTIFICATIONS FOR AN EMERGENCY RULE COULD INCLUDE NATURAL DISASTERS, AND CHANGES IN FEDERAL LAW THAT WOULD RESULT IN A LOSS OF FEDERAL FUNDING SHOULD THE STATE NOT CHANGE ITS RULES. IT SPECIFIES THAT A TRUE EMERGENCY MUST EXIST AND AN EMERGENCY RULE CANNOT BE ADOPTED SIMPLY BECAUSE AN AGENCY FAILED TO TIMELY PROMULGATE THIS RULE. ANY EMERGENCY RULE WOULD BE IN EFFECT FOR 90 DAYS, BUT CAN BE RENEWED FOR ONE ADDITIONAL 90-DAY PERIOD. AN AGENCY COULD ADOPT A RULE UNDER THIS SECTION AFTER THE APPROVAL BY THE GOVERNOR. IF AN AGENCY WANTED TO MAKE A TEMPORARY EMERGENCY RULE PERMANENT, THE AGENCY COULD BEGIN THE FORMAL PROMULGATION PROCESS WHILE THE EMERGENCY RULE WAS IN EFFECT. THE FIFTH ITEM, EXEMPTING TECHNICAL CHANGES AND SECURITY POLICIES, LB867 WOULD ALSO CREATE TWO NEW CATEGORIES OF RULES THAT ARE EXEMPT FROM THE NOTICE AND THE HEARING REQUIREMENTS OF THE APA. FIRST, THE BILL ALLOWS AN AGENCY TO CHANGE THE STYLE OR FORMAT OF A RULE, AS WELL AS CHANGE OUT OF DATE STATUTORY REFERENCES; AND SECONDLY, SECURITY POLICIES AND PROCEDURES THAT WOULD ENDANGER PUBLIC SAFETY IF RELEASED TO THE PUBLIC WOULD BE EXEMPTED FROM NOTICE AND HEARING PROCEDURES. THE SIXTH CHANGE IS DEPARTMENT OF CORRECTIONAL SERVICES RULE CHANGES. THE BILL ALSO ADDS A REQUIREMENT FOR THE DEPARTMENT OF CORRECTIONAL SERVICES MIMICKING THE LANGUAGE FROM LAST YEAR'S LB598 WHICH REQUIRED DCS TO FORMALLY PROMULGATE SPECIFIC TYPES OF RULES. THE NEW REQUIREMENT OF LB867 IS ENSURE THAT ANY PROCEDURES REGARDING A SITUATION IN WHICH AN INMATE WOULD BE OUTSIDE A CORRECTIONAL FACILITY THROUGH A PROGRAM SIMILAR TO TEMPORARY ALTERNATIVE PLACEMENT OR WHEN WORK RELEASE INMATES ARE ALLOWED TO DRIVE PRISON VEHICLES, WHERE THERE IS A MOST RISK TO THE PUBLIC, WOULD BE REQUIRED TO GO THROUGH FORMAL PROMULGATION PROCESS. THIS SECTION CONTAINS THE SAME SAFETY AND SECURITY EXCEPTIONS THAT WAS

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PLACED IN THE CORRECTION STATUTES BY LB598 LAST YEAR, IN ADDITION TO THE EXCEPTION FOR SECURITY POLICIES THAT THE BILL PUTS INTO THE APA THAT I JUST DISCUSSED. THE BILL ALSO UPDATES TERMINOLOGY IN EXISTING DCS STATUTE TO MAKE IT CONSISTENT WITH THE NEW LANGUAGE OF LB867. THIS LEGISLATION IS A RESULT OF MONTHS OF WORK AND EXTENSIVE INVOLVEMENT FROM A NUMBER OF PARTIES. IT WAS HEARD BEFORE THE GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE WHERE THERE WAS NO OPPOSITION TESTIMONY AND WAS VOTED INTO GENERAL FILE ON A 7-0 VOTE. I FULLY SUPPORT THE COMMITTEE AMENDMENT AS WELL WHICH ADDRESSES A NUMBER OF CONCERNS THAT WERE BROUGHT TO US PRIOR TO THE HEARING. THANK YOU, AND I WOULD BE GLAD TO ANSWER ANY QUESTIONS AT THIS TIME. [LB867 LB598]

SENATOR COASH PRESIDING

SENATOR COASH: THANK YOU, SENATOR WATERMEIER. AS THE CLERK HAS STATED, THERE IS AN AMENDMENT FROM THE GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE. SENATOR MURANTE, AS CHAIR OF THE COMMITTEE, YOU'RE RECOGNIZED TO OPEN ON THE COMMITTEE AMENDMENT. [LB867]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT; MEMBERS, GOOD AFTERNOON. AS SENATOR WATERMEIER STATED, LB867 WAS REFERENCED TO THE GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE WHERE WE CONDUCTED A HEARING ON IT, ON THURSDAY, FEBRUARY 4, AND IT WAS PROMPTLY ADVANCED TO GENERAL FILE ON A 7-0 VOTE. THE COMMITTEE AMENDMENT YOU HAVE BEFORE YOU IS MAINLY FOCUSED TO TIGHTENING UP THE LANGUAGE IN THE BILL DEALING WITH THE EMERGENCY RULE MAKING. IN THAT REGARD, THE AMENDMENT DOES SEVERAL THINGS: FIRST, IT LIMITS THE FACTORS AN AGENCY CONSIDERS IN DETERMINING WHETHER EMERGENCY RULE MAKING IS NECESSARY TO IMMINENT PERIL TO THE PUBLIC HEALTH SAFETY OR WELFARE AND THE UNFORESEEN LOSS OF FEDERAL FUNDING OF AN AGENCY PROGRAM. SECOND, IT REQUIRES RULES AND REGULATIONS MADE UNDER THE EMERGENCY RULE-MAKING PROCEDURES BE FILED WITH THE SECRETARY OF STATE AND PUBLISHED ON THE AGENCY'S WEB SITE. IT CLARIFIES THAT CHANGES TO EXISTING RULES AND REGULATIONS BE EXEMPTED FROM THE FORMAL RULE-MAKING REQUIREMENTS UNDER SECTION 3 OF THE BILL, ARE NOT ELIGIBLE FOR THE EXCEPTION IF THEY ALTER THE RIGHTS OR OBLIGATIONS OF THE PUBLIC. AND FINALLY, THE AMENDMENT ADDS PROCEDURES OR POLICIES USED BY THE DEPARTMENT OF CORRECTIONAL

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SERVICES WHERE AN INMATE UNDER THE AUTHORITY OF THE DEPARTMENT IS OUTSIDE A CONTRACT FACILITY AS DEFINED IN STATUTE TO THE REQUIREMENTS OF THIS BILL. I ENCOURAGE YOUR SUPPORT OF THE COMMITTEE AMENDMENT AND YOUR SUPPORT OF THE BILL. I UNDERSTAND SENATOR WATERMEIER HAS ADDITIONAL AMENDMENTS, AND I LOOK FORWARD TO HEARING THEM. THANK YOU, MR. PRESIDENT. [LB867]

SENATOR COASH: THANK YOU, SENATOR MURANTE. SENATOR MELLO, YOU'RE RECOGNIZED. [LB867]

SENATOR MELLO: THANK YOU, MR. PRESIDENT, MEMBERS OF THE LEGISLATURE. I RISE IN VERY STRONG SUPPORT OF THE COMMITTEE AMENDMENT, AM1976, AND THE UNDERLYING BILL, LB867, IN PART BECAUSE THE ISSUE OF THE ADMINISTRATIVE PROCEDURES ACT HAS BEEN A LOVE OF MINE, IN MY EIGHT YEARS HERE IN THE LEGISLATURE, IN LIGHT OF DEALING WITH STATE AGENCIES WHO AT TIMES POLICYMAKERS CAN COME TO DISAGREEMENTS WITH THEM IN REGARDS TO WHAT ACTUALLY IS A RULE AND REGULATION AND HOW DOES THAT RULE AND REGULATION REALLY IMPACT THE PUBLIC AND PUBLIC RIGHTS, SO TO SPEAK. IN LIGHT OF WHAT WE SAW WITH THE LR424 SPECIAL INVESTIGATIVE COMMITTEE, UNDER SENATOR WATERMEIER'S LEADERSHIP, THE PERFORMANCE AUDIT COMMITTEE TOOK ON A VERY SIGNIFICANT AUDIT OF THE ADMINISTRATIVE PROCEDURES ACT, LOOKING AT WAYS TO MODERNIZE THE ADMINISTRATIVE PROCEDURES ACT, TO HELP STREAMLINE WHAT HAS BECOME JUST A SIGNIFICANT AMOUNT OF CONFUSION BETWEEN WHAT WE AS POLICYMAKERS AND WHAT THE PUBLIC VIEWS AS AN ISSUE THAT SHOULD GO THROUGH RULES AND REGULATIONS IN COMPARISON TO WHAT A STATE AGENCY BELIEVES IS PART OF THEIR OPERATIONAL PURVIEW OF CARRYING OUT THEIR OPERATIONAL DUTIES PER EXISTING LAW AND/OR UNDER A CURRENT EXISTING RULE AND REGULATION. I WON'T REPEAT A NUMBER OF THE ITEMS THAT SENATOR WATERMEIER WALKED THROUGH, AS WELL AS SENATOR MURANTE. SOME OF THE KEY COMPONENTS OF THE BILL, THOUGH, IN FRONT OF US REALLY IS TIGHTENING THE DEFINITION OF A RULE. AND THAT HAS BEEN SOMETHING I KNOW THE GOVERNMENT COMMITTEE HAS LOOKED AT OVER A NUMBER OF YEARS IS THAT DEFINITION AND WHAT REALLY IS A RULE AND REGULATION, IN COMPARISON TO WHAT IS NOT. AND I THINK THE DEFINITION AS IT'S LAID OUT IN THE UNDERLYING BILL, WITH THE COMMITTEE AMENDMENT, CLARIFIES THAT. IT MAKES IT VERY CLEAR TO THE PUBLIC. IT MAKES IT VERY CLEAR TO A STATE AGENCY. AND FOR THOSE OF US IN THIS LEGISLATURE WHO FOLLOW RULES AND REGULATIONS, IT CLARIFIES WHAT WOULD NECESSITATE GOING THROUGH A PUBLIC HEARING PROCESS AND WHAT

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WOULD NECESSITATE, SIMPLY, AN AGENCY GOING THROUGH AN OPERATIONAL PROCESS AND GIVING PUBLIC DECLARATION OF A CHANGE IN THEIR AGENCY'S OPERATIONS. OBVIOUSLY, A CONSIDERABLE POINT THAT I KNOW SENATOR KRIST WILL PROBABLY TALK TO AS WELL THAT I THINK SPEAKS VOLUMES OF WHAT THIS LEGISLATURE HAS DONE IN THE PAST SPEAKS ABOUT THE DEPARTMENT OF CORRECTIONAL SERVICES. IN LIGHT OF WHAT WE SAW IN 2013 AND 2014, IT BECAME VERY APPARENT THE DEPARTMENT OF CORRECTIONS DID NOT FILE...DID NOT GO THROUGH THE ADMINISTRATIVE PROCEDURES ACT FOR MOST OF THEIR OPERATIONAL RULES AND REGULATIONS. THEY INSTEAD CHOSE TO OPERATE UNDER OPERATIONAL MEMOS THAT LAID OUT SOME...TO SOME EXTENT, WHAT THEIR AGENCY WOULD DO IN CERTAIN PROGRAMMATIC AREAS AND HOW THOSE PROGRAMMATIC AREAS WOULD FALL UNDER THE AGENCY'S GUIDANCE AND/OR OVERSIGHT. AND AS SENATOR WATERMEIER MENTIONED, ONE THAT CAUGHT MY EYE IN 2013 WAS THE TRAGIC INCIDENT IN LINCOLN WHERE THE INMATE DRIVING PROGRAM WAS A PROGRAM OF THE DEPARTMENT OF CORRECTIONS THAT DID NOT GO THROUGH A RULE AND REGULATION, BUT OBVIOUSLY HAD A SIGNIFICANT IMPACT ON THE PUBLIC, PARTICULARLY WHEN AN INMATE WHO WAS DRIVING ON BEHALF OF THE DEPARTMENT OF CORRECTIONAL SERVICES GOT IN A TRAGIC CAR ACCIDENT AND KILLED AN INNOCENT WOMAN IN LINCOLN. NONE OF US REALLY KNEW THAT PROGRAM EXISTED. AND I THINK THAT WAS THE FIRST OF MANY GLARING INSTANCES WHERE YOU SAW A STATE AGENCY OPERATE OUTSIDE OF THE ADMINISTRATIVE PROCEDURES ACT WHERE ACTIONS AND ACTIVITIES THEY WERE TAKING HAD A DIRECT IMPACT ON PRIVATE RIGHTS OF CITIZENS IN THE STATE OF NEBRASKA. WITH THIS BILL AND THE AMENDMENT WITH THE COMMITTEE, I KNOW SENATOR WATERMEIER HAS GOT A FORTHCOMING AMENDMENT THAT HELPS CLARIFY A COMPONENT SPECIFICALLY TO THE DEPARTMENT OF CORRECTIONS, WE WILL BE ABLE TO SEE NOW AGENCIES FOLLOW THIS PROCESS IN A VERY TRANSPARENT MANNER AND PRIVATE RIGHTS WILL BE VERY DISTINGUISHED IN COMPARISON TO WHAT WE HAVE SEEN IN YEARS PAST, PRIMARILY FROM THE DEPARTMENT OF CORRECTIONAL SERVICES. I CAN'T SAY ENOUGH, COLLEAGUES, IN REGARDS TO THE DUE DILIGENCE AND THE HARD WORK OF SENATOR WATERMEIER AND THE PERFORMANCE AUDIT STAFF... [LB867]

SENATOR COASH: ONE MINUTE. [LB867]

SENATOR MELLO: ...REALLY TAKING ON THIS AUDIT AND REALLY, I THINK, INVESTING A CONSIDERABLE AMOUNT OF TIME AND ENERGY DISCUSSING THIS ISSUE WITH OTHER STATE AGENCIES TO TRY TO MINIMIZE THEIR CONCERNS AND OPPOSITION TO MAKING THESE CHANGES IN STATUTE. WITHOUT THEIR

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WORK, WE WOULD NOT BE HERE TODAY WITH LB867. AND I'D STRONGLY ENCOURAGE THE BODY TO ADVANCE BOTH AM1976, A FORTHCOMING AMENDMENT FROM SENATOR WATERMEIER, AND THE UNDERLYING BILL. THANK YOU, MR. PRESIDENT. [LB867]

SENATOR COASH: THANK YOU, SENATOR MELLO. SENATOR KRIST, YOU'RE RECOGNIZED. [LB867]

SENATOR KRIST: THANK YOU, MR. PRESIDENT; GOOD AFTERNOON, COLLEAGUES, AND GOOD AFTERNOON, NEBRASKA. HAVING BEEN PART OF THE CORRECTIONS SPECIAL INVESTIGATIVE COMMITTEES AND LISTENING TO TESTIMONY, ASKING QUESTIONS, AND RECEIVING THE KIND OF STRAIGHTFORWARD ANSWERS THAT WE RECEIVED, IT BECAME VERY OBVIOUS TO ME THAT THE DEPARTMENT OF CORRECTIONS, NOT THIS DEPARTMENT OF CORRECTIONS, BUT THE PAST LEADERSHIP IN THE DEPARTMENT OF CORRECTIONS, VERY CLEARLY DID NOT CONSIDER THE PRISONERS PART OF WHAT WOULD BE THE PUBLIC. THEY DECIDED THAT THEY COULD OPERATE INTERNALLY ON MEMOS AND OFFICE COMMUNICATION IN TERMS OF MAKING SOME OF THOSE DECISIONS. I THINK THAT'S A FLAWED PHILOSOPHY. THEY ARE HUMAN BEINGS. IT AFFECTS THEM. THEY'RE CITIZENS. EVEN THOUGH THEIR LIBERTIES HAVE BEEN TAKEN AWAY, THERE SHOULD HAVE BEEN SOME HEARINGS, PUBLIC HEARINGS, AS TO THE SAFETY AND WELFARE OF NOT JUST THE PEOPLE OUTSIDE THE PRISON BUT ALSO THE PEOPLE INSIDE THE PRISON. I HAVE FOLLOWED SENATOR MELLO, IN THE SEVEN YEARS THAT I'VE BEEN ASSOCIATED WITH THIS BODY, FOLLOWED SENATOR MELLO'S LEAD, WHO FIRST CRANKED ME UP ON ADMINISTRATIVE PROCEDURES ACT AND HOW IMPORTANT IT IS TO HAVE THOSE KIND OF PUBLIC HEARINGS AND TO HAVE THAT FEEDBACK AND DEVELOP GOOD POLICY ACROSS THE STATE, AND I APPRECIATE AND I APPLAUD HIS LEADERSHIP ON THE EFFORT. HE MAY BE PROUDER OF THIS MOMENT, MAYBE, THAN A COUPLE OF BUDGETS THAT HE'S DONE IN THE PAST, AND I, AGAIN, I WOULD APPLAUD HIS EFFORTS. BUT I HAVE TO TELL YOU THAT IT'S...THE FIGHT TO ENSURE THE PUBLIC FEEDBACK IS MAYBE NOT OVER, BECAUSE EVEN THIS DEPARTMENT OF CORRECTIONS WOULD HAVE PREFERRED NOT TO HAVE THE ADMINISTRATIVE PROCEDURES ACT AS PART OF THIS BILL. I CAN'T SAY STRONGLY ENOUGH HOW IMPORTANT IT IS THAT WE ALL COMPLY WITH THE ADMINISTRATIVE PROCEDURES ACT. IT IS A SAFETY CHECK INSIDE OF AGENCIES THAT ALLOW FOR THE PUBLIC FEEDBACK. YOU HEARD THIS MORNING OVER AND OVER AND OVER AGAIN THAT TRANSPARENCY AND PUBLIC FEEDBACK AND BEING TRANSPARENT WITH THE TAXPAYER'S MONEY; WELL, THIS IS INTERNAL TO THE AGENCIES; THIS IS THE GLUE THAT MAKES

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SURE THAT THERE IS PUBLIC OPINION AND PUBLIC FEEDBACK ON THE KIND OF PROGRAMS THAT ARE BEING CONDUCTED. AND AS SENATOR MELLO POINTED OUT MOST VIVIDLY, WHEN A PROGRAM GOES AWRY AND SOMEONE IS TRAGICALLY KILLED BECAUSE OF DECISIONS THAT ARE MADE WITHOUT PUBLIC FEEDBACK, IT CREATES A PROBLEM FOR US. AND, AGAIN, THE SUIT IS AGAINST THE STATE OF NEBRASKA IN THOSE PARTICULAR CASES AND THE MONEY IS TAXPAYERS' MONEY. SO FROM SAFEGUARD FROM BEGINNING TO END, IT'S VERY, VERY IMPORTANT. AND I THANK SENATOR WATERMEIER FOR HIS LEADERSHIP IN PERFORMANCE AUDIT. WHEN ALL OF THE FINDINGS CAME OUT OF LR424 AND THE CSG HELP WE HAD WITH THE JUSTICE REINVESTMENT AND ALL THE REST OF IT, SOME OF THOSE NEEDED TO HAVE...THEY WERE ACTIONABLE ITEMS AND THEY NEEDED TO HAVE ATTENTION PAID TO THEM. AND SENATOR WATERMEIER AND HIS STAFF, WHO I APPLAUD FOR THEIR EFFORTS, TOOK IT ON AND IT'S THE RESULT YOU'RE SEEING HERE IN LB867 AND AM1976. WITH THAT I WILL JUST SAY I WOULD APPRECIATE A GREEN VOTE ON AM1976 AND THE UNDERLYING BILL, LB867. IT'S THE RIGHT THING TO DO, AND IT ENSURES THAT THAT OVERSIGHT AND THE COMPLIANCE AND THE FEEDBACK FROM THE PUBLIC IS THERE. THANK YOU. [LB867]

