

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

Government, Military and Veterans Affairs Committee  
April 08, 2010

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[LR538 LR539]

The Committee on Government, Military and Veterans Affairs met at 12:00 p.m. on Thursday, April 8, 2010, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LR538 and LR539. Senators present: Bill Avery, Chairperson; Scott Price, Vice Chairperson; Robert Giese; Charlie Janssen; and Kate Sullivan. Senators absent: Russ Karpisek; Bob Krist; and Rich Pahls. []

SENATOR AVERY: (Recorder malfunction)...hearing, despite the fact that we lack a quorum. But I know that we have three members who have conflicts. This is an unusual arrangement to have a hearing at this time of the session, but we have two resolutions that we need to deal with today. And I'm going to go ahead without a quorum if that's okay with the committee. We do have, I think, Senator Giese coming later, Senator Price also. And when they arrive, we will have a quorum. Senator Krist cannot be here--Senator Karpisek and Senator Pahls. Let me explain why we're doing this. We're having a hearing on LR538, I think, Senator Pirsch, because you introduced this late; is that correct? []

SENATOR PIRSCH: That's correct. []

SENATOR AVERY: And we're having a hearing on--a rehearing, actually--on LR292 that is now renumbered LR539. And the reason for that is that the way the wording was in the original resolution, it would have required three rounds of debate. And since it did not have a priority designation, we would not have been able to get through three rounds of debate on that, so we're rehearing that one today as well. Before we start, a few procedural matters. Let me introduce first the members of the committee who are here: Senator Janssen from Fremont; Senator Giese just arriving, from South Sioux City; to my immediate right is Christy Abraham, who is the legal counsel for the committee; I am Bill Avery from District 28 here in Lincoln and Chair of the committee; Senator Kate Sullivan from Cedar Rapids is the only person who will be sitting to my left today, because the others are otherwise committed to other things; the committee clerk is Sherry Shaffer. If you plan to testify on behalf of or opposed to either of these two resolutions, I'm going to ask that you sign in with this form right here; they're available at the door. Please provide all information, clearly printed. If you wish to be recorded for or against either of these two but do not wish