SENATOR COASH: THANK YOU, SENATOR KRIST. SENATOR CRAWFORD, YOU'RE RECOGNIZED. [LB867]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT. I RISE IN SUPPORT OF LB867 AND THE AMENDMENTS. AND I THANK THE PERFORMANCE AUDIT COMMITTEE FOR THEIR WORK, AND SENATOR WATERMEIER FOR HIS LEADERSHIP; SENATOR MELLO FOR HIS LONG LEADERSHIP HERE; ALSO, SO MANY OF OUR INVESTIGATIVE COMMITTEES THAT HAVE DUG INTO EXAMINING WHAT'S HAPPENING AND SOME OF THE DIFFERENT PROGRAMS. ON THE NORTH SIDE OF OUR BUILDING WE HAVE A QUOTE THAT TALKS ABOUT THE FACT THAT THE SALVATION OF THE STATE IS THE VIGILANCE OF ITS CITIZENS. AND THIS ADMINISTRATIVE PROCEDURES PROCESS IS A KEY PART OF HOW WE ARE ABLE TO SHAPE WHAT GOVERNMENT DOES, AND MAKING SURE THAT THAT PROCESS ALLOWS FOR CITIZENS AND ALLOWS FOR US AS LAWMAKERS TO KNOW WHAT CHANGES ARE HAPPENING AND THAT ALLOWS PUBLIC COMMENT AND TRANSPARENCY ON THE PUBLIC COMMENTS MADE. AND THAT ALLOWS THE ABILITY OF CITIZENS AND OTHERS WHO ARE IMPACTED BY THESE REGULATIONS TO KNOW WHEN A REGULATION IS A REGULATION THAT'S GONE THROUGH THAT PROCESS, AND WHEN A CHANGE IS A CHANGE THAT HAS NOT GONE THROUGH THAT PROCESS ARE VERY CRITICAL. AND I APPRECIATE THE HARD WORK OF THE...AGAIN, OF THE PERFORMANCE AUDIT COMMITTEE,

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SENATOR WATERMEIER, SENATOR MELLO, AND OTHERS WHO HAVE NEGOTIATED TO MAKE SURE WE MAKE THESE CLARIFICATIONS IN OUR ADMINISTRATIVE PROCEDURES ACT. FOR THE SAKE OF THE RECORD AND THOSE WHO ARE PAYING ATTENTION, I JUST WANTED TO HIGHLIGHT ONE PIECE OF THE BILL THAT WE HAVEN'T TALKED ABOUT ON THE FLOOR YET, THAT IS A CRITICAL PART OF A PROCESS THAT WE'VE BEEN MAKING AND IMPROVING OUR ADMINISTRATIVE PROCEDURES ACT OVER THE PAST FEW YEARS WHICH IS TO MAKE SURE WE HAVE LEVERS IN THIS ADMINISTRATIVE PROCEDURES ACT TO ENSURE THAT CITIZENS CAN HAVE AN ABILITY TO MAKE...TO SHAPE WHAT THESE REGULATIONS ARE. AND WE IMPROVED THE ADMINISTRATIVE PROCEDURES ACT WITH IMPROVED REPORTING ON PUBLIC COMMENT A COUPLE YEARS AGO. AND WE ALSO ADDED A PROCEDURE THAT ALLOWED PEOPLE TO POSE A COMPLAINT AGAINST A REGULATION AS WELL. AND IN THIS BILL WE'RE PASSING NOW, THAT I HOPE THAT WE WILL PASS SOON, LB867, IT PROVIDES THAT IF THERE IS A GUIDANCE DOCUMENT, IT REQUIRES THAT THAT GUIDANCE DOCUMENT CLEARLY BE LABELED AS A GUIDANCE DOCUMENT. IT ALSO PROVIDES A PROCESS WHEREBY WHICH CITIZENS CAN CHALLENGE AND REQUEST THAT THAT GUIDANCE DOCUMENT BE CONSIDERED AS RULES AND REGS INSTEAD SO THAT WHEN SOMEONE IS FACING A REQUIREMENT AND THEY'RE BEING TOLD THIS IS WHAT THE GOVERNMENT REQUIRES YOU TO DO, AND THEY ARE WONDERING WHY DOES THE GOVERNMENT REQUIRE ME TO DO THAT, AND THEY'RE TOLD, WELL, IT'S OUR...THEY WILL KNOW, WELL THIS IS GUIDANCE. AND THERE WILL BE TRANSPARENCY AS TO THE FACTS THAT THIS GUIDANCE DID NOT GO THROUGH THE ADMINISTRATIVE PROCEDURES ACT WITH A HEARING AND PUBLIC COMMENT AND THEY WILL KNOW THERE IS A POSSIBILITY TO CHALLENGE THAT. WE'VE SEEN...I'VE SEEN THIS...DISCUSSIONS OF THIS PROBLEM IN THE PAST AROUND REGULATIONS AROUND HEALTHCARE FACILITIES, IN PARTICULAR, LONG-TERM CARE FACILITIES, WHERE THERE WERE CHANGES IN WHAT THE RULES WERE, BUT THOSE WERE REALLY GUIDANCE CHANGES. BUT THEY WERE BEING CARRIED OUT WITH THE EFFECTIVE LAW, AND THEY HAD NOT GONE THROUGH THIS IMPORTANT ADMINISTRATIVE PROCEDURES ACT PROCESS THAT PROVIDES THE PUBLIC COMMENT AND THE PUBLIC TRANSPARENCY. AND SO THESE CHANGES WILL BE VERY IMPORTANT IN PREVENTING THAT FROM HAPPENING IN THE FUTURE, MAKING SURE THAT ALL STAKEHOLDERS WHO ARE IMPACTED BY THESE REGULATIONS KNOW WHICH PARTS OF THE REGULATIONS, WHICH PARTS ARE GUIDANCE, AND THAT THERE IS A PROCESS AND THAT THEY KNOW HOW TO CHALLENGE GUIDANCE, IF IT'S COMING OUT, AND IF THAT REALLY NEEDS TO BE INSTEAD TREATED AS...NEEDS INSTEAD TO GO THROUGH THAT MORE FORMAL PROCESS AND HAVE THAT PUBLIC COMMENT SO THAT IT COULD BE... [LB867]



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SENATOR COASH: ONE MINUTE. [LB867]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT...SO THAT IT COULD BE ACTUALLY CHALLENGED RIGOROUSLY AS ALL RULES AND REGULATIONS SHOULD BE WITH FULL PUBLIC EXPOSURE, FULL PUBLIC COMMENT, AND REVIEW OF THAT PUBLIC COMMENT BEFORE IT IS FINALIZED AND APPROVED BY THE GOVERNOR. THANK YOU, MR. PRESIDENT. [LB867]

SENATOR COASH: THANK YOU, SENATOR CRAWFORD. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB867]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, I WOULD LIKE TO ASK SENATOR WATERMEIER A QUESTION OR TWO. [LB867]

SENATOR COASH: SENATOR WATERMEIER, WILL YOU YIELD? [LB867]

SENATOR WATERMEIER: YES. [LB867]

SENATOR CHAMBERS: SENATOR WATERMEIER, THESE FIRST QUESTIONS ARE GOING TO BE RELATIVELY SIMPLE TO ANSWER. WOULD YOU TURN TO PAGE 10. [LB867]

SENATOR WATERMEIER: I SAW YOU OVER THERE LOOKING THROUGH THE GREEN COPY AND I GRABBED MINE REAL QUICK. YES, PAGE 10. [LB867]

SENATOR CHAMBERS: OKAY. I'M BECOMING TOO PREDICTABLE. NOW, WHEN WE GET TO LINES 12 AND 13, WE ARE ELIMINATING SOME MATERIAL WHICH WOULD BE MADE AVAILABLE WHEN CERTAIN ACTIVITIES HAVE TAKEN PLACE. WE'RE SAYING THE NAMES OF PERSONS WHO HAVE SUBMITTED WRITTEN COMMENTS ON THE PROPOSED RULE OR REGULATION. WHY IS THAT BEING REMOVED, IF YOU ARE AWARE? [LB867]

SENATOR WATERMEIER: I'M NOT AWARE OF IT RIGHT NOW. I'M LOOKING BACK TO THE SECTION IN FRONT ON (SECTION) 84-906 AND ASSUMING SOMETHING EASY WOULD JUMP OUT AT ME AND IT DOESN'T THERE. BUT I CAN GET BACK TO YOU ON THAT. [LB867]

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SENATOR CHAMBERS: OKAY. THEN I WILL GO TO THE NEXT ONE WHERE I HAVE A QUESTION. ON PAGE 15, LINE 26, THIS PROVISION IS TALKING ABOUT SECURITY MANUALS. THEY WILL "BE MADE AVAILABLE TO THE LEGISLATURE FOR INSPECTION UPON REQUEST, BUT SHALL NOT BE COPIED OR REMOVED FROM SECURE LOCATIONS AS DESIGNATED BY THE DIRECTOR." THIS TERM "DIRECTOR" APPLIES TO THE DIRECTOR OF CORRECTIONS, IS THAT CORRECT? [LB867]

SENATOR WATERMEIER: THAT'S THE WAY I...YES. [LB867]

SENATOR CHAMBERS: HOW IS THIS GOING TO BE MADE AVAILABLE TO THE LEGISLATURE IF IT HAS TO STAY IN A SECURE LOCATION, I PRESUME, AT THE INSTITUTION? IT DOESN'T SAY TO EACH MEMBER, IT SAYS TO THE LEGISLATURE. [LB867]

SENATOR WATERMEIER: I'M GOING TO MAKE AN ASSUMPTION THAT IT'S THE INSPECTOR GENERAL, ON LINE 20, BUT I'M NOT GOING TO ASSUME THAT WITHOUT CHECKING IN ON IT. I WILL FOLLOW UP ON THAT FURTHER. [LB867]

SENATOR CHAMBERS: SO YOU FEEL THAT IT COULD MEAN...WELL, IT DOESN'T SAY...IF IT SAYS INSPECTOR GENERAL UP HERE, AND THEN IT SAYS LEGISLATURE DOWN HERE, THE TWO ARE NOT THE SAME. [LB867]

SENATOR WATERMEIER: THAT WOULD BE CORRECT, THEY'RE NOT. SO IF WE NEED TO ADJUST THAT, I MIGHT HAVE TO DO THAT. [LB867]

SENATOR CHAMBERS: IN LINE 26: THIS SECURITY MANUAL WILL BE..."SHALL BE MADE AVAILABLE TO THE LEGISLATURE FOR INSPECTION UPON REQUEST, BUT SHALL NOT BE COPIED..." WHAT DO THEY MEAN BY COPIED? DOES THAT MEAN BY COPYING MACHINE OR YOU CAN'T WRITE ANYTHING? [LB867]

SENATOR WATERMEIER: I'M SAYING COPYING IT AND TAKE IT OUT OF THE BUILDING. THEY ARE GOING TO BE ABLE TO OBSERVE IT AND READ IT, BUT IT HAS TO STAY THERE. IT'S A LOT LIKE CONFIDENTIAL INFORMATION. THEY MAY BE ABLE TO SEE IT, BUT THEY WOULDN'T BE ABLE TO COPY IT AND REMOVE IT FROM THE CORRECTIONS BUILDING. [LB867]

SENATOR CHAMBERS: NOW THIS MIGHT HELP US. IF YOU GO UP TO LINE 22, IT SAYS, "ALL GUIDANCE DOCUMENTS AND INTERNAL PROCEDURAL DOCUMENTS

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SHALL BE MADE AVAILABLE TO ANY MEMBER OF THE LEGISLATURE..." SO BY SAYING "MEMBER OF THE LEGISLATURE" UP HERE, IN LINE 22, BUT IN LINE 25 IT SAYS "THE LEGISLATURE" WITH THE WORD "LEGISLATURE" CAPITALIZED, THAT MEANS SOMETHING DIFFERENT FROM EACH MEMBER. SO HOW IS THE LEGISLATURE SUPPOSED TO GO OUT TO THE DEPARTMENT OF CORRECTIONS AND DO WHAT THIS SAYS THE LEGISLATURE SHALL DO? [LB867]

SENATOR WATERMEIER: I UNDERSTAND YOUR THREE POINTS THERE. ONE, WE'VE TALKED ABOUT INDIVIDUAL MEMBERS; AND IN 25 WE'VE TALKED ABOUT THE LEGISLATURE, AND ON 20, WE TALK ABOUT THE INSPECTOR GENERAL, THREE SEPARATE ENTITIES. I WILL GET BACK TO YOU ON THAT. I WILL TALK TO THE STAFF ABOUT THAT... [LB867]

SENATOR CHAMBERS: OKAY. [LB867]

SENATOR WATERMEIER: ...AND SEE WHERE OUR... [LB867]

SENATOR CHAMBERS: AND THEN WHEN WE COME TO LINE 26, LET US SAY THAT... [LB867]

SENATOR COASH: ONE MINUTE. [LB867]

SENATOR CHAMBERS: ...WHAT IS MEANT HERE INSTEAD OF "THE LEGISLATURE" WOULD BE MEMBERS OF THE LEGISLATURE, BUT I'M NOT SURE, SO LET ME NOT SAY THAT. BUT IF THEY MEAN "THE LEGISLATURE," DOES THAT MEAN INDIVIDUAL MEMBERS WILL NOT HAVE THIS ACCESS? [LB867]

SENATOR WATERMEIER: THAT WOULD BE MY INTENTION, BECAUSE SO MANY CONFIDENTIAL ISSUES THAT WE'VE RAN INTO WITH OTHER BILLS THAT WE DO NOT WANT TO HAVE INDIVIDUALS HERE WITH THAT CONFIDENTIAL INFORMATION. BUT WE WOULD WANT TO HAVE AUDITORS TO BE ABLE TO DO THAT. NOW WITH THE PROCEDURES ACT, THIS IS DIFFERENT THAN WHAT WE'VE DONE WITH AUDITORS IN THE PAST WHERE WE'RE IN THERE ACTUALLY LOOKING AT BILLS OR WE'RE LOOKING AT...WE'RE AUDITING SOMETHING, BUT I WILL CLARIFY THAT WITH YOU AFTER THIS. [LB867]

SENATOR CHAMBERS: OKAY. [LB867]

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SENATOR COASH: TIME, SENATORS. SENATOR SCHUMACHER, YOU'RE RECOGNIZED. [LB867]

SENATOR SCHUMACHER: THANK YOU, MR. PRESIDENT, MEMBERS OF THE BODY. I THINK THAT THERE'S GENERALLY BEEN TWO APPROACHES TOWARD ADMINISTRATIVE AGENCIES TAKING ACTION AND TRYING TO ENFORCE THE GENERAL SKELETON OF LAW THAT THE LEGISLATURE IMPOSES. ONE, THEY TAKE THE SKELETON THAT WE PUT INTO A BILL AND THEY THEN ADD FLESH TO IT AND DEFINE OUT TERMS AND DEFINE BEHAVIORS IN WHICH THEY WANT TO CONFORM TO THE GENERAL SKELETON OF ACTION THAT WE TOOK. I TAKE IT THAT THIS BILL ADDRESSES ONLY THAT RULE-MAKING PORTION, BUT DOES NOT LIMIT THE ABILITY OF AN ADMINISTRATIVE AGENCY TO ACT THROUGH ADJUDICATION. IN OTHER WORDS, ISSUE AN ORDER WITH REGARD TO SOMETHING OR ANOTHER, HAVE THE PERSON OR BUSINESS TO WHOM THE ORDER IS ISSUED OBJECT, IF THEY OBJECT, AND THEN TAKING THAT THROUGH THE APPEALS SYSTEM UNTIL THEY GET AN ADJUDICATED RESULT. WOULD SENATOR WATERMEIER RESPOND TO A QUESTION SO WE CAN CLARIFY THIS ON THE RECORD? [LB867]

SENATOR COASH: SENATOR WATERMEIER, WILL YOU YIELD? [LB867]

SENATOR WATERMEIER: YES. [LB867]

SENATOR SCHUMACHER: SENATOR WATERMEIER, IS THIS INTENDED TO DECREASE OR ELIMINATE THE ADMINISTRATIVE AGENCY'S ABILITY TO ADMINISTER THEIR DEPARTMENT THROUGH ADJUDICATION INSTEAD OF RULE MAKING? [LB867]

SENATOR WATERMEIER: I APOLOGIZE, I WAS OFF THE MIKE WORKING ON THE PREVIOUS QUESTION. [LB867]

SENATOR SCHUMACHER: OKAY. [LB867]

SENATOR WATERMEIER: I DON'T THINK SO FROM THE WAY YOU'RE ASKING IT OF ME. [LB867]

SENATOR SCHUMACHER: SO ADMINISTRATIVE AGENCY IN THE ABSENCE OF RULES STILL COULD ISSUE ORDERS THAT ARE APPEALABLE AND DEVELOP A

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BODY OF LAW AND RULES BASED UPON THE COURT'S RULINGS ON ITS RULINGS, INDEPENDENT OF RULE MAKING. [LB867]

SENATOR WATERMEIER: I DON'T THINK I WANT TO SAY YES OR NO TO THAT RIGHT NOW. [LB867]

SENATOR SCHUMACHER: OKAY. WELL THEN I THINK THAT'S SOMETHING THAT WE SHOULD BE REAL CLEAR OF... [LB867]

SENATOR WATERMEIER: YEAH. [LB867]

SENATOR SCHUMACHER: ...BECAUSE THERE ARE TWO WAYS IN WHICH ADMINISTRATIVE AGENCIES CAN ACT--BY ORDER AND BY APPEAL THROUGH THE SYSTEM OR BY RULE MAKING. AND IF THIS DOESN'T IMPAIR ONE, THEN WE DON'T HAVE TO WORRY ABOUT THE IMPAIRMENT OF THE ADJUDICATION PROCESS. I DO KNOW THAT AS A PRACTICAL MATTER, MANY OF THE ADMINISTRATIVE AGENCIES IN A SMALL STATE LIKE NEBRASKA DO NOT HAVE THE BASE OF KNOWLEDGE AND DO NOT HAVE THE INCIDENT OF CASES IN ORDER TO WRITE A GOOD SET OF RULES THAT ARE UNDERSTANDABLE NOT ONLY BY THEM BUT BY THE ATTORNEYS AND ACCOUNTANTS WHO WORK IN THE FIELD ADMINISTERING THE LAW. AND AS SUCH, AS A PRACTICAL MATTER OVER THE YEARS, MANY OF THOSE AGENCIES HAVE DONE SO BY UNDERSTANDING WITH INDUSTRIES, UNDERSTANDING WITH BUSINESSES, SOMETIMES ON A VERY, VERY BUSINESS-LIKE MANNER, SOMETIMES WITH MAYBE SOME PROCLIVITY TO RUN THE BUSINESS IN CIRCLES. BUT AT ANY RATE, THAT IS SOMETIMES DESIRABLE TO RULE AND TO ADMINISTER ON KIND OF A LEARN AS WE GO, CASE BY CASE BASIS THAT IS NOT EMBODIED IN A HARD AND FAST REGULATION THAT'S GONE THROUGH THE PROCESS. SENATOR WATERMEIER, WOULD THIS BILL PREVENT AN AGENCY FROM SUCH ACTION IN FEELING ITS WAY THROUGH NEW TERRITORY WITH BUSINESSES ON AN INFREQUENT SCALE TO COME TO THE POINT WHERE IT UNDERSTOOD WHAT IT WAS DOING TO THEN ISSUE REGULATIONS? CAN THEY DO IT STILL WITH THAT METHOD? [LB867]

SENATOR COASH: ONE MINUTE. [LB867]

SENATOR WATERMEIER: I THINK SO, YES. [LB867]

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SENATOR SCHUMACHER: OKAY. THANK YOU. THAT WOULD BE ALL. [LB867]

SENATOR COASH: THANK YOU, SENATOR SCHUMACHER AND SENATOR WATERMEIER. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB867]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, I HAVE ANOTHER QUESTION FOR SENATOR WATERMEIER. AND I HOPE HE OR HIS STAFF WILL BE MAKING NOTE OF THESE ITEMS AND THEN WE DON'T HAVE TO DISCUSS THEM ON THE MIKE. [LB867]

SENATOR COASH: SENATOR WATERMEIER. [LB867]

SENATOR CHAMBERS: BUT ON THIS ONE, I DO WANT TO DISCUSS IT ON THE MIKE. ON PAGE 3, BEGINNING IN LINE 11, I'M GOING TO READ LINES 11 THROUGH 13. "AGENCIES SHOULD BE ENCOURAGED TO ADVISE THE PUBLIC OF CURRENT OPINIONS, INTERPRETATIONS, APPROACHES, AND LIKELY COURSES OF ACTION BY MEANS OF GUIDANCE DOCUMENTS." GUIDANCE DOCUMENTS GIVE INFORMATION AND SO FORTH, BUT THEY'RE NOT THE SAME AS A RULE. WHY DO WE SOFTEN THIS INSTEAD OF SAYING AGENCIES SHALL ADVISE THE PUBLIC BY MEANS OF GUIDANCE DOCUMENTS? BECAUSE IF YOU SAY THEY SHOULD BE ENCOURAGED, THEY'RE NOT GOING TO DO IT. THEY'RE NOT GOING TO DO ANYTHING MORE THAN WHAT YOU DIRECT THAT THEY DO. SO IF YOU DON'T WANT THEM TO ADVISE THE PUBLIC, ELIMINATE THIS ALTOGETHER. BUT I THINK THE PUBLIC PROBABLY SHOULD BE ADVISED. I THINK THAT'S A GOOD PRINCIPLE. BUT WHAT I WANT TO KNOW FROM YOU IS WHY WE DON'T SAY THESE AGENCIES SHALL ADVISE THE PUBLIC. [LB867]

SENATOR WATERMEIER: I'M GOING TO SAY THIS LANGUAGE CAME OUT OF OUR AUDIT AND I'LL LOOK INTO THAT A LITTLE BIT FURTHER. THAT'S ALL I CAN TELL YOU IS THAT I'M GOING TO RELY ON THE AUDIT THAT WE DID. [LB867]

SENATOR CHAMBERS: WERE YOU LISTENING WHEN I WAS QUESTIONING SENATOR HARR? [LB867]

SENATOR WATERMEIER: NO. INTENTIONALLY. (LAUGHTER) [LB867]

SENATOR CHAMBERS: (LAUGH) BUT EVEN THOUGH... [LB867]

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SENATOR WATERMEIER: I WAS PREPARING FOR THIS BILL. [LB867]

SENATOR CHAMBERS: BUT EVEN THOUGH YOU DIDN'T LISTEN, YOU'RE AWARE THAT I'M NOT QUESTIONING YOU IN THE WAY THAT I QUESTIONED HIM, AREN'T YOU? [LB867]

SENATOR WATERMEIER: YES. [LB867]

SENATOR CHAMBERS: AND YOU WILL GET THESE ANSWERS FOR ME, SOME KIND OF ANSWER. [LB867]

SENATOR WATERMEIER: YEAH. [LB867]

SENATOR CHAMBERS: OKAY. AND IF I'M NOT SATISFIED I WILL TAKE THE MATTER UP ON SELECT FILE INSTEAD OF HOLDING YOU HERE. [LB867]

SENATOR WATERMEIER: I CAN ANSWER ONE OF THE QUESTIONS ON PAGE 15. THAT SECTION IS ACTUALLY RE-ADDING IT BACK INTO A PART THAT WE STRUCK IT. SO I'LL GO OVER THAT WITH YOU OFF THE MIKE. [LB867]

SENATOR CHAMBERS: OKAY, THAT WILL BE FINE. THANK YOU. THAT'S ALL I HAVE, MR. PRESIDENT. [LB867]

SENATOR COASH: THANK YOU, SENATOR CHAMBERS. SEEING NO OTHER MEMBERS WISHING TO SPEAK, SENATOR MURANTE, YOU'RE RECOGNIZED TO CLOSE. [LB867]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT. MEMBERS, THANK YOU VERY MUCH FOR THE GOOD DIALOGUE THAT WE'VE HAD SO FAR TODAY. AM1976 IS A GOOD CLARIFYING AMENDMENT, WHICH I THINK IMPROVES THE BILL SOMEWHAT, AND I ENCOURAGE YOUR SUPPORT OF AM1976 AND YOUR SUPPORT OF LB867. THANK YOU, MR. PRESIDENT. [LB867]

SENATOR COASH: THANK YOU, SENATOR MURANTE. MEMBERS, YOU'VE HEARD THE CLOSING TO THE GOVERNMENT COMMITTEE AMENDMENT. THE QUESTION FOR THE BODY IS, SHALL AM1976 BE ADOPTED? ALL THOSE IN FAVOR VOTE AYE; OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB867]

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CLERK: 29 AYES, 0 NAYS, MR. PRESIDENT, ON ADOPTION OF COMMITTEE AMENDMENTS. [LB867]

SENATOR COASH: COMMITTEE AMENDMENT IS ADOPTED. NEXT ITEM, MR. CLERK. [LB867]

CLERK: SENATOR WATERMEIER WOULD MOVE TO AMEND WITH AM2380. (LEGISLATIVE JOURNAL PAGE 899.) [LB867]

SENATOR COASH: SENATOR WATERMEIER, YOU'RE RECOGNIZED TO OPEN ON AM2380. [LB867]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. THIS AMENDMENT WOULD REMOVE THE REQUIREMENT THAT THE EMERGENCY RULES THAT WE REVIEWED BY THE...THAT WOULD BE REVIEWED BY THE ATTORNEY GENERAL'S OFFICE WHICH COULD GREATLY SLOW DOWN THE PROCESS IF THE AG'S OFFICE ISN'T ABLE TO REVIEW THE POTENTIAL RULE IMMEDIATELY. EMERGENCY RULES WILL STILL HAVE TO BE REVIEWED AND APPROVED BY THE GOVERNOR SO THERE STILL WILL BE REVIEW OF THESE TEMPORARY RULES BEFORE THEY ARE PUT INTO PLACE. REMOVING THE AG REVIEW WILL SIMPLY MAKE THE PROCESS MORE FITTING TO THE EMERGENCY SITUATIONS FOR WHICH THESE TYPES OF RULES ARE INTENDED. I WOULD APPRECIATE YOUR SUPPORT. WE DID JUST PUT IN TO THE BILL WITH THE PASSED COMMITTEE AMENDMENT THAT WE PASSED THE EMERGENCY RULES, WE'RE CLEANING THIS UP ONE STEP FURTHER YET AFTER DISCUSSIONS THAT WE HAVE HAD INSIDE OF THE GOVERNOR'S OFFICE AND THE AG'S OFFICE. AND I ACTUALLY RAN THIS PAST SENATOR CHAMBERS AS WELL. SO THAT'S AM2380. THANK YOU, MR. PRESIDENT. [LB867]

SENATOR COASH: THANK YOU, SENATOR WATERMEIER. MEMBERS, YOU'VE HEARD THE OPENING TO AM2380. THE FLOOR IS NOW OPEN FOR DISCUSSION. SEEING NO MEMBERS WISHING TO SPEAK, SENATOR WATERMEIER IS RECOGNIZED TO CLOSE. HE WAIVES CLOSING. THE QUESTION FOR THE BODY IS, SHALL AM2380 BE ADOPTED? ALL THOSE IN FAVOR VOTE AYE; OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB867]

CLERK: 31 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF SENATOR WATERMEIER'S AMENDMENT. [LB867]



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SENATOR COASH: AM2380 IS ADOPTED. SEEING NO OTHER MEMBERS WISHING TO SPEAK, SENATOR WATERMEIER, YOU'RE RECOGNIZED TO CLOSE. HE WAIVES CLOSING. THE QUESTION IS, SHALL LB867 ADVANCE? ALL THOSE IN FAVOR VOTE AYE; OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB867]

CLERK: 33 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADVANCEMENT OF LB867. [LB867]

SENATOR COASH: LB867 DOES ADVANCE. NEXT ITEM, MR. CLERK. [LB867]

CLERK: LB867A IS A BILL BY SENATOR WATERMEIER. (READ TITLE.) [LB867A]

SENATOR COASH: SENATOR WATERMEIER, YOU'RE RECOGNIZED TO OPEN ON LB867A. [LB867A]

SENATOR WATERMEIER: THE A BILL IS REQUESTED EXTRA STAFFING NEEDS FOR THE DEPARTMENT OF ADMINISTRATIVE SERVICES AND THE DEPARTMENT OF CORRECTIONS. DEPARTMENT OF ADMINISTRATIVE SERVICES REQUESTED A ONE-TIME APPROPRIATION OF \$99,400 FROM THEIR REVOLVING FUND. THIS MONEY IS NEEDED FOR THEIR WEB SITE TO MAKE NECESSARY CHANGES SO THE PUBLIC CAN ACCESS RULES AND REGULATIONS, AS WELL AS GUIDANCE DOCUMENTS. CORRECTIONS REQUESTED \$87,244 IN GENERAL FUNDS FOR THE FISCAL YEAR, AND \$43,623 FOR THE FOLLOWING YEAR. ACCORDING TO THE DCS, THIS WILL BE USED TO FUND ONE FULL-TIME ADMINISTRATIVE EMPLOYEE WHICH WILL BE REDUCED TO A HALF-TIME POSITION THE FOLLOWING YEAR TO GO THROUGH ALL THEIR POLICIES TO MEET THE NEW REQUIREMENT OF LB867. THE A BILL IS BASED ON THE GREEN COPY OF THE BILL. HOWEVER, THE COMMITTEE AMENDMENT CHANGES THE OPERATIVE DATE UNTIL JANUARY OF 2017 TO ALLOW AGENCIES MORE TIME TO MAKE THE NECESSARY CHANGES. DUE TO THIS, WE'RE NOT SURE THAT THESE FUNDS WILL STILL BE NEEDED. WE CAN LOOK AT THIS BETWEEN GENERAL AND SELECT, MEANING, MR. PRESIDENT, I'M PRETTY SURE THERE WON'T BE MUCH OF ANYTHING OF A FISCAL ON THIS BILL. AT LEAST THAT'S MY HOPES AND DESIRES WITH THE CHANGES THAT WE MADE THROUGH THE COMMITTEE AMENDMENT. THANK YOU MR. PRESIDENT. [LB867A]

SENATOR COASH: THANK YOU, SENATOR WATERMEIER. MEMBERS, YOU'VE HEARD THE OPENING TO LB867A. SENATOR KRIST, YOU'RE RECOGNIZED. [LB867A]

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SENATOR KRIST: THANK YOU, MR. PRESIDENT. HELLO, AGAIN, COLLEAGUES, AND NEBRASKA. ISN'T IT NICE TO KNOW THAT THEY'RE PAYING ATTENTION AND ACTUALLY MIGHT FOLLOW THROUGH WITH APPLYING THE ADMINISTRATIVE PROCEDURES ACT AND THAT THEY, BASICALLY, ARE SAYING NOW WE NEED MONEY TO DO WHAT WE SHOULD HAVE BEEN DOING ALL ALONG. POINT MADE. THANK YOU, SENATOR WATERMEIER, FOR TRYING TO MAKE SURE WE DON'T SPEND THIS AMOUNT OF MONEY, BUT FOR SOMETHING YOU SHOULD HAVE BEEN DOING ALL ALONG, I GUESS YOU NEED MORE MONEY TO DO IT AGAIN. THANKS. [LB867A]

SENATOR COASH: THANK YOU, SENATOR KRIST. SEEING NO OTHER MEMBERS WISHING TO SPEAK, SENATOR WATERMEIER IS RECOGNIZED TO CLOSE. HE WAIVES CLOSING. THE QUESTION FOR THE BODY IS, SHALL LB867A ADVANCE? ALL THOSE IN FAVOR VOTE AYE; OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB867A]

CLERK: 31 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADVANCEMENT OF LB867A. [LB867A]

SENATOR COASH: LB867A DOES ADVANCE. NEXT ITEM, MR. CLERK. [LB867A]

CLERK: MR. PRESIDENT, LB894 IS A BILL ORIGINALLY INTRODUCED BY SENATOR PANSING BROOKS. (READ TITLE.) INTRODUCED ON JANUARY 11; REFERRED TO THE JUDICIARY COMMITTEE, THE BILL WAS ADVANCED TO GENERAL FILE. I DO HAVE JUDICIARY COMMITTEE AMENDMENTS, MR. PRESIDENT. (AM1962, LEGISLATIVE JOURNAL PAGE 544.) [LB894]

SENATOR COASH: THANK YOU MR. CLERK. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED TO OPEN ON LB894. [LB894]

SENATOR PANSING BROOKS: THANK YOU, MR. PRESIDENT, AND COLLEAGUES. LB894 HAS BECOME A VEHICLE FOR SEVERAL OF THE JUVENILE JUSTICE BILLS THAT WERE HEARD THIS SESSION IN THE JUDICIARY COMMITTEE. I AM GRATEFUL TO THE COMMITTEE FOR SELECTING IT AS A JUDICIARY COMMITTEE PRIORITY BILL FOR THIS SESSION. MY INTEREST IN JUVENILE JUSTICE WAS PIQUED AT SEMINARS THAT I ATTENDED IN THE INTERIM IN SAN FRANCISCO AND NEW YORK THIS SUMMER. IN ADDITION TO THOSE SEMINARS, I READ THE \$250,000 JUVENILE JUSTICE REPORT THAT WAS COMMISSIONED BY THE NEBRASKA LEGISLATURE IN 2008 THAT DETAILED SOME OF THE SERIOUS

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PROBLEMS FACING THE JUVENILE JUSTICE SYSTEM IN NEBRASKA. THE SECOND HIGHEST PRIORITY AMONG THE RECOMMENDATIONS IN THAT 2008 REPORT WAS THE NEED TO INCREASE ACCESS TO COUNSEL FOR JUVENILES. AS AN ATTORNEY, THE RIGHT TO COUNSEL IS ONE OF THE MOST BASIC RIGHTS OF OUR LEGAL SYSTEM. ALMOST 50 YEARS AGO, THE UNITED STATES SUPREME COURT EXTENDED THE RIGHT TO COUNSEL FOR JUVENILES IN IN RE GAULT. THE COURT STATED THAT YOUTH NEED THE GUIDING HAND OF COUNSEL TO NAVIGATE THE LEGAL SYSTEM. WRITING FOR THE MAJORITY, JUSTICE FORTAS WROTE, "UNDER OUR CONSTITUTION, THE CONDITION OF BEING A BOY DOES NOT JUSTIFY A KANGAROO COURT." IN NEBRASKA, 50 YEARS AFTER THAT RULING, ONLY 66 PERCENT OF JUVENILES ARE REPRESENTED IN COURT. THAT MEANS 34 PERCENT OF NEBRASKA'S JUVENILES HAVE NO COUNSEL. MAY I HAVE A GAVEL, MR. SPEAKER? MR. PRESIDENT? THANK YOU. I'M HAVING TROUBLE HEARING. IN NEBRASKA...THAT MEANS THAT 34 PERCENT OF NEBRASKA'S JUVENILES HAVE NO COUNSEL. IN 6 OF NEBRASKA'S 12 JUDICIAL DISTRICTS, THAT NUMBER IS 50 PERCENT OR LESS. THAT QUARTER-MILLION DOLLAR 2008 REPORT ACTUALLY USED ASSESSMENT TEAMS TO WATCH PROCEDURES IN COURT. THEY FOUND THAT IN SOME PARTS OF THE STATE THAT 65...60 TO 75 PERCENT OF YOUTH WAIVED THEIR RIGHT TO COUNSEL, AND THAT YOUTH ARE ENCOURAGED TO DO SO BY A COMBINATION OF INDIVIDUAL AND SYSTEMIC FACTORS. THE REPORT STATES, "IN THE COUNTIES WITH HIGH WAIVER RATES, ASSESSMENT TEAM INVESTIGATORS OBSERVED PRACTICES BY JUDGES THAT SUBTLY ENCOURAGED YOUTH TO WAIVE COUNSEL--FOR EXAMPLE, GIVING YOUTH THE IMPRESSION THAT CHILDREN WHO WAIVED COUNSEL WOULD BE TREATED MORE LENIENTLY, OR ARRANGING THE DOCKET SO THAT THE CASES OF YOUTH WHO WILL WAIVE COUNSEL ARE HEARD FIRST, AND THE YOUTH WHO FOLLOW ARE ENCOURAGED TO WAIVE BY THE EXAMPLE OF THE EARLIER CASES. PARENTS ALSO ENCOURAGE YOUTH TO WAIVE COUNSEL, SOMETIMES APPLYING SUBSTANTIAL PRESSURE." LB894 SEEKS TO ASSURE THAT IN A JUVENILE COURT PROCEEDING, EVERY JUVENILE IS REPRESENTED BY AN ATTORNEY AND THAT THE APPOINTMENT OF COUNSEL IS MADE EARLY IN THE CASE. FURTHER, THE REPRESENTATION OF COUNSEL CANNOT BE WAIVED IF THE JUVENILE IS UNDER THE AGE OF 14, IF THE JUVENILE IS SUBJECT TO A DETENTION HEARING OR ANY DISPOSITIONAL HEARING WHERE OUT-OF-HOME PLACEMENT IS SOUGHT, OR IF THERE IS A MOTION TO TRANSFER TO COUNTY OR DISTRICT COURT. A WAIVER IN ALL OTHER CASES SHALL BE MADE IN OPEN COURT, SHALL BE RECORDED AND CONFIRMED IN WRITING, AND SHALL ONLY BE ACCEPTED IF MADE INTELLIGENTLY, VOLUNTARILY, AND KNOWINGLY. FURTHER, THIS BILL REQUIRES THAT A JUVENILE MUST CONSULT WITH AN ATTORNEY BEFORE SUCH WAIVER OF COUNSEL. ONLY THE JUVENILE CAN WAIVE SUCH RIGHT, NOT THE

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JUVENILE'S PARENT OR GUARDIAN. CURRENTLY, DOUGLAS COUNTY APPOINTS COUNSEL IN ALL JUVENILE CASES, AND VARIOUS JUVENILE COURT JUDGES WITH WHOM I HAVE SPOKEN HAVE FOUND THAT THE CASES PROGRESS FASTER AND MORE EFFICIENTLY, SAVING TIME, JUDICIAL RESOURCES, AND ECONOMIC RESOURCES. IN ADDITION TO THESE REQUIREMENTS, THIS LEGISLATION DIRECTS THAT THE NEBRASKA SUPREME COURT SHALL ESTABLISH PROFESSIONAL STANDARDS FOR ANYONE PRACTICING IN JUVENILE COURT. UNFORTUNATELY, JUVENILE COURT IS OFTEN USED AS A TRAINING GROUND FOR NEW LAWYERS. CLEARLY, A YOUNG PERSON'S FREEDOM SHOULD NOT BE RESTING ON THE SHOULDERS OF SOMEONE WITH NO EXPERIENCE OR TRAINING IN JUVENILE JUSTICE. THE NEBRASKA SUPREME COURT IS DIRECTED TO IMPLEMENT PROFESSIONAL STANDARDS. CLEARLY, COLLEAGUES, IT IS NOT...IT SHOULD NOT BE THAT THE LEAST CAPABLE ARE APPOINTED TO REPRESENT THE MOST VULNERABLE. NEXT, I HAVE TWO OTHER BILLS INCLUDED IN THE COMMITTEE AMENDMENT WHICH ARE LB845 AND LB893. LB893, LIKE THE RIGHT TO COUNSEL, IS LEGISLATION WHICH RECEIVED WHOLEHEARTED SUPPORT FROM THE EXPERTS, PARTICULARLY THE JUVENILE JUDGES WITH WHOM I SPOKE. IT SEEKS TO ESTABLISH A MINIMUM AGE OF 11 FOR THE JUVENILE COURT TO HANDLE JUVENILE OFFENSES THROUGH THE JUVENILE JUSTICE SYSTEM. ACTS AND CIRCUMSTANCES INVOLVING CHILDREN UNDER 11 WOULD BE HANDLED THROUGH DHHS RATHER THAN THROUGH THE JUVENILE JUSTICE SYSTEM AND PROBATION. BY WAY OF BACKGROUND, THE JUVENILE COURT JUDGES ARE GIVEN A WIDE ARRAY OF POWERS TO HEAR ALL MATTERS REGARDING JUVENILES. JUVENILE OFFENSES ARE SPLIT INTO TWO TRACKS, ONCE HEARD. ONE SET OF ACTS OR CIRCUMSTANCES ARE DIRECTED TOWARD A JUVENILE JUSTICE TRACK OF REMEDIATION THROUGH PROBATION. THE OTHER SET OF ACTS OR CIRCUMSTANCES ARE SET FORTH IN NEBRASKA'S STATUTE 43-247(3)(a), AND GENERALLY CALLED (3)(a), AND ARE DIRECTED TOWARD A TRACK OF REMEDIATION THROUGH DHHS, INCLUDING THE WHOLE FAMILY. UNDER BOTH TRACKS, JUVENILE COURT JUDGES HAVE A COMPLETE TOOL CHEST OF REMEDIES AVAILABLE FOR IMPOSING APPROPRIATE REHABILITATION AS CIRCUMSTANCES REQUIRE. THIS WILL KEEP CHILDREN 11 AND OVER WHO COMMIT CRIMINAL OFFENSES WITHIN THE CURRENT JUVENILE JUSTICE TRACK OF REMEDIATION THROUGH PROBATION. THE CHANGE TO STATE STATUTES WOULD BE THE REQUIREMENT THAT CHILDREN UNDER THE AGE OF 11, WHO COMMIT CRIMINAL OFFENSES, WILL BE SUBJECT ONLY TO THE TRACK OF COURT-DIRECTED REMEDIATION THROUGH DHHS UNDER (3)(a). REHABILITATION OF YOUNG CHILDREN WILL BE MORE LIKELY IF WE DIVERT THEM AWAY FROM THE CRIMINAL JUSTICE SYSTEM THROUGH PROVIDING SUPPORT NOT ONLY TO THE CHILD BUT THEIR ENTIRE FAMILY, AND HELPING THEM TO ACCESS

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NECESSARY CHILD WELFARE SERVICES. IN SUCH AN ENVIRONMENT, EMOTIONAL AND MENTAL HEALTH ISSUES CAN BE ADDRESSED WITHOUT LABELING THE CHILD AS A CRIMINAL DELINQUENT OR SUBJECTING AN ALREADY VULNERABLE CHILD TO THE CRIMINAL EXPOSURE AND RISKS INHERENT WITHIN THE CRIMINAL JUSTICE SYSTEM. MY LAST BILL INCLUDED IN THIS JUDICIARY COMMITTEE PRIORITY BILL AND AMENDMENT IS LB845. IT CREATES A REPORTING REQUIREMENT FOR ANY FACILITY THAT HOLDS JUVENILES RELATING TO SOLITARY CONFINEMENT. I THINK WE ARE ALL AWARE OF THE POTENTIALLY NEGATIVE EFFECTS WHICH CAN ARISE FROM EXTENDED SOLITARY CONFINEMENT IN BOTH JUVENILE AND ADULT FACILITIES. IN APRIL 2012, THE AMERICAN ACADEMY OF CHILD AND ADOLESCENT PSYCHIATRY, "AACAP," ISSUED A STATEMENT CONCLUDING THAT SOLITARY CONFINEMENT OF JUVENILES COULD LEAD TO DEPRESSION, ANXIETY, AND EVEN PSYCHOSIS. AACAP CALLED FOR AN END TO THE PRACTICE OF USING SOLITARY. IN 2010, THE U.S. DEPARTMENT OF JUSTICE WENT AS FAR AS SAYING THAT, "THE ISOLATION OF CHILDREN IS DANGEROUS AND INCONSISTENT WITH BEST PRACTICES AND THAT EXCESSIVE ISOLATION CAN CONSTITUTE CRUEL AND UNUSUAL PUNISHMENT." WHAT I AM TRYING TO ACHIEVE WITH THIS LEGISLATION IS TO MAKE SURE THAT WE HAVE THE CORRECT DATA RELATING TO THE USE OF SOLITARY CONFINEMENT IN NEBRASKA INSTITUTIONS. ARE OUR INSTITUTIONS USING A FORM OF SOLITARY? IF SO, HOW LONG, TO WHOM, WHEN, WHY, AND HOW OFTEN? IF NOT, GREAT. OUR JOB IS DONE. THIS PART OF THE LEGISLATION ASKS FOR INFORMATION RELATING TO THE USE OF ROOM CONFINEMENT. THE BILL DEFINES ROOM CONFINEMENT AS INVOLUNTARY RESTRICTION TO "A CELL, ROOM, OR OTHER AREA, ALONE, INCLUDING A JUVENILE'S OWN ROOM, EXCEPT DURING NORMAL SLEEPING HOURS." THE LEGISLATION REQUIRES THAT ANY TIME THAT A JUVENILE IS CONFINED TO ONE OF THE AREAS MENTIONED FOR OVER ONE HOUR, THEN IT MUST BE APPROVED BY A SUPERVISOR AND BE INCLUDED IN THE REPORT. IN ADDITION, THE RACE, ETHNICITY, AGE, GENDER, DATE, TIME, AND DURATION OF THE CONFINEMENT, WHY THE CHILD WAS PLACED IN CONFINEMENT, AND ANY INCIDENTS OF SELF-HARM OR ATTEMPTS AT SUICIDE COMMITTED BY THE CHILD WHILE ISOLATED MUST BE REPORTED. ALSO, ANY ROOM CONFINEMENT LASTING MORE THAN FOUR HOURS SHALL INCLUDE ALL REASONS WHY ANY ATTEMPTS TO RETURN THE CHILD TO THE GENERAL POPULATION WERE NOT SUCCESSFUL. THE REPORTS SHALL BE FILED QUARTERLY AND THE OFFICE OF THE INSPECTOR GENERAL SHALL EVALUATE THE DATA ANNUALLY AND REPORT HER FINDINGS TO OUR LEGISLATURE. AS LAWMAKERS, WE HAVE THE RESPONSIBILITY TO PASS AND AMEND LAWS...  
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SENATOR COASH: ONE MINUTE. [LB894]

SENATOR PANSING BROOKS: THANK YOU...PASS AND AMEND LAWS THAT POTENTIALLY CONFINE JUVENILES. IT IS OUR RESPONSIBILITY TO KNOW WHAT IS HAPPENING TO THOSE JUVENILES ONCE CONFINED. IT IS MY HOPE THAT THE REPORTS WHICH EMANATE FROM THIS BILL WILL SHOW THAT SOLITARY OR ROOM CONFINEMENT IS USED VERY SPARINGLY AND THOUGHTFULLY, WITH THE ULTIMATE GOAL OF REHABILITATING THE JUVENILE, AND THAT THERE WILL BE NO NEED FOR FURTHER LEGISLATIVE ACTION. I WANT TO THANK CHAIRMAN SEILER AND THE REST OF THE JUDICIARY COMMITTEE FOR THE UNANIMOUS SUPPORT, FOR RECOGNIZING THE IMPORTANCE OF JUVENILE JUSTICE ISSUES, AND FOR MAKING THIS A COMMITTEE PRIORITY BILL. WITH THAT I THANK YOU FOR YOUR TIME. [LB894]

SENATOR COASH: THANK YOU, SENATOR PANSING BROOKS. MEMBERS, YOU'VE HEARD THE OPENING TO LB894. AS THE CLERK HAS STATED, THERE IS AN AMENDMENT FROM THE JUDICIARY COMMITTEE. SENATOR SEILER, YOU'RE RECOGNIZED TO OPEN ON THE COMMITTEE AMENDMENT. [LB894]

SENATOR SEILER: THANK YOU, MR. PRESIDENT, MEMBERS OF THE UNICAMERAL. AM1962 TO LB894 ADVANCED FROM JUDICIARY COMMITTEE ON AN 8-0 VOTE. THE AMENDMENT COMBINED FOUR JUVENILE COURT BILLS INTO THIS LB894. SENATOR KRIST'S LB675 WILL BE REMOVED BY AM2247 AND HE WILL HAVE FILED HIS OWN AMENDMENT WHICH IS ON FILE NOW. SENATOR HOWARD'S LB709 WILL BE EXPLAINED AS PART OF THIS DISCUSSION, AND SENATOR PANSING BROOKS'S LB845 AND LB893 HAVE ALREADY BEEN INTRODUCED. THE AM1962 MAKES TWO NOTABLE CHANGES IN THE ORIGINAL BILL. THE TERM JUVENILE FACILITY IS MORE SPECIFICALLY DEFINED FOR PURPOSES OF REPORTING SOLITARY CONFINEMENT OF JUVENILES AND THE REPORTING COURT REQUIREMENTS FOR FACILITIES CONFINING JUVENILES ARE CLARIFIED AND ALIGNED WITH THE EXISTING CRIME COMMISSION REGULATIONS. THIS IS A COMMITTEE PRIORITY, AND SO WE'RE ASKING YOU TO VOTE GREEN ON THE AMENDMENTS AND THE LB894. I YIELD MY OPENING...THE REST OF MY OPENING TIME TO SENATOR HOWARD FOR HER DISCUSSION OF LB709. [LB894 LB675 LB709 LB845 LB893]

SENATOR COASH: SENATOR HOWARD, YOU HAVE 8:20. [LB894]

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SENATOR HOWARD: THANK YOU, MR. PRESIDENT, AND THANK YOU, SENATOR SEILER. GOOD AFTERNOON, COLLEAGUES. FIRST, I WOULD LIKE TO THANK SENATOR PANSING BROOKS AND SENATOR SEILER FOR AGREEING TO USE LB894 AND THE JUDICIARY COMMITTEE'S AM1962 AS A VEHICLE FOR MY BILL, LB709. LB709 IS PREDOMINANTLY A CODE CLEANUP BILL. THE CLEANUP IS PRESENTED IN THREE PARTS. FIRST, THE BILL PROVIDES A DEFINITION FOR AN IMPORTANT TERM USED IN THE JUVENILE CODE. THE DEFINITION OF "ALTERNATIVES TO DETENTION" PROVIDED IN THIS LEGISLATION IS ALIGNED WITH NATIONAL BEST PRACTICE AND IS CONSISTENT WITH THE DEFINITION AND USE OF THE COMMUNITY-BASED AID GRANT FUNDING EVALUATION, AND THE JDAI, OR THE JUVENILE DETENTION ASSESSMENT INITIATIVE DEFINITIONS COMMITTEE. SECOND, IT INSERTS THE TERM "ALTERNATIVES TO DETENTION" IN THE APPROPRIATE PLACES IN STATUTE, STRIKING AND REMOVING REFERENCE TO AN OLD TERM OF "NONSECURE DETENTION" THAT CURRENTLY CREATES CONFUSION. AND LAST, IT BRINGS THE LANGUAGE DEFINING STAFF SECURE PLACEMENT OUT OF CHAPTER 83 AND PLACES IT DIRECTLY INTO THE LIST OF TERMS IN THE JUVENILE CODE WITHOUT CHANGING ANY EXISTING STATUTORY LANGUAGE. THE FINAL SECTION OF THE BILL DOES PROVIDE A NEW STATUTORY RIGHT TO A HEARING WHEN A CHILD'S LIBERTY INTEREST IS INFRINGED UPON BY AN ALTERNATIVE TO DETENTION. SOMETIMES WHEN A CHILD COMES TO INTAKE AND IS SCREENED OUT OF DETENTION BY AN INTAKE OFFICER BUT INTO AN ALTERNATIVE TO DETENTION, THAT DECISION RESULTS IN A SERVICE THAT NONETHELESS INFRINGES UPON THE CHILD'S LIBERTY INTEREST. FOR EXAMPLE, A CHILD IS OFTEN RELEASED BUT FITTED WITH AN ELECTRONIC MONITORING ANKLE BRACELET. IF A CHILD DOES NOT ACTUALLY REQUIRE THIS LEVEL OF SUPERVISION TO BE MAINTAINED SAFELY AT HOME, THEN WITHOUT A HEARING THE CHILD'S LIBERTY IS BEING UNFAIRLY INFRINGED UPON AND OFTEN ON THE COUNTY'S DIME. I WOULD BE HAPPY TO TRY TO ANSWER ANY QUESTIONS YOU HAVE ONCE WE START DEBATE, PARTICULARLY ABOUT LB709. AND I WOULD URGE THE BODY TO ADOPT AM1962 AND LB894. THANK YOU, MR. PRESIDENT. [LB894 LB709]

SENATOR COASH: THANK YOU, SENATOR HOWARD. MR. CLERK. [LB894]

ASSISTANT CLERK: MR. PRESIDENT, I DO HAVE AMENDMENTS TO THE COMMITTEE AMENDMENT. THE FIRST TWO OFFERED BY SENATOR COASH, I UNDERSTAND THESE ARE TO BE WITHDRAWN. [LB894]

SENATOR COASH: PLEASE WITHDRAW. [LB894]

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ASSISTANT CLERK: IN THAT CASE, SENATOR KRIST WOULD MOVE TO AMEND WITH AM2456. (LEGISLATIVE JOURNAL PAGE 900.) [LB894]

SENATOR COASH: SENATOR KRIST, YOU'RE RECOGNIZED TO OPEN ON AM2456. [LB894]

SENATOR KRIST: THANK YOU, MR. PRESIDENT; GOOD AFTERNOON, COLLEAGUES, AND ONCE AGAIN, GOOD AFTERNOON, NEBRASKA. IN CONVERSATION OVER THE PAST FEW MONTHS WITH REGARDS TO LB675, WHICH IS STILL INCORPORATED IN LB894, THERE WERE SEVERAL FLAGS THAT CAME UP AROUND THE STATE OF NEBRASKA. AT FIRST THEY WERE RURAL IN NATURE. THEY HAD A...THEY HAD FACILITIES THAT THEY WERE USING, DETENTION FACILITIES, FOR OTHER PURPOSES. AND WHAT THIS BILL WOULD HAVE DONE IS RESTRICTED THE USE OF THOSE FACILITIES AND ASKED THEM TO FIND OR PUT IN STATUTE THAT THEY NEED TO FIND OTHER FACILITIES FOR WHICH TO GO...WHICH TO USE THEM. IT WOULD NOT HAVE ALLOWED JUVENILES 12 OR YOUNGER TO BE PLACED IN DETENTION UNDER ANY CIRCUMSTANCES UNLESS JUVENILE IS ALLEGED TO HAVE COMMITTED A CLASS I, IA, IB, IC, ID, II, OR IIA FELONY. YOU THINK THAT TO BE PRUDENT AND SO WOULD I. BUT SOME OF THESE DETENTION FACILITIES ARE BEING USED BECAUSE THERE ARE NO ALTERNATIVES. THERE ARE NO ALTERNATIVES, SO WE'RE GOING TO LOCK A KID UP IN A DETENTION FACILITY. THAT'S NOT GOOD. JUST THE PSYCHOLOGICAL AND POTENTIAL PSYCHOLOGICAL DAMAGE THAT CAN BE DONE TO A CHILD WHO IS SHACKLED AND PUT IN A DETENTION FACILITY IN AN ORANGE SUIT TWICE AS BIG AS WHAT THAT PERSON, HE OR SHE, MIGHT WEAR. I'VE SEEN THAT PICTURE. SENATOR CAMPBELL AND I WENT AROUND, AND COMMITTEE MEMBERS, WENT AROUND THE STATE WHEN WE WERE INVESTIGATING THE CHILD WELFARE AND PRIVATIZATION OF IT. IT WAS A REALITY. IT CAUSED ME TO TAKE A GREAT DEAL OF INTEREST IN JUVENILE JUSTICE. BUT THEN IT BECAME, IN THE LAST FEW MONTHS, MORE THAN JUST A RURAL SITUATION, IT BECAME JUDGES AND DETENTION FACILITIES IN OUR LARGER COMMUNITIES. I'LL SAVE YOU THE NAMES AND DATES, BUT IN LANCASTER COUNTY, THERE WAS AN ISSUE IN TERMS OF HOW THOSE DETENTION FACILITIES ARE BEING USED. IF THERE'S ONE THING THAT I'VE LEARNED IN THIS BODY IT IS THAT YOU MUST AT SOME POINT THINK INDEPENDENTLY AND ACT COLLECTIVELY IN THE BEST INTEREST OF THE STATE. THE INDEPENDENT THINKER THAT I THINK I AM, I BELIEVE THAT I AM, LISTENED TO ALL OF THOSE CONCERNS AROUND THE STATE. SENATOR STINNER AND I HAD A CONVERSATION ABOUT CONCERNS THAT CAME UP IN HIS NECK OF THE WOODS. ALTHOUGH I UNDERSTAND TODAY THAT THERE MAY NOT BE ALTERNATIVE FACILITIES TO PUT A CHILD IN BECAUSE THEY DON'T EXIST, THIS



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IS MY PROMISE, COLLEAGUES, LB675 IS COMING BACK NEXT YEAR. IT'S COMING BACK NEXT YEAR, SO IF YOU HAVE TO FIND ALTERNATIVES BETWEEN NOW AND 2017, START WORKING ON THEM NOW, BECAUSE I FIND IT UNCONSCIONABLE THAT WE ARE LOCKING UP KIDS THAT SHOULD NOT BE LOCKED UP. FOR ALL OF THESE REASONS AND THE FACT THAT I AM LISTENING WHEN PEOPLE TALK, WHEN THEY GIVE ME INFORMATION, VALID INFORMATION THAT AFFECTS HOW THEY DO BUSINESS AND MAYBE NOT IN THE BEST INTEREST OF A CHILD IN INDIVIDUAL JURISDICTIONS, I AM REMOVING LB675 FROM LB894 THIS YEAR WITH THAT PROMISE AND CONVICTION THAT I WILL BRING IT BACK NEXT YEAR. SO START WORKING OUT YOUR PROBLEMS TODAY. YOU'LL ALSO SEE IN...AND NOT TO...TO BE FULLY TRANSPARENT, IN AM2456 IT WAS POINTED OUT BY THE BILL DRAFTERS THAT THERE ARE SOME NONSUBSTANTIVE CORRECTIONS THAT NEED TO BE MADE TO THE PACKAGE. SO WE HAVE SOME OF THOSE CHANGES IN THERE AS WELL. AND IF YOU'D LIKE TO TALK ABOUT, I'D BE HAPPY TO TALK ABOUT IT OFF THE MIKE BECAUSE THEY REALLY ARE NONSUBSTANTIVE. SO PLEASE VOTE YES ON AM2456. LET'S REMOVE THE SUBSTANCE THAT WAS LB675 THIS YEAR AND LET'S THINK LONG AND HARD ABOUT MAKING SURE WE TAKE CARE OF THOSE KIDS NEXT YEAR WHEN I REINTRODUCE WHATEVER THAT BILL NUMBER WILL BE. THANK YOU, MR. PRESIDENT. [LB894 LB675]

SENATOR COASH: THANK YOU, SENATOR KRIST. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB894]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, BASED ON WHAT SENATOR KRIST SAID, I'M GOING TO BE NOT VOTING. I WILL NOT VOTE NO, BUT I CANNOT VOTE YES. AND IT'S STRICTLY...I'M BACKING OFF TO SOME EXTENT ON THE PROMISE SENATOR KRIST MADE BECAUSE HE IS A MAN OF HIS WORD. NOW TO DIGRESS FROM THAT BECAUSE I DON'T WANT WHAT I'M GOING TO BE SAY NOW TO BE CONFUSED WITH WHAT I JUST SAID, THANK YOU. [LB894]

SENATOR COASH: THANK YOU, SENATOR CHAMBERS. SEEING NO OTHER MEMBERS WISHING TO SPEAK, SENATOR KRIST, YOU'RE RECOGNIZED TO CLOSE ON YOUR AMENDMENT TO THE COMMITTEE AMENDMENT. SENATOR KRIST WAIVES. THE QUESTION FOR THE BODY IS, SHALL AM2456 BE ADOPTED? ALL THOSE IN FAVOR VOTE AYE; OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB894]

ASSISTANT CLERK: 25 AYES, 0 NAYS ON THE ADOPTION OF THE AMENDMENT, MR. PRESIDENT. [LB894]

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SENATOR COASH: AM2456 IS ADOPTED. RETURN TO DISCUSSION ON THE JUDICIARY COMMITTEE AMENDMENT. SEEING NO MEMBERS WISHING TO SPEAK, SENATOR SEILER IS RECOGNIZED TO CLOSE. HE WAIVES CLOSING. THE QUESTION FOR THE BODY IS, SHALL AM1962 BE ADOPTED? ALL THOSE IN FAVOR VOTE AYE, OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB894]

ASSISTANT CLERK: 26 AYES, 0 NAYS ON THE ADOPTION OF COMMITTEE AMENDMENTS. [LB894]

SENATOR COASH: COMMITTEE AMENDMENT IS ADOPTED. RETURN TO DISCUSSION ON LB894. SENATOR SCHUMACHER, YOU'RE RECOGNIZED. [LB894]

SENATOR SCHUMACHER: THANK YOU, MR. PRESIDENT, MEMBERS OF THE BODY. WOULD SENATOR PANSING BROOKS YIELD TO A QUESTION? [LB894]

SENATOR COASH: SENATOR PANSING BROOKS, WILL YOU YIELD? [LB894]

SENATOR PANSING BROOKS: YES, I'D BE HAPPY TO. [LB894]

SENATOR SCHUMACHER: THANK YOU, SENATOR PANSING BROOKS. WHEN WE REQUIRE THE...IN ALL CASES, AN ATTORNEY TO BE APPOINTED FOR THE JUVENILE, AT WHOSE EXPENSE IS THAT ATTORNEY APPOINTED? [LB894]

SENATOR PANSING BROOKS: IT WILL BE AT THE COUNTY'S EXPENSE. [LB894]

SENATOR SCHUMACHER: OKAY. SO THIS IS WHAT THEY WOULD CALL AN UNFUNDED MANDATE? [LB894]

SENATOR PANSING BROOKS: YOU CAN CALL IT...I MEAN, YOU CALL IT WHAT YOU WANT. IT'S AN IMPORTANT WAY TO MAKE SURE THAT CHILDREN ARE REPRESENTED BY COUNSEL RATHER THAN REPRESENTING THEMSELVES. [LB894]

SENATOR SCHUMACHER: THANK YOU, SENATOR. AND THIS IS PART OF THE QUAGMIRE THAT WE FIND OURSELVES IN WHEN WE START STRUGGLING WITH HOW TO WORK MAGIC WITH PROPERTY TAXES. HERE WE ARE MANDATING ATTORNEYS IN CASES, FOR GOOD REASON, NOT ARGUING WITH THAT, BUT WE'RE MANDATING ATTORNEYS IN CASES, MANDATING THE LOCAL PROPERTY

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TAXPAYER TO PICK UP THE TAB FOR ATTORNEYS IN THESE CASES. I HAVE A FEELING WE ARE NOT GOING TO LOOK AT A TINY AMOUNT OF MONEY WHEN IT LOOKS STATEWIDE, WE'RE TALKING CERTAINLY WHAT WILL BE IN THE MILLIONS OF DOLLARS THAT WE JUST PUT ON THE PROPERTY TAXPAYER. AND THIS IS WHAT THE COUNTIES, IN THIS CASE IT'S THE COUNTIES, ARE SCREAMING ABOUT. WE ARE SPENDING MONEY. WE JUST DID. I DON'T THINK THERE'S AN A BILL ON HERE BECAUSE IT'S THE COUNTY'S BILL TO PAY. AND AT SOME POINT IF WE HEAR WHAT IS SUPPOSEDLY A LOT OF CONSTERNATION COMING FROM THE PROPERTY TAXPAYERS AND IN THE AG SECTOR AND ALL THOSE, AND WE CONTINUE TO PILE ON BURDEN WITHOUT ACCEPTING THE RESPONSIBILITY OF THE PAYMENT FOR THE BURDEN, AND THIS IS NOT AN INCONSEQUENTIAL LITTLE THING. THIS IS A MAJOR EXPENSE OF THE JUVENILE SYSTEM, OF THE CRIMINAL JUSTICE SYSTEM, AND WE ARE EXPECTING THE PROPERTY TAXPAYER TO PICK UP THE TAB. MEANWHILE, WE ARE PRETENDING THAT WE CAN DO TAX CUTS AT THE STATE OR...AT THE STATE LEVEL NEXT YEAR IN INCOME TAXES OR FOIST SOMETHING ONTO THE SALES TAXPAYER. WHERE IS THE A BILL ON THIS? WHY DO WE FEEL THAT THIS IS THE RESPONSIBILITY OF THE PROPERTY TAXPAYER? JUST BECAUSE IN ANCIENT TIMES THE COUNTY COURT WAS THE JUVENILE COURT. WE CAN'T DELUDE OURSELVES ANYMORE THAT WE CAN DO TAX BREAKS FOR PROPERTY TAX OWNERS, FOR INCOME TAXPAYERS NEXT YEAR AND NOT HAVE SOMEBODY PICK UP THE BILL FOR ALL THESE GREAT IDEAS. AND THIS...I'M ALL IN FAVOR OF HAVING THE JUVENILES REPRESENTED. BUT WE CAN'T EXPECT A FREE LUNCH FROM THE PROPERTY TAXPAYERS HERE. AND THIS IS GENERAL FILE. DON'T ANTICIPATE THERE'S GOING TO BE ANY VOLUNTEERS FOR THE STATE TO PICK UP THE TAB ON SELECT FILE. BUT IT'S SOMETHING WE SHOULD CONSIDER BETWEEN NOW AND THEN OR WE WILL DELUDE OURSELVES INTO THINKING THAT, GOSH, WE'RE GOING TO BE ABLE TO DO MORE TAX CUTS. YOU CAN'T HAVE IT BOTH WAYS. YOU CAN'T HAVE NEEDS MET THAT ARE VERY WORTHY NEEDS, WHETHER THEY'RE THIS OR DHHS THINGS OR PRISON THINGS OR WHATEVER, AND NOT EXPECT TO FIND A BILL SOMEPLACE. [LB894]

SENATOR COASH: ONE MINUTE. [LB894]

SENATOR SCHUMACHER: AND IT'S NOT FAIR IN THIS ENVIRONMENT TO PUT THE BILL WITH THE PROPERTY TAXPAYER. WE'RE PASSING THIS. WE MADE A PRIORITY OF IT. WE CAN'T PRETEND WE'RE BALANCING THE BUDGET BY SOME INTERNAL MISHMASH OF MOVING IT FROM THIS FUND OR ANOTHER. WE HAVE TO PAY THIS BILL. AND I'M CONCERNED THAT WHERE WE'RE HEADING ON ALL OF THIS IS INTO A WONDERLAND WHERE WE WANT TO HAVE THINGS BUT DON'T

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WANT TO PAY FOR THEM. AND I DON'T THINK IT'S RIGHT TO FOIST IT MORE ONTO THE COUNTY TAXPAYERS. THANK YOU. [LB894]

SENATOR COASH: THANK YOU, SENATOR SCHUMACHER. SENATOR HUGHES, YOU'RE RECOGNIZED. [LB894]

SENATOR HUGHES: THANK YOU, MR. PRESIDENT. I WAS WONDERING IF SENATOR SCHUMACHER WOULD YIELD FOR A QUESTION OR TWO, PLEASE? [LB894]

SENATOR COASH: SENATOR SCHUMACHER, WILL YOU YIELD? [LB894]

SENATOR SCHUMACHER: YES, I WILL. [LB894]

SENATOR HUGHES: IN LISTENING TO YOUR LAST SPEECH HERE ON THE FLOOR, DO YOU HAVE ANY IDEA OF WHAT KIND OF REVENUE THAT IT'S GOING TO TAKE TO FUND THIS CHANGE? [LB894]

SENATOR SCHUMACHER: WELL, THE FISCAL NOTE HAS A LITTLE FOOTNOTE ON JUST ONE PART OF THE BILL THAT LANCASTER COUNTY WOULD RUN SOMEWHERE BETWEEN, I THINK, \$65,000 AND \$75,000. THAT'S JUST LANCASTER COUNTY. [LB894]

SENATOR HUGHES: PER YEAR. [LB894]

SENATOR SCHUMACHER: PER YEAR. AND A LOT OF THAT DEPENDS ON HOW COMPLICATED THE CASE SIZE, HOW MANY CASES THE COUNTY ATTORNEY DOESN'T DIVERT INTO SOME OTHER SYSTEM. BUT YOU TAKE THAT AND YOU MULTIPLY THAT ACROSS THE SPECTRUM, AND IN SMALL COUNTIES WHERE THEY DON'T HAVE A DEDICATED PUBLIC DEFENDER, THE JUDGE IS GOING TO HAVE TO APPOINT A PRACTICING ATTORNEY TO BE THE REPRESENTATIVE OF THE JUVENILE, AND HE'S GOING TO WANT TO GET PAID A FAIR FEE AND SHOULD GET PAID A FAIR FEE. SO WE'RE TALKING BIG MONEY HERE. AND IT'S NOT TENS OF MILLIONS AND TENS OF MILLIONS PER COUNTY, BUT IT IS SUBSTANTIAL MONEY AND WE DO THIS OVER AND OVER AGAIN. WE CAN'T DELUDE OURSELVES. WE DICTATE A RIGHT. WE DICTATE A BENEFIT. LET'S PAY FOR IT. [LB894]

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SENATOR HUGHES: ARE YOU AWARE OF ANYTHING IN THE PAST THAT THE STATE HAS DONE IN ORDER TO REIMBURSE COUNTIES FOR SIMILAR ACTIONS LIKE THIS? [LB894]

SENATOR SCHUMACHER: WELL, I MEAN, FOR EXAMPLE, WE HAVE A SHARING DEAL ON PROBATION WHERE THE COUNTY PROVIDES THE FACILITIES, THE STATE PROVIDES THE HELP; IN THE COURTS, THE COUNTY PROVIDES THE COURTHOUSE, THE STATE PROVIDES THE JUDGE AND STAFF. THERE'S SOME OF THOSE KIND OF SHARING AGREEMENTS THAT HAVE...FROM THE PAST. THE COUNTIES COMPLAIN A LOT THAT WE DON'T...THAT WE TELL THEM TO DO THINGS, SOME OF THOSE COMPLAINTS ARE JUSTIFIED, SOME OF THEM AREN'T, BUT THIS IS A VERY CLEAR ONE. THIS IS SOMETHING THAT WE JUST COOKED UP RIGHT HERE. AND WE'RE SAYING, LOCAL TAXPAYER, IT'S YOUR PROBLEM TO FOOT THE BILL. [LB894]

SENATOR HUGHES: OKAY, THANK YOU, SENATOR SCHUMACHER. SENATOR PANSING BROOKS, WOULD YOU ANSWER SOME QUESTIONS...YIELD TO A QUESTION, PLEASE? [LB894]

SENATOR COASH: SENATOR PANSING BROOKS, WILL YOU YIELD? [LB894]

SENATOR PANSING BROOKS: I WILL. [LB894]

SENATOR HUGHES: SENATOR PANSING BROOKS, DO YOU...I APOLOGIZE, I STEPPED OUT DURING YOUR OPENING. DID YOU... [LB894]

SENATOR PANSING BROOKS: IT WAS A GOOD ONE. [LB894]

SENATOR HUGHES: (LAUGH) DID YOU GIVE ANY KIND OF NUMBERS OF THE VOLUME OF INDIVIDUALS THAT WILL BE COVERED BY THIS BILL? [LB894]

SENATOR PANSING BROOKS: WHAT I TALKED ABOUT ON THE BILL IS THE FACT THAT DOUGLAS COUNTY, OUR LARGEST COUNTY, IS ALREADY DOING THIS. I HAVE SPOKEN WITH JUDGES IN BOTH LANCASTER AND DOUGLAS COUNTY, JUVENILE COURT JUDGES WHO SAY NOT ONLY DOES THIS MAKE THEM MORE EFFICIENT, BUT IT COSTS LESS MONEY BY DOING THIS BECAUSE THEY DON'T HAVE TO GO TO THE EXTRA EFFORT TO MAKE SURE THAT THE KIDS' RIGHTS ARE BEING COVERED, THAT THEY'RE UNDERSTANDING EXACTLY WHAT'S HAPPENING

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IN THEIR PLEAS AND WHAT IS GOING TO HAPPEN FOR THEM. SO IF YOU TALK TO THE JUDGES IN LINCOLN AND OMAHA, THEY SAY THAT THIS SAVES TIME AND MONEY. AND LANCASTER COUNTY ONLY SAID THAT IT WAS \$65,000 EXTRA. SOMETIMES THEY ALREADY DO HAVE ATTORNEYS APPOINTED; THE PROBLEM IS THAT IN 34 PERCENT OF THE CASES IN NEBRASKA, THEY ARE NOT HAVING ATTORNEYS APPOINTED. THERE WERE NO OPPONENTS TO THIS BILL. AND I WOULD KINDLY DISAGREE WITH MY COLLEAGUE, SENATOR SCHUMACHER'S, ESTIMATE OF MILLIONS AND MILLIONS OF DOLLARS. [LB894]

SENATOR HUGHES: AS A TAXPAYER IN LANCASTER COUNTY, I BELIEVE YOU AND I HAVE HAD THE CONVERSATION THAT... [LB894]

SENATOR COASH: ONE MINUTE. [LB894]

SENATOR HUGHES: ...I WANT MY PROPERTY TAXES, YOU'RE MY SENATOR WHEN I LIVE IN LINCOLN, I NEED THEM LOWERED. DO YOU THINK THIS IS A PROBLEM OUTSIDE OF LANCASTER AND DOUGLAS COUNTY? [LB894]

SENATOR PANSING BROOKS: I THINK THAT THERE ARE AREAS WHERE CHILDREN ARE NOT GETTING REPRESENTED. AND AS AN ATTORNEY, RECOMMENDING THAT SOMEONE GO PRO SE, ESPECIALLY A CHILD WHO IS UNABLE TO UNDERSTAND WHAT IN THE WORLD THEY ARE BEING ASKED IN THE COURTROOM, YES, I DO THINK IT'S A PROBLEM IN MANY PLACES. [LB894]

SENATOR HUGHES: WOULD YOU BE WILLING TO WORK ON SOME TYPE OF LANGUAGE THAT WOULD ALLOW THE STATE TO PICK UP THE TAB AND NOT HAVE ANOTHER MANDATE FORCED ON THE PROPERTY TAXPAYERS OF THIS STATE FOR THIS PROGRAM BETWEEN NOW AND SELECT? [LB894]

SENATOR PANSING BROOKS: I'M ALWAYS WILLING TO WORK WITH ANYBODY ON SOMETHING REASONABLE. [LB894]

SENATOR HUGHES: (LAUGH) THANK YOU, SENATOR PANSING BROOKS. [LB894]

SENATOR PANSING BROOKS: AND I'M SO GLAD YOU'RE MY CONSTITUENT, I HAVE TO SAY, SENATOR HUGHES. [LB894]

SENATOR HUGHES: SO AM I. LADIES AND GENTLEMEN, I... [LB894]

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SENATOR COASH: TIME, SENATOR. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED. [LB894]

SENATOR PANSING BROOKS: I JUST...I WILL RISE TO REPEAT THAT WE HAVE INSTANCE AFTER INSTANCE WHERE THE JUDGES HAVE SAID THAT IT'S MORE EFFECTIVE TO DO IT THIS WAY. IT MAKES SURE THAT JUSTICE...THE KIDS AREN'T ENDING UP JUST PLEADING TO SOMETHING WITHOUT KNOWLEDGE OF WHAT THEY'RE PLEADING TO, AND THEN ALL OF A SUDDEN THEY FIND THEMSELVES AT 18 YEARS OF AGE WITHOUT BEING ABLE TO GET A JOB OR TO BE ABLE TO APPLY FOR A LOAN FOR COLLEGE. THIS IS REALLY IMPORTANT, COLLEAGUES. I CAN'T THINK OF A BILL THAT IS MORE IMPORTANT. IN FACT, THE COUNTIES WERE AWARE OF THIS AND STOOD DOWN ON THIS ISSUE BECAUSE OF THE...THEY REALIZE THE IMPORTANCE TO OUR MOST VULNERABLE IN OUR COMMUNITIES. SO I HOPE THAT YOU WILL ADVANCE THIS BILL. I'M HAPPY TO TALK TO ANYBODY ABOUT ANY ADDITIONAL THOUGHTS ON SOME KIND OF AMENDMENT. BUT, AGAIN, THERE WERE NO OPPONENTS TO THIS BILL THAT TESTIFIED. AND WE SPOKE WITH PEOPLE FROM COUNTIES, WE SPOKE WITH...YOU CAN LOOK AT WHO TESTIFIED. WE SPOKE WITH COUNTY ATTORNEYS, WE SPOKE WITH COUNTY OFFICIALS, ALL SORTS OF PEOPLE. SO, AGAIN, I HOPE YOU WILL MOVE THIS BILL FORWARD. AND I WILL GIVE THE REST OF MY TIME TO SENATOR HUGHES BECAUSE IT SEEMED LIKE HE WANTED TO ASK SOMETHING ELSE. [LB894]

SENATOR COASH: THANK YOU, SENATOR PANSING BROOKS. SENATOR HUGHES, YOU ARE YIELDED 3:30, AND YOU ARE NEXT IN THE QUEUE. [LB894]

SENATOR HUGHES: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR PANSING BROOKS. SENATOR SCHUMACHER, YOU KNOW, I GENERALLY LISTEN TO HIM VERY CLOSELY, AND TODAY HE DID MAKE A COUPLE OF COMMENTS THAT DID PIQUE MY INTEREST. THE UNFUNDED MANDATES...AND I HAVE NO DOUBT THAT THIS IS A GOOD BILL. I THINK OUR JUVENILES IN OUR COURT SYSTEM PROBABLY DO NEED SOME HELP. THERE ARE COUNTY ATTORNEYS OUT THERE WHO ARE GOOD INDIVIDUALS, A LOT OF THEM ARE PART-TIME AND AREN'T BEING PAID NEAR WHAT THEY COULD MAKE IN THE PRIVATE SECTOR. BUT IT'S OUR JOB IN THE LEGISLATURE TO CONTROL THE PURSE STRINGS. AND THE CRIES FROM THE COUNTRYSIDE OF PEOPLE PAYING PROPERTY TAXES, RESIDENTIAL, COMMERCIAL, AND AGRICULTURAL, IS BECOMING LOUDER BY THE DAY. AND US SENDING ONE MORE, ALBEIT RELATIVELY SMALL, APPARENTLY, UNFUNDED MANDATE, I THINK WE NEED TO MAKE A CONCERTED EFFORT BETWEEN NOW AND SELECT FILE TO FIGURE OUT A WAY TO SEND SOME

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MONEY ALONG FOR THIS PROGRAM. WE DO HAVE A RESPONSIBILITY TO THE YOUTH OF THIS STATE, BUT WE HAVE A RESPONSIBILITY TO THE TAXPAYERS OF THIS STATE. WE SPEND INCOME AND SALES TAX DOLLARS, AND WE SAY PROPERTY TAX IS A LOCAL TAX. WELL, IT'S NOT A LOCAL TAX. WE SPEND PROPERTY TAX DOLLARS IN THIS BODY EVERY DAY. THIS IS JUST ONE MORE WAY THAT WE'RE DOING IT. WE NEED TO BE FAIR WITH ALL CLASSES OF PROPERTY TAX. AND WE NEED TO BE FAIR WITH ALL FORMS OF TAX. AS I'VE SAID BEFORE, THERE'S REALLY ONLY ONE TAX SOURCE, AND THOSE ARE INCOME TAX DOLLARS BECAUSE IF YOU DON'T HAVE INCOME, YOU CAN'T PAY YOUR SALES TAX, YOU CAN'T PAY YOUR INCOME TAX, YOU CAN'T PAY YOUR PROPERTY TAX. WE NEED TO BE VERY CAREFUL ABOUT WHAT WE'RE DOING AND MAKE SURE THAT WE STOP UNFUNDED MANDATES. I WOULD LIKE TO WORK WITH SENATOR SCHUMACHER AND SENATOR PANSING BROOKS BETWEEN NOW AND SELECT FILE TO TRY AND GET A HANDLE ON HOW MUCH MONEY WE'RE GOING TO SPEND, WHAT THE TRUE NEED IS, AND FIND A WAY TO MAKE THE STATE PAY FOR IT BECAUSE JUST CONTINUING TO PASS IT OFF ON THE COUNTIES IS NOT GOOD POLICY. THE STATE HAS DONE WAY TOO MUCH OF THAT. THAT'S WHY WE'RE IN THE MESS WE ARE NOW WITH THE TEEOSA FORMULA. THE WAY THE FORMULA IS WRITTEN, WE HAVE PASSED THE BURDEN FROM THE STATE TO EDUCATE OUR CHILDREN ONTO THE BACKS OF THE PROPERTY TAXPAYER. DOES THAT SOUND LIKE IT'S A LOCAL TAX? THAT'S A STATE TAX. AND WE'VE ALLOWED THAT TO HAPPEN. OUR PREDECESSORS HAVE ALLOWED THAT TO HAPPEN. THIS IS A PROBLEM THAT WE NEED TO FIX, AND WE CERTAINLY DON'T NEED TO COMPOUND ON IT. THANK YOU, MR. PRESIDENT. [LB894]

SENATOR COASH: THANK YOU, SENATOR HUGHES. SENATOR KRIST, YOU'RE RECOGNIZED. [LB894]

SENATOR KRIST: THANK YOU, MR. PRESIDENT. AND AGAIN, GOOD AFTERNOON, COLLEAGUES; GOOD AFTERNOON, NEBRASKA. I WONDER IF SENATOR HUGHES WOULD YIELD FOR A COUPLE OF QUESTIONS. [LB894]

SENATOR COASH: SENATOR HUGHES, WILL YOU YIELD? [LB894]

SENATOR HUGHES: OF COURSE. [LB894]

SENATOR KRIST: SENATOR, I APPRECIATE YOUR OFFER TO WORK WITH SENATOR SCHUMACHER AND SENATOR PANSING BROOKS, AND MAYBE BETWEEN NOW AND SELECT YOU CAN HAVE THAT DISCUSSION. BUT AT SOME POINT, DON'T YOU



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BELIEVE THAT IF IT'S A COUNTY KID LOCATED IN THE COUNTY, THE COUNTY SHERIFF HAS TAKEN ACTION, THE PARENTS HAVE EITHER WILLFULLY OR NOT PURPOSELY PUT A CHILD IN A BAD POSITION, WHEN, AT THAT POINT, DO YOU BELIEVE THAT THAT CHILD BECOMES THE RESPONSIBILITY OF THE STATE?  
[LB894]

SENATOR HUGHES: WHEN THE STATE MANDATES THAT THEY HAVE TO HAVE A COURT-APPOINTED ATTORNEY TO DEFEND THEM, AND NOT IN EVERY CASE. I MEAN, THERE ARE CASES WHERE THE PARENTS AREN'T DOING THEIR JOB, AND THERE ARE KIDS WHO FALL THROUGH THE CRACKS. [LB894]

SENATOR KRIST: SO I GUESS THAT'S THE CRUX OF MY ARGUMENT, SENATOR HUGHES, AND I'M NOT PICKING ON YOU SOLELY. THE DIALOGUE THAT WE'RE HAVING IS THE CRUX OF THE PROBLEM. AT WHAT POINT DO WE DRAW A LINE IN THE SAND AND SAY YOU'RE ONE OF OUR JUDICIARY DISTRICTS THAT FUNCTIONS UNDER THE SUPERVISION IN SOME WAYS OF THE SUPREME COURT WITH JUDICIAL INDEPENDENCE, WHO IS MAKING A DECISION FOR A CHILD, AND THAT CHILD MAY OR MAY NOT BE REPRESENTED BY A COURT-APPOINTED LAWYER AND THE RULES ARE DIFFERENT IN DIFFERENT JURISDICTIONS? SO MY CONCERN IS THAT WE DON'T CALL IT AN UNFUNDED MANDATE BECAUSE THE STATE IN SOME WAY OR ANOTHER HAS BECOME RESPONSIBLE AT A CERTAIN LEVEL DURING THAT JURISPRUDENCE PROCESS. WHEN YOU DO SPEND TIME WITH SENATOR SCHUMACHER AND SENATOR PANSING BROOKS, AND I KNOW YOU WILL, I'D LOVE TO HEAR THE ANSWER TO THE QUESTION, BECAUSE SO MANY TIMES, SINCE I'VE BEEN IN THIS BODY, PEOPLE TALK ABOUT UNFUNDED MANDATES. AND I ASK THEM, WHAT'S THE ADDRESS OF THAT CHILD? IS IT IN THE CITY OF OMAHA? IS IT WITHIN THE ETJ AND, THEREFORE, THE COUNTY? OR DID WE TERMINATE PARENTAL RIGHTS AND NOW THAT PERSON OR THAT CHILD HAS BECOME A WARD OF THE STATE? BEFORE WE STAND UP AND START TALKING ABOUT WHO IS SUPPOSED TO PAY FOR THINGS, WE HAVE TO CLEARLY DEFINE, AND IT IS NOT IN MY VERNACULAR ALWAYS RELYING ON AN ARGUMENT OF UNFUNDED MANDATES. I WOULD YIELD YOU THE BALANCE OF MY TIME IF YOU WOULD LIKE TO TALK ABOUT IT OR RESPOND. [LB894]

SENATOR HUGHES: THANK YOU, SENATOR KRIST. I GUESS IF IT'S NOT A STATE MANDATE, THEN I SUGGEST WE ALLOW THE COUNTIES TO MAKE THIS RULING WHETHER OR NOT THEY WANT TO PROVIDE, OR THE JUDICIAL DISTRICTS MAKE THE MANDATE OF WHETHER THEY FEEL THEY NEED THIS. GRANTED, THE EXPENSE IS GOING TO BE A LOT LARGER IN LINCOLN AND OMAHA. I UNDERSTAND THAT, JUST BECAUSE OF THE FACT THE POPULATION IS THERE

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AND THE PROPERTY TAXPAYERS IN THOSE TWO JUDICIAL DISTRICTS ARE GOING TO FOOT THE BILL. BUT THIS IS THE STATE SAYING TO EACH JUDICIAL DISTRICT YOU WILL DO THIS, FIGURE OUT A WAY TO PAY FOR IT. [LB894]

SENATOR COASH: THANK YOU, SENATOR HUGHES. SEEING NO OTHER MEMBERS WISHING TO SPEAK, SENATOR PANSING BROOKS, YOU'RE RECOGNIZED TO CLOSE ON LB894. [LB894]

SENATOR PANSING BROOKS: THANK YOU VERY MUCH, MR. PRESIDENT. I WANT TO THANK YOU, COLLEAGUES, FOR PASSING THE UNDERLYING AMENDMENTS AND ALSO THANK SENATOR KRIST AND SENATOR HOWARD AND SENATOR COASH FOR THEIR WORK ON THIS BILL, AND ALSO SENATOR SEILER, AND ACTUALLY THE ENTIRE JUDICIARY COMMITTEE. THIS HAS BEEN AN IMPORTANT BILL. JUST AS A REMINDER, DOUGLAS COUNTY HAS ALREADY ABSORBED THEIR COSTS. AND I APPRECIATE THE DISCUSSION THAT WE'VE HAD AND I WOULD ASK THAT YOU VOTE IN FAVOR OF LB894. THANK YOU. [LB894]

SENATOR COASH: THANK YOU, SENATOR PANSING BROOKS. MEMBERS, YOU'VE HEARD THE CLOSING TO LB894. THE QUESTION BEFORE THE BODY IS, SHALL LB894 ADVANCE? ALL THOSE IN FAVOR VOTE AYE; OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB894]

ASSISTANT CLERK: 31 AYES, 0 NAYS ON THE MOTION TO ADVANCE THE BILL, MR. PRESIDENT. [LB894]

SENATOR COASH: LB894 DOES ADVANCE. ITEMS, MR. CLERK? [LB894]

ASSISTANT CLERK: THANK YOU, MR. PRESIDENT. YOUR COMMITTEE ON BANKING REPORTS LB678 TO GENERAL FILE WITH AMENDMENTS. NEW RESOLUTION, LR470 BY SENATOR CAMPBELL, THAT WILL BE LAID OVER. NEW A BILL, LB1067A BY SENATOR SULLIVAN. (READ LB1067A BY TITLE FOR THE FIRST TIME.) FINALLY, MR. PRESIDENT, AN AMENDMENT TO BE PRINTED TO LB1105 FROM SENATOR LARSON. (LEGISLATIVE JOURNAL PAGES 901-907.) [LB678 LR470 LB1067A LB1105]

SENATOR COASH: THANK YOU, MR. CLERK. WE'LL NOW MOVE TO THE NEXT ITEM ON THE AGENDA. [LB1092]

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ASSISTANT CLERK: MR. PRESIDENT, THE NEXT BILL IS LB1092, INTRODUCED BY SENATOR MELLO. (READ TITLE.) THE BILL WAS INTRODUCED ON JANUARY 20 OF THIS YEAR; REFERRED TO THE APPROPRIATIONS COMMITTEE, PLACED ON GENERAL FILE WITH NO COMMITTEE AMENDMENTS. [LB1092]

SENATOR COASH: THANK YOU, MR. CLERK. SENATOR MELLO, YOU'RE RECOGNIZED TO OPEN ON LB1092. [LB1092]

SENATOR MELLO: THANK YOU, MR. PRESIDENT, MEMBERS OF THE LEGISLATURE. LB1092 WOULD CODIFY BUDGET ADMINISTRATIVE POLICIES THAT ARE ALREADY IN PRACTICE AND WOULD IMPLEMENT ENHANCEMENTS TO THE AGENCY REPORTING BUDGET PROCESS. TRADITIONALLY IN ODD NUMBERED YEARS, STATE AGENCIES WHO WISH TO REQUEST A CHANGE TO THEIR APPROPRIATION WILL FILE THE REQUESTED CHANGE WITH THEIR DEPARTMENT OR STATE AGENCY, WHICH IS THEN PASSED ON TO THE APPROPRIATIONS COMMITTEE. LB1092 SIMPLY CODIFIES THIS BUDGET PRACTICE IN NEBRASKA STATUTES AND SETS AN OFFICIAL DEADLINE OF OCTOBER 24 FOR STATE AGENCIES SEEKING A CHANGE IN THEIR BUDGET DURING AN ODD YEAR IN THE BIENNIUM. IN ADDITION TO CODIFYING THIS PRACTICE, LB1092 COULD POTENTIALLY PLAY ALSO AN IMPORTANT ROLE IN THE BUDGET PROCESS MOVING FORWARD. AS SOME MEMBERS OF THIS BODY WILL REMEMBER, WHEN NEBRASKA HELD THE COUNCIL OF STATE GOVERNMENTS' MIDWEST LEGISLATIVE CONFERENCE IN 2014, THE PEW CHARITABLE TRUSTS PRESENTED ON THEIR RESULTS FIRST INITIATIVE AND THE IMPORTANCE OF EVIDENCE-BASED POLICY MAKING. FOLLOWING THE CONFERENCE, THERE HAS BEEN ONGOING CONVERSATIONS BETWEEN THE PEW CHARITABLE TRUSTS, MYSELF, THE LEGISLATIVE FISCAL OFFICE, SENATOR CAMPBELL, AND THE RICKETTS ADMINISTRATION AROUND INCORPORATING EVIDENCE-BASED PRACTICES INTO OUR STATE BUDGET PROCESS. EVIDENCE-BASED POLICYMAKING UTILIZES THE BEST AVAILABLE DATA AND RESEARCH GATHERED FROM STATE PROGRAMS AND HELPS GUIDE POLICYMAKERS WHEN MAKING IMPORTANT DECISIONS RELATED TO THAT PROGRAM'S BUDGET REQUEST. LB1092 ADDS LANGUAGE IN OUR STATE BUDGET PROCESS THAT WOULD REQUIRE A STATE AGENCY OR DEPARTMENT TO PROVIDE A LIST OF EVERY PROGRAM WITHIN THAT STATE AGENCY AND TO IDENTIFY FOR EACH PROGRAM OR PRACTICE IN THEIR BUDGET REQUEST AS TO WHETHER OR NOT THAT PROGRAM OR PRACTICE IS EVIDENCE BASED IN NATURE. THIS CHANGE WILL HELP STATE SENATORS MOVING FORWARD WITH THE IMPORTANT DECISIONS RELATED TO OUR BIENNIAL BUDGET PROCESS AND WILL PROTECT NEBRASKA TAXPAYERS BY ENCOURAGING THE STATE'S USE OF EVIDENCE-BASED PRACTICES IN THE BUDGET PROCESS. LB1092 HAD NO FISCAL IMPACT;

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RECEIVED NO OPPOSITION AT THE HEARING, AND WAS ADVANCED BY THE APPROPRIATIONS COMMITTEE WITH A UNANIMOUS VOTE. WITH THAT I'D URGE THE BODY TO ADVANCE LB1092. THANK YOU, MR. PRESIDENT. [LB1092]

SENATOR COASH: THANK YOU, SENATOR MELLO. MEMBERS, YOU'VE HEARD THE OPENING TO LB1092. THE FLOOR IS NOW OPEN FOR DISCUSSION. SENATOR STINNER, YOU'RE RECOGNIZED. [LB1092]

SENATOR STINNER: THANK YOU, MR. PRESIDENT. JUST WANTED TO MAKE A QUICK COMMENT. I CERTAINLY DO SUPPORT LB1092. I THINK IT'S AN IMPORTANT STEP IN THE RIGHT DIRECTION IN TRYING TO ASSESS HOW WELL OUR PROGRAMS ARE DOING. AND MY HOPE IS THAT WE COULD CONTINUE ON AND POSSIBLY PUT INTO PLAY A RANK ORDER OR A SYSTEM WHEREBY AS WE LOOK AT OUR BUDGETING AND WE CAN TELL WHICH AGENCIES, WHICH PROGRAMS ARE THE MOST EFFECTIVE PROGRAMS SO THAT IF WE GET INTO A BUDGET SHORTFALL AGAIN, WE DON'T JUST CUT 10 PERCENT, WE TAKE A LOOK AT HOW WELL THESE PROGRAMS ARE DOING AND THEN, YOU KNOW, MAKE THOSE ADJUSTMENTS ACCORDINGLY. SO I HIGHLY SUPPORT THIS BILL, AND I THANK SENATOR MELLO FOR ALL HIS HARD WORK. THANK YOU. [LB1092]

SENATOR COASH: THANK YOU, SENATOR STINNER. SENATOR CAMPBELL, YOU'RE RECOGNIZED. [LB1092]

SENATOR CAMPBELL: THANK YOU, MR. PRESIDENT. COLLEAGUES, I HAD THE OPPORTUNITY TO SEE FIRSHTHAND WHAT SENATOR MELLO IS TRYING TO DO IN THIS BILL AT THE NCSL CONFERENCE LAST SUMMER, AT A SPECIAL CONVENED MEETING TO LOOK AT CHILD WELFARE. AND I SAW STATES WHO HAD DONE THIS AND THEY PRIORITIZED WHERE THEY WANTED TO GO BASED ON WHAT THEY WERE LEARNING FROM THE PROGRAMS AND BEST PRACTICES. THIS IS A VERY EXCITING FUTURE FOR OUR APPROPRIATIONS PROCESS. AND I THANK SENATOR MELLO FOR BRINGING IT FORWARD. THANK YOU, MR. PRESIDENT. [LB1092]

SENATOR COASH: THANK YOU, SENATOR CAMPBELL. SENATOR McCOLLISTER, YOU'RE RECOGNIZED. [LB1092]

SENATOR McCOLLISTER: THANK YOU, MR. PRESIDENT. GOOD AFTERNOON, COLLEAGUES. I'D LIKE TO ALSO JOIN THE CHORUS CONGRATULATING SENATOR MELLO AND THE APPROPRIATIONS COMMITTEE FOR THIS BILL. WHEN WE WERE AT NCSL, WE LEARNED ABOUT THE ADVANTAGES OF THIS PROGRAM AND WHAT

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IT COULD DO FOR THE STATE OF NEBRASKA. IT COULD VERY WELL RESULT IN LOWER COSTS AND BETTER SERVICE TO OUR CONSTITUENTS. SO WITH THAT, I WOULD COMMEND YOUR GREEN VOTE FOR LB1092. THANK YOU, MR. PRESIDENT. [LB1092]

SENATOR COASH: THANK YOU, SENATOR McCOLLISTER. SEEING NO OTHER MEMBERS WISHING TO SPEAK, SENATOR MELLO, YOU'RE RECOGNIZED TO CLOSE. HE WAIVES CLOSING. THE QUESTION FOR THE BODY IS, SHALL LB1092 ADVANCE? ALL THOSE IN FAVOR VOTE AYE; OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB1092]

CLERK: 26 AYES, 0 NAYS, MR. PRESIDENT, ON THE MOTION TO ADVANCE LB1092. [LB1092]

SENATOR COASH: LB1092 DOES ADVANCE. NEXT ITEM, MR. CLERK. [LB1092]

CLERK: MR. PRESIDENT, LB467 IS A BILL BY SENATOR KOLTERMAN. (READ TITLE.) INTRODUCED IN JANUARY OF LAST YEAR, AT THAT TIME REFERRED TO THE RETIREMENT SYSTEM COMMITTEE. THE BILL WAS ADVANCED TO GENERAL FILE. THERE ARE COMMITTEE AMENDMENTS, MR. PRESIDENT. (AM2351, LEGISLATIVE JOURNAL PAGE 797.) [LB467]

SENATOR COASH: THANK YOU, MR. CLERK. SENATOR KOLTERMAN, YOU'RE RECOGNIZED TO OPEN ON LB467. [LB467]

SENATOR KOLTERMAN: THANK YOU VERY MUCH, SENATOR COASH. LAST YEAR, SENATOR NORDQUIST INTRODUCED THE BILL AND LB467 WAS INTRODUCED TO CREATE A SECOND TIER OF REDUCED BENEFITS FOR OFFICERS OF THE STATE PATROL WHO BECAME MEMBERS ON OR AFTER JULY 1 OF 2015. THE SECOND TIER OF REDUCED BENEFITS FOR NEW OFFICERS IS SIMILAR TO THE SECOND TIER OF REDUCED BENEFITS THAT WAS CREATED IN 2013 FOR SCHOOL EMPLOYEES, AND ENACTED LAST YEAR FOR THE JUDGES. YOU HAVE A HANDOUT THAT I'D LIKE TO REFER YOU TO THAT COMPARES TIER TWO BENEFITS FOR PATROL AND SCHOOL AND JUDGES. AS INTRODUCED LAST YEAR IN LB467, THE PROPOSED SECOND TIER OF BENEFITS INCLUDED CONTRIBUTION RATES FOR NEW OFFICERS IN THE STATE WOULD BE 18 PERCENT, THE MAXIMUM COST OF LIVING WOULD BE 1 PERCENT UNLESS THE PLAN IS 100 PERCENT FUNDED. IF THE PLAN IS 100 PERCENT FUNDED THEN THE PUBLIC EMPLOYEES RETIREMENT BOARD MAY GRANT A COST OF LIVING PAYMENT UP TO AN ADDITIONAL 1.5 PERCENT. THE

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RETIREE'S FINAL COMPENSATION WOULD BE AVERAGED OVER FIVE YEARS OF THE HIGHEST SALARY. AND THE OFFICERS WHO ENTERED THE DEFERRED RETIREMENT OPTION PROGRAM, KNOWN AS DROP, ON OR AFTER JULY 1 OF 2020, WOULD BE REQUIRED TO CONTINUE TO MAKE THEIR CONTRIBUTIONS WHILE THEY'RE ENROLLED IN DROP. THE STATE PATROL PLAN IS THE ONLY PLAN THAT INCLUDES THE DROP BENEFIT. DURING THE INTERIM, SEVERAL ADDITIONAL ISSUES WERE IDENTIFIED AND WERE INCORPORATED INTO AM1865, WHICH WAS FILED IN JANUARY OF THIS YEAR. BECAUSE THE AMENDMENT ADDED SEVERAL NEW SUBSTANTIVE CHANGES TO THE BILL, THE RETIREMENT COMMITTEE HELD A HEARING ON AM1865 ON FEBRUARY 4. THE COMMITTEE AMENDMENT, AM2351, BECOMES THE BILL. IT INCORPORATES MUCH OF AM1865. I HAVE PASSED AROUND A SHEET THAT COMPARES THE PROPOSED SECOND TIER OF REDUCED BENEFITS TO THE BENEFITS FOR CURRENT MEMBERS. THE SECOND TIER OF REDUCED BENEFITS FOR OFFICERS WHO BECAME MEMBERS ON OR AFTER JULY 1, 2016, ARE AS FOLLOWS: THE CONTRIBUTION RATES FOR NEW OFFICERS AND THEIR EMPLOYER WILL BE 17 PERCENT OF COMPENSATION. CURRENT MEMBERS WILL CONTINUE TO CONTRIBUTE 16 PERCENT, WITH A STATE MATCH OF 16 PERCENT. THE MAXIMUM COST OF LIVING ADJUSTMENT WILL BE 1 PERCENT. IN ANY YEAR THAT THE PLAN IS 100 PERCENT FUNDED, THEN A ONE-TIME SUPPLEMENTAL COST OF LIVING PAYMENT UP TO A MAXIMUM OF 1.5 PERCENT MAY BE GRANTED AT THE DISCRETION OF THE PUBLIC EMPLOYEES RETIREMENT BOARD. THE MAXIMUM COST OF LIVING FOR CURRENT MEMBERS REMAINS 2.5 PERCENT. THE DROP PLAN IS ELIMINATED. CURRENT PATROL MEMBERS REMAIN ELIGIBLE TO ENTER THE DROP PLAN; BUT FOR NEW MEMBERS, IT WILL BE ELIMINATED. REMEMBER, THE STATE PATROL PLAN IS THE ONLY PLAN THAT INCLUDES THE DROP BENEFIT. NEITHER OF THE OTHER DEFINED BENEFIT PLANS OFFER THIS BENEFIT. NOR ARE (INAUDIBLE) OFFICER'S FINAL COMPENSATION WILL BE AVERAGED OVER FIVE YEARS OF THE HIGHEST SALARY. THE FINAL COMPENSATION FOR CURRENT MEMBERS WILL CONTINUE TO BE AVERAGED OVER THREE YEARS OF THE HIGHEST SALARY. A CAPPING PROVISION IS ADDED FOR THE NEW PATROL OFFICERS WHICH LIMITS THE INCREASE IN COMPENSATION TO 8 PERCENT PER YEAR, IN EACH OF THE FIVE YEARS PRECEDING RETIREMENT FOR PURPOSES OF DETERMINING SALARY AMOUNT THAT WILL BE USED WHEN CALCULATING THE RETIREMENT BENEFITS. THIS CAPPING PROVISION IS THE SAME AS THE CAPPING PROVISION CURRENTLY IN THE SCHOOL EMPLOYEE RETIREMENT PLAN. FOR EXAMPLE, IF A MEMBER EARNS \$100,000 IN THE FIFTH YEAR BEFORE RETIREMENT, AND EARNS \$120,000 IN THE FOURTH YEAR BEFORE RETIREMENT, ONLY \$108,000 AND \$120,000 SALARY WILL BE USED IN THE CALCULATION OF THE FINAL BENEFIT. NUMBER 6--THE DEFINITION OF COMPENSATION IS CHANGED FOR PURPOSES OF BENEFIT

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CALCULATIONS IN ORDER TO ELIMINATE THE PRACTICE OF CONVERTING UNUSED LEAVE IN COMPENSATORY TIME TO CASH IN THE YEAR PRECEDING RETIREMENT IN ORDER TO SPIKE THE SALARY AMOUNT. FOR NEW MEMBERS, COMPENSATION WILL NOT INCLUDE UNUSED SICK AND VACATION LEAVE, UNUSED HOLIDAY, COMPENSATORY TIME, UNUSED COMPENSATORY TIME OR ANY OTHER TYPE OF UNUSED LEAVE, COMPENSATORY TIME, OR SIMILAR BENEFITS CONVERTED TO CASH PAYMENTS. CURRENT MEMBERS WILL CONTINUE TO INCLUDE UNUSED HOLIDAY AND OTHER COMPENSATORY TIME CONVERTED TO CASH. DURING THE INTERIM, NPERS REACHED A FINAL AVERAGE SALARY HISTORY OF ALL 198 STATE PATROL MEMBERS WHO RETIRED SINCE 2004. THE STUDY COMPARED THE FINAL THREE YEARS OF SALARIES USED TO CALCULATE THE RETIREMENT BENEFIT OF THE RETIREES. I'VE ALSO DISTRIBUTED A ONE-PAGE SHEET ENTITLED "LB467--STATE PATROL FINAL AVERAGE SALARY STUDY DATA." THE DATA REVEALS THERE WERE HIGHER THAN NORMAL SALARY INCREASES IN THE RETIREES' FINAL YEAR OF WORK. IT ALSO REVEALS THE MAJORITY OF RETIREES HAD AN INCREASE IN THEIR FINAL AVERAGE SALARY DUE TO THE INCLUSION OF PAYOUTS FOR BANK LEAVE TIME IN THEIR FINAL COMPENSATION. OVERALL, 68 PERCENT OF THE RETIREES HAD AN INCREASE OF GREATER THAN 8 PERCENT IN THEIR FINAL AVERAGE SALARY. SO AS A LITTLE BACKGROUND, IN 1982, THE NEBRASKA SUPREME COURT RULED IN HALPIN THAT PATROL MEMBERS HIRED PRIOR TO JANUARY 4, 1979, WERE ALLOWED TO INCLUDE PAYOUTS FOR UNUSED SICK AND VACATION LEAVE IN THEIR FINAL COMPENSATION. THE LAST OF THE PATROL OFFICERS COVERED BY THE HALPIN RULE RETIRED IN 2011. THE NPERS DATA REVEALS THAT THERE HAS BEEN A BEHAVIOR CHANGE IN MEMBERS HIRED AFTER JANUARY 4, 1979, WHO ARE NO LONGER ALLOWED TO INCLUDE PAYOUTS FOR SICK AND VACATION LEAVE IN THEIR FINAL COMPENSATION. INSTEAD, THERE'S BEEN A SIGNIFICANT INCREASE BY MEMBERS IN THEIR BANKING OF OVERTIME, HOLIDAY, AND COMP TIME, AND PAYOUT FOR EACH TIME IN THE RETIREES' YEAR OF RETIREMENTS, ALSO KNOWN AS SPIKING. AS A RESULT, THESE PAYOUTS HAVE INCREASED RETIREES' FINAL COMPENSATION IN THE RETIREMENT BENEFIT BASED ON INCREASED COMPENSATION. THE HIGHEST COMP TIME PAYOUT FOR HALPIN RULE-COVERED RETIREES WAS \$3,716. THE HIGHEST COMP TIME PAYOUT FOR EMPLOYEES NOT COVERED BY THE HALPIN RULE WAS \$8,030. THE HIGHEST HOLIDAY COMP TIME PAYOUT FOR A HALPIN RULE-COVERED RETIREE WAS \$7,069. AND THE HIGHEST HOLIDAY COMP TIME PAYOUT FOR RETIREES NOT COVERED BY THE HALPIN RULE WAS \$12,712. THE PATTERN THAT BEHAVIOR CHANGE IS CLEARLY SEEN IN THE CHART ON THE BOTTOM OF YOUR HANDOUT. IT SHOWS THAT IN 2004, ONLY 25 PERCENT OF ELIGIBLE RETIREES RECEIVED PAYOUT FOR HOLIDAY COMP TIME. IN 2009, 55 PERCENT OF ELIGIBLE RETIREES

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RECEIVED HOLIDAY COMP TIME PAYOUT, OVER TWICE AS MANY AS IN 2004. AND IN 2015, 100 PERCENT OF THE ELIGIBLE RETIREES RECEIVED PAYOUT FOR HOLIDAY COMP TIME. OUR PENSION PLANS ARE STRUCTURED AS PAY-AS-YOU-GO PLANS. EACH YEAR THE ACTUARY CONDUCTS AN ACTUARIAL VALUATION OF EACH PLAN AND DETERMINES WHETHER ADDITIONAL CONTRIBUTIONS ARE NEEDED IN ORDER TO PAY FUTURE BENEFITS. THE STATE OF NEBRASKA HAS CONSISTENTLY PAID THESE ADDITIONAL CONTRIBUTIONS WHEN THEY ARE NECESSARY. THESE PAYMENTS ARE REFERRED TO AS ARCS, ACTUARIALLY REQUIRED CONTRIBUTIONS. WHEN FINAL YEARS' SALARIES ARE SPIKED BY RETIREES, THE PLAN MEMBERS, EMPLOYERS, AND THE TAXPAYERS END UP SUBSIDIZING THE RETIREE'S BENEFIT. THIS BILL WILL ELIMINATE THE NEW PATROL MEMBERS' ELIGIBILITY TO SPIKE THEIR FINAL SALARIES IN ORDER TO INCREASE THEIR BENEFITS. IN CONCLUSION, IT IS THE COMMITTEE'S GOAL TO CONTINUE TO MAKE EACH OF THE RETIREMENT PLANS SUSTAINABLE BY ADDRESSING LONG-TERM FUNDING NEEDS AND BENEFIT COSTS. AM2351 REDUCES FUTURE PLAN COSTS AND ELIMINATES SPIKING. BY REDUCING BENEFITS FOR NEW OFFICERS, THE COST OF THE BENEFITS WILL DECREASE, WHICH WILL REDUCE THE POTENTIAL COST TO THE STATE AND THE TAXPAYERS FOR ANY UNFUNDED LIABILITIES. AN ACTUARIAL STUDY IS BEING CONDUCTED WHICH WILL PROJECT THE COST SAVINGS TO THE PLAN. WITH THAT, I WOULD JUST SAY THAT THE COMMITTEE BROUGHT THIS OUT, 6-0, NO ABSTAINING. WE'VE HAD SIGNIFICANT DIALOGUE ON THIS BILL WITH BOTH THE STATE PATROL UNION,... [LB467]

SENATOR COASH: ONE MINUTE. [LB467]

SENATOR KOLTERMAN: ...THE STATE PATROL ADMINISTRATION, THE PERB, THE INVESTMENT COUNCIL, AND EVEN THE STATE PATROL'S LEGAL COUNSEL. SO WE'VE DONE A LOT OF BACK-AND-FORTH ON THIS BILL. WE KNOW THAT IT'S NOT EXACTLY WHAT THE PATROL WANTS. THEY'D ALWAYS LIKE TO HAVE MORE. BUT THIS BRINGS THE STATE PATROL PLAN INTO THE SAME POSITION THAT WE HAVE...THAT WE PASSED IN 2013 FOR THE TEACHERS, AND LAST YEAR FOR THE JUDGES. SO WITH THAT, I WOULD ANSWER ANY QUESTIONS AND WOULD HOPE THAT YOU'D GIVE US A GREEN LIGHT ON LB467. THANK YOU. [LB467]

SENATOR COASH: THANK YOU, SENATOR KOLTERMAN. YOU'RE RECOGNIZED TO OPEN ON THE COMMITTEE AMENDMENT. [LB467]

SENATOR KOLTERMAN: ARE WE TALKING ABOUT AM2351? [LB467]



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SENATOR COASH: AM2351. [LB467]

SENATOR KOLTERMAN: AM2351 BECOMES THE BILL, WHAT I JUST TALKED ABOUT. THANK YOU. [LB467]

SENATOR COASH: THANK YOU, SENATOR KOLTERMAN. MEMBERS, YOU'VE HEARD THE OPENING TO LB467 AND THE COMMITTEE AMENDMENT. THE FLOOR IS NOW OPEN FOR DISCUSSION. SENATOR MELLO, YOU'RE RECOGNIZED. [LB467]

SENATOR MELLO: THANK YOU, MR. PRESIDENT, MEMBERS OF THE LEGISLATURE. I RISE IN SUPPORT OF AM2351, WHICH BECOMES THE UNDERLYING BILL. AND I WOULD LIKE TO START OFF FIRST THANKING SENATOR KOLTERMAN AS THE NEW CHAIR OF THE RETIREMENT COMMITTEE FOR TAKING ON THIS VERY DIFFICULT ISSUE, AS WELL AS VICE CHAIRMAN DAVIS, WHO WORKED ON THE ISSUE, AS WELL, OVER THE INTERIM, AND THE LEGAL COUNSEL, KATE ALLEN. THIS HAS BEEN AN ONGOING CHALLENGE FACING THIS COMMITTEE, PRIMARILY, THE LAST FOUR YEARS OF THE COMMITTEE'S WORK OF TRYING TO GET A HANDLE ON THE FUTURE LONG-TERM SOLVENCY AND SUSTAINABILITY OF THE STATE TROOPERS DEFINED BENEFIT PLAN. THERE HAVE BEEN A NUMBER OF PROPOSALS THAT HAVE BEEN FLOATED IN THE PREVIOUS YEARS AND FINALLY I THINK WITH WHAT SENATOR KOLTERMAN JUST WALKED THROUGH WITH AM2351, WE HAVE, I THINK, A GOOD, VERY GOOD STARTING POINT TO BEGIN TO CREATE MORE SOLVENCY IN THIS DEFINED BENEFIT PLAN, SIMILAR TO WHAT WE'VE DONE WITH REFORMING THE LONG-TERM PLANS FOR BOTH THE SCHOOL EMPLOYEES AND THE JUDGES RETIREMENT PLANS, BOTH IN 2013 AND IN 2015. I WOULD SAY, TO SOME EXTENT, THE ONE COMPONENT REALLY HAS DRAWN SOME ATTENTION, IN MY VIEW, IN LOOKING AT THIS ISSUE OVER THE INTERIM, WAS WHAT SENATOR KOLTERMAN TALKED A LITTLE BIT IN REGARDS TO THE CAPPING LANGUAGE AS IT WAS...IT WAS DISCUSSED AT THE BEGINNING OF THE LEGISLATIVE SESSION, AS WE REQUESTED SOME INFORMATION IN REGARDS TO WHAT IS BETTER KNOWN AS SPIKING IN THE STATE TROOPERS PLAN. THE CONCERN WAS RAISED IN LIGHT OF THE ABILITY FOR TROOPERS AT THE END OF THEIR TENURE IN THE PLAN TO BE ABLE TO BANK HIGHER THAN ALLOWED AMOUNTS OF COMPENSATION TIME AND HOLIDAY TIME IN THE SENSE THAT IT'S NOT THAT THEY DON'T GET TO UTILIZE OR CASH OUT THAT TIME, BECAUSE THAT'S NEVER BEEN A CONCERN, OBVIOUSLY TIME EARNED, THEY WILL BE COMPENSATED FOR THAT. THE CONCERN HAS BEEN THE ABILITY FOR A TROOPER TO BE ABLE TO BANK THAT TIME AND TRANSITION THAT COMP TIME INTO A HIGHER END-OF-TERM SALARY WHICH THEN IS CALCULATED FOR THE PURPOSES OF THEIR ONGOING BENEFITS TO THEIR DB PLAN. COLLEAGUES, I

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THINK TO SOME EXTENT THERE CAN BE AN HONEST DISAGREEMENT AMONGST A NUMBER OF PEOPLE IN REGARDS TO WHETHER OR NOT THAT IS A PROBLEM THAT HAS BEEN, SO TO SPEAK, AN ISSUE IN REGARDS TO THE ADMINISTRATION AND THE MANAGEMENT OF THE STATE PATROL IN REGARDS TO ALLOWING TROOPERS TO CARRY OVER THAT TIME, IN REGARDS TO REQUIRING THEM TO CASH OUT THAT TIME IN AN APPROPRIATE MANNER, OR IT'S SIMPLY A FACT OF THE MATTER IS, AS WE WOULD REFER TO IT THROUGH OTHER PENSION REFORMS WE'VE DONE, THAT'S SIMPLY A SPIKING OF THE PENSION AT THE END OF THEIR...AT THE END OF THEIR SERVICE, SO THAT THEY CAN GENERATE A HIGHER SALARY THAT THEN IS CALCULATED AS PART OF THEIR PENSION BENEFIT. THE REALITY IS, IT'S EXISTING LAW. AND SO FROM WHAT WE'VE BEEN ABLE TO IDENTIFY, AT LEAST FROM THE DATA THAT WE'VE COLLECTED, IS THAT WE WANT TO CHANGE THAT MOVING FORWARD. WE WANT TO CAP THE END OF THEIR SALARY GROWTH TO ESSENTIALLY AN 8 PERCENT CAP THAT DOES TAKE INTO CONSIDERATION, OBVIOUSLY, THEIR COMP TIME, THEIR HOLIDAY TIME. IF THEY DO HAVE ANY PROMOTIONS AT THE END OF THEIR TENURE, IT CAPS THE AMOUNT OF INCREASE THEY CAN GET WITH THEIR SALARY THAT WILL BE BASED AND UTILIZED FOR THEIR DEFINED BENEFIT PLANS AFTER THEY RETIRE. I DON'T THINK THE LANGUAGE, AS WE HAVE IT IN AM2351, IS DRACONIAN. I THINK IT'S BEST PRACTICE IN REGARDS TO WHAT WE'VE DONE WITH THE SCHOOL EMPLOYEES' PLAN, WHAT WE'VE DONE WITH THE JUDGES' PLAN, MORE IN LINE WITH THE SCHOOL EMPLOYEES' PLAN BECAUSE JUDGES DON'T HAVE PROBABLY THE SAME KIND OF SALARY INCREASES AT THE END OF THEIR TENURE. AND THE BIGGER POINT, THOUGH, I WOULD MAKE WITH WHAT WE HAVE IN FRONT OF AM2351 IS THIS DOESN'T IMPACT EXISTING TROOPERS. SO EXISTING STATE TROOPERS, THE GREAT TROOPERS THAT HELP US IN REGARDS TO PROVIDING SECURITY FOR THE CAPITOL, SECURITY FOR THE LEGISLATURE, THIS DOESN'T IMPACT THEM OR IMPACT THEIR SPECIFIC RETIREMENT AS THEY COME NEAR ENDING THEIR SERVICE FOR THE STATE. THIS IS FOR THE NEW TIER OF STATE TROOPERS THAT WOULD BE CREATED GOING FORWARD. SO NEW TROOPERS THAT WOULD BE HIRED BY THE STATE AFTER WE ADOPT AND PASS LB467... [LB467]

SENATOR COASH: ONE MINUTE. [LB467]

SENATOR MELLO: ...WOULD BE SUBJECT TO THE NEW FRAMEWORK SENATOR KOLTERMAN JUST WALKED US THROUGH. AND, YES, WE ARE REDUCING BENEFITS FOR THIS NEW CLASS OF TROOPERS, BUT WE'RE ALSO PUTTING MORE MONEY INTO THEIR PLAN FROM THE STATE, SIMILAR TO WHAT WE'VE DONE WITH THE SCHOOL EMPLOYEES' PLAN, AND SIMILAR TO WHAT WE'VE DONE

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WITH THE JUDGES' PLAN, BECAUSE IF WE'RE GOING TO REDUCE PENSION BENEFITS FOR STATE TROOPERS, WE'VE GOT TO MAKE UP ON THE OTHER END BY INCREASING WHAT WE PUT INTO THEIR PLAN TO ENSURE WE'RE CREATING SOLVENCY BOTH ON THE PENSION BENEFIT REDUCTION AND AN INCREASE IN THE CONTRIBUTIONS WHICH SENATOR KOLTERMAN ALREADY WALKED US THROUGH. COLLEAGUES, THIS IS A LONG TIME COMING AND AN AWFUL LOT OF WORK DONE AND PUT IN THIS BILL; AND I THINK IT'S A GREAT STARTING POINT FOR US AS WE MOVE FORWARD FOR THE REST OF THE SESSION DISCUSSING THE CONCEPTS IN AM2351 AND ADVANCING LB467 TO SELECT FILE. [LB467]

SENATOR COASH: TIME, SENATOR. [LB467]

SENATOR MELLO: I WANT TO THANK THE MEMBERS, AGAIN, OF THE COMMITTEE FOR THEIR HARD WORK. THANK YOU, MR. PRESIDENT. [LB467]

SENATOR COASH: THANK YOU, SENATOR MELLO. SENATOR BOLZ, YOU'RE RECOGNIZED. [LB467]

SENATOR BOLZ: THANK YOU, MR. PRESIDENT. I DO APPRECIATE THE COMMITTEE'S HARD WORK AND IT'S REALLY A SKILL SET TO UNDERSTAND HOW THESE PLANS WORK AND MANAGE THEM FOR EVERYONE'S BEST INTEREST. I DO HAVE SOME QUESTIONS THAT HAVE COME TO ME FROM SOME OF THE TROOPERS WHO ARE IN MY LEGISLATIVE DISTRICT, AND I WONDER IF SENATOR KOLTERMAN WILL YIELD TO A FEW QUESTIONS. [LB467]

SENATOR KOLTERMAN: YES, I WOULD. [LB467]

SENATOR BOLZ: THANK YOU, SENATOR KOLTERMAN. [LB467]

SENATOR COASH: THANK YOU, SENATOR KOLTERMAN. [LB467]

SENATOR BOLZ: I GOT TO KNOW SOME OF MY STATE TROOPERS AFTER THE SHAKE-UP WITH THE REENTRY FURLOUGH PROGRAM. AND I RESPECT THEIR HARD WORK AND THE RISK THAT THEY TAKE IN THEIR FIELD. I DO THINK THAT BEING A STATE TROOPER HAS A RISK OF PHYSICAL HARM THAT IS DIFFERENT FROM SOME OF THE OTHER FOLKS THAT WE ARE SERVING IN THE RETIREMENT PLANS. SO I UNDERSTAND YOUR VISION AND THE HARD WORK THAT HAS BEEN DONE TO TRY TO ALIGN THESE THREE DIFFERENT PLANS. BUT I GUESS...JUST

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FOR SOME DIALOGUE AND FOR MY INFORMATION, CAN YOU HELP ME UNDERSTAND WHY YOU THINK THAT IT IS APPROPRIATE TO MAKE ALL THESE PLANS ALIGN RATHER THAN RECOGNIZING THAT STATE TROOPERS HAVE A SPECIAL ROLE? [LB467]

SENATOR KOLTERMAN: I'LL TAKE A STAB AT THAT. [LB467]

SENATOR BOLZ: VERY GOOD. THANK YOU. [LB467]

SENATOR KOLTERMAN: THANK YOU FOR ASKING THAT QUESTION. WELL, I UNDERSTAND, IN OUR CONVERSATION WITH THE STATE PATROL, BOTH FROM A MANAGEMENT PERSPECTIVE, AS WELL AS THE RANK AND FILE, WE HAD THOSE TYPES OF CONVERSATIONS. WE UNDERSTAND THAT WE PUT THEM IN HARM'S WAY EVERY DAY. BUT AT THE SAME TIME WE HAVE A VERY GOOD PLAN HERE. EVEN BY MAKING THESE CHANGES...AND BY THE WAY, WE'RE NOT CHANGING ANYTHING FOR THOSE THAT ARE EXISTING. WE HAVE A VERY GOOD PLAN HERE. AND ONE OF THE REASONS WE'RE TRYING TO BRING THEM ALL INTO COMPLIANCE OR MAKE THEM LOOK SIMILAR, WE'RE NEVER GOING TO ACCOMPLISH THAT 100 PERCENT, BUT IT'S ALL ABOUT STABILITY IN THE PLAN. AND SO IF WE DON'T GET SOME OF THESE COSTS UNDER CONTROL AND STOP SOME OF THE THINGS THAT HAVE BEEN HAPPENING, WE'RE GOING TO RUN THE RISK OF GOING TO SOMETHING THAT THEY AREN'T GOING TO WANT TO LIKE AT ALL, WHICH IS CALLED A CASH BALANCE PLAN OR A DEFINED CONTRIBUTION PLAN, BECAUSE THERE'S ONLY SO MANY DOLLARS THAT WE CAN BUDGET. AND WE'VE MADE COMPARISONS TO OTHER STATES, AND I WOULD TELL YOU THAT WE RANK VERY FAVORABLY WITH OTHER STATES WHEN IT COMES TO MATCHING THE BENEFITS AND WHAT WE'RE PUTTING INTO THIS PLAN VERSUS WHAT THEY'RE TELLING YOU. [LB467]

SENATOR BOLZ: I CAN APPRECIATE THAT. I DO REMAIN SOMEWHAT CONCERNED BECAUSE EVEN THOUGH IT DOESN'T AFFECT CURRENT OFFICERS, I HAVE HEARD FROM MY TROOPERS THAT THERE ARE SOME SEVERE CHALLENGES IN TERMS OF RECRUITMENT AND RETENTION. AND THOSE ARE SIMILAR ISSUES, MAYBE NOT EXACTLY THE SAME ISSUES, BUT I THINK IT IS IMPORTANT THAT WE REMAIN STRONG IN TERMS OF THE BENEFITS PACKAGE. JUST ONE OTHER QUESTION, SENATOR KOLTERMAN. I UNDERSTAND THE PURPOSE OF THE CAP AND I UNDERSTAND THAT YOUR GOAL AND THE COMMITTEE'S GOAL, AND I RESPECT IT, IS MAINTAINING STABILITY WITHIN THE PLAN. BUT I DO THINK THAT WHEN A STATE TROOPER GETS A PROMOTION, HE OR SHE MAY TAKE ON ADDITIONAL

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RISK AND RESPONSIBILITY, SO THE 8 PERCENT CAP, IN SPITE OF THE FACT THAT, YOU KNOW...EXCLUDING PROMOTIONS FOR STATE TROOPERS, DO YOU THINK THAT'S DIFFERENT THAN EXCLUDING PROMOTIONS FOR TEACHERS OR OTHER STATE EMPLOYEES? [LB467]

SENATOR KOLTERMAN: WELL, LET ME JUST ADDRESS THAT ISSUE AND THEN I WANT TO TALK ABOUT SOME OF THE OTHER QUESTIONS THAT YOU HAD...OR FINISH ADDRESSING THOSE. I BELIEVE THAT...WELL, WHEN WE'RE TALKING ABOUT RECRUITMENT AND RETENTION, THIS PLAN RECOGNIZES THE STRESS THAT YOU WERE TALKING ABOUT EARLIER. ONE THING IN THIS PLAN, THEY HAVE TO RETIRE AT AGE 60. THIS PLAN HAS A BETTER DEATH AND DISABILITY BENEFIT THAN THE SCHOOL AND JUDGES PLANS, COMBINED. THE OTHER THING IS, WHEN THEY RETIRE AT AGE 60, AND THEY'RE FORCED TO RETIRE AT AGE 60, THEY HAVE A HIGHER MULTIPLIER IN THE FORMULA SO THEY'RE ACTUALLY GETTING A BETTER BENEFIT. AS FAR AS THE RECRUITMENT OF NEW STATE PATROL OFFICERS, ONE OF THE THINGS THAT...AND WE TALKED ABOUT THAT AT SOME LENGTH, BUT THE BOTTOM LINE IS, THIS IS A RETIREMENT PLAN. SO WHEN YOU'RE RECRUITING YOUNG PEOPLE TO COME TO WORK AS A STATE PATROLMAN AND PUTTING THEM IN HARM'S WAY, WE UNDERSTAND THAT WE HAVE LIMITATIONS ON THE RETIREMENT PLAN. AND WE HAVE SUGGESTED THAT IF THEY THINK THEY NEED MORE SALARY TO ATTRACT THESE PEOPLE... [LB467]

SENATOR COASH: TIME, SENATOR. TIME. SENATOR DAVIS, YOU'RE RECOGNIZED. [LB467]

SENATOR DAVIS: THANK YOU, MR. PRESIDENT. I WANT TO THANK SENATOR KOLTERMAN FOR HIS LEADERSHIP ON THIS ISSUE, AND SENATOR MELLO. FOR THOSE OF US WHO ARE ON THE RETIREMENT COMMITTEE, THIS HAS BEEN A LONG TIME COMING AND A LONG-TERM DISCUSSION. AND KATE ALLEN HAS BEEN JUST ABSOLUTELY A WONDERFUL RESOURCE FOR US. SO I WANT TO KIND OF REVISIT A FEW THINGS AND TALK ABOUT THE PAST AND TRY TO ANSWER MAYBE A COUPLE OF SENATOR BOLZ'S QUESTIONS IN THE WAY THAT I CAN, AND THEN I'M GOING TO YIELD SOME OF THE REST OF MY TIME TO SENATOR MELLO. BUT I THINK SENATOR KOLTERMAN DID A VERY THOROUGH JOB OF EXPLAINING WHAT THE PROBLEMS HAVE BEEN WITH THE PLAN AND WHY WE NEED TO MAKE THIS CHANGE. AND WHEN YOU HAVE...A DEFINED BENEFIT PLAN IS NOT INTENDED TO BE A WINDFALL FOR ANYONE BECAUSE YOU'RE...THE FUNDING YOU PUT IN OVER THE COURSE OF TIME IS SUPPOSED TO PAY BACK...PAY YOU BACK AND GIVE YOU A PENSION IN YOUR RETIREMENT. AND THAT'S NOT THE WAY IT WORKS WHEN YOU, ESSENTIALLY, SPIKE THE LAST NUMBER OF YEARS

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OF YOUR CONTRACT. YOU END UP TAKING MORE OUT OF THE PLAN THAN YOU PUT INTO THE PLAN; SO OVER THE COURSE OF TIME, IT REQUIRES CONTRIBUTIONS BY THE STATE FOR CURRENT...IT WILL REQUIRE CURRENT CONTRIBUTIONS FROM THE STATE TO PAY FOR PAST MISTAKES THAT WERE MADE. WHEN I FIRST GOT ON THIS COMMITTEE, THIS WAS AN ISSUE THAT WE WERE TALKING ABOUT. AND IT HAS BEEN DEFERRED FOR A LONG TIME, AND NOW WE FINALLY HAVE DECIDED TO DEAL WITH IT AND ADDRESS IT. WE MET WITH THE STATE PATROL SEVERAL TIMES, TALKED TO THEM ABOUT THEIR ISSUES AND THEIR CONCERNS, AND FRANKLY, SENATOR BOLZ, WHAT I THINK MAKES MORE SENSE, IF WE'VE GOT RECRUITMENT/RETENTION PROBLEMS IS, MAYBE, WE NEED TO LOOK AT SOME KIND OF A HIGHER STARTING WAGE, WHICH I DON'T THINK ANYBODY WOULD BE OPPOSED TO, AND THOSE OF US ON THE COMMITTEE HAVE TOSSED THAT IDEA AROUND BECAUSE WE DON'T WANT TO JEOPARDIZE THE GREAT JOB THAT THOSE FOLKS DO. THERE ARE A COUPLE OF THINGS THAT I WANT TO TALK ABOUT SPECIFICALLY THAT WE ARE ELIMINATING. ONE IS THE DROP PROGRAM, WHICH IS A NICE TOOL FOR SOME, BUT YOUNGER STATE PATROLMEN, IN MY DISTRICT SPECIFICALLY, HAVE TOLD ME THEY REALLY DON'T LIKE THE DROP PROGRAM BECAUSE THEY WANT TO BE ABLE TO ADVANCE AND THEY'RE STUCK. SO WHAT HAPPENS WHEN YOU GET STUCK IN YOUR JOB AND YOU'RE NOT ADVANCING? A LOT OF TIMES YOU'LL LOOK FOR ANOTHER JOB SOMEWHERE ELSE. WE'VE GOT A LOT OF TIME AND TRAINING INTO THOSE FOLKS. SO I THINK WITH THAT, I THINK I'VE SAID EVERYTHING THAT I REALLY INTEND TO DO. I JUST WANT TO SAY AGAIN THAT THIS IS A GOOD BILL, THIS IS A GOOD STEP, AN IMPORTANT TOOL TO GET THE PLAN INTO THE SAME STATUS THAT THE EDUCATION PLAN IS IN. THOSE RULES WERE PUT IN PLACE, I THINK, IN 2013, MY FIRST SESSION HERE, THOSE CHANGES THAT WERE MADE TO THE EDUCATION PLAN, WHICH WAS A REDUCTION IN BENEFITS, BUT IT WAS NECESSARY. THIS IS NECESSARY, ALSO. AND WITH THAT, I'LL YIELD THE REST OF MY TIME TO SENATOR MELLO. [LB467]

SENATOR COASH: SENATOR MELLO, YOU'VE BEEN YIELDED 2:00. [LB467]

SENATOR MELLO: THANK YOU, MR. PRESIDENT, MEMBERS OF THE LEGISLATURE; AND THANK YOU, SENATOR DAVIS, FOR THE TIME; AND THANK YOU FOR YOUR LEADERSHIP ON THIS ISSUE. I SIMPLY WANT TO DRAW THE ATTENTION, AND IF THE MEMBERS WOULD LIKE TO SEE A COPY OF THE TESTIMONY FROM ORRON HILL, THE LEGAL COUNSEL FROM THE PUBLIC EMPLOYEES RETIREMENT BOARD TO THE RETIREMENT COMMITTEE. I'M GOING TO READ YOU A SECTION OF HIS TESTIMONY THAT SPEAKS TO THE ISSUE THAT REALLY HAS BEEN A POINT OF CONTENTION, I THINK, BETWEEN THE TROOPERS ASSOCIATION AND WHAT THE

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COMMITTEE HAS DONE, SO TO SPEAK, IN TRYING TO ADDRESS THE SPIKING ISSUE. AS IT'S LAID OUT IN THE TESTIMONY FROM ORRON HILL, QUOTE, IT SAYS: A REVIEW OF THE 198 PATROL PLAN RETIREMENT BENEFITS WHICH BEGIN PAYOUT SINCE JANUARY 1, 2004, THROUGH OCTOBER 2015, SHOWED 173 RETIREES SOLD THEIR LEAVE AND/OR COMP TIME IN THEIR FINAL YEAR OF SERVICE. FIFTEEN OF THE 198 RETIREES WERE RULES COVERED, MEANING IT NOT COVERED BY THE SLEBC LABOR CONTRACT, AND DID NOT SELL ANY LEAVE OR COMP TIME. THE AVERAGE SALARY INCREASE IN THE YEAR OF THE RETIREMENT WAS 16.76 PERCENT. [LB467]

SENATOR COASH: ONE MINUTE. [LB467]

SENATOR MELLO: THE HIGHEST SALARY INCREASE IN THE YEAR OF RETIREMENT WAS 49.51 PERCENT. THE AVERAGE BENEFIT INCREASE WAS \$178 PER MONTH, OR \$2,136 PER YEAR PER MEMBER. IF WE ASSUME THAT 198 MEMBERS RETIRED IN THE LAST 10 YEARS, A REPRESENTATIVE OF FUTURE RETIREE POOLS, THE ESTIMATED IMPACT ON FUTURE BENEFIT PAYMENT COULD BE, GIVE OR TAKE, I'LL READ YOU THE NUMBERS, IT'S \$12 MILLION, THAT WE KNOW OF RIGHT NOW, THAT WE HAVE NOW AN UNFUNDED LIABILITY TO THE PLAN BASED ON THE SPIKING OF THEIR PENSION IN THEIR FINAL YEAR OF SERVICE DUE TO THE COMP AND HOLIDAY TIME. COLLEAGUES, THIS IS A VERY SERIOUS ISSUE. OBVIOUSLY, IT REQUIRES SERIOUS LEADERSHIP. AND I THINK SENATOR KOLTERMAN'S AMENDMENT, AM2351, ADDRESSES THAT FOR FUTURE HIRES INTO THE DEPARTMENT. ONCE AGAIN, IT DOES NOT IMPACT EXISTING TROOPERS, BUT IT SETS A NEW STANDARD TO STOP ANY PENSION SPIKING MOVING FORWARD, WITH ANY NEW HIRES IN THE STATE PATROL, IF WE ADOPT LB467. THANK YOU, MR. PRESIDENT. [LB467]

SENATOR COASH: THANK YOU, SENATOR MELLO. MR. CLERK. [LB467]

ASSISTANT CLERK: MR. PRESIDENT, YOUR COMMITTEE ON NATURAL RESOURCES REPORTS LB1038 TO GENERAL FILE WITH AMENDMENTS; LB961 IS INDEFINITELY POSTPONED. AMENDMENTS TO BE PRINTED: SENATOR KRIST TO LB1098; AND SENATOR SMITH TO LB977. (LEGISLATIVE JOURNAL PAGES 907-909.) [LB1038 LB961 LB1098 LB977]

FINALLY, A PRIORITY MOTION, SENATOR BAKER WOULD MOVE TO ADJOURN UNTIL WEDNESDAY, MARCH 9, 2016, 9:00 A.M.

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
March 08, 2016

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SENATOR COASH: MEMBERS, YOU'VE HEARD THE MOTION. ALL THOSE IN FAVOR SAY AYE. OPPOSED, NAY. WE ARE ADJOURNED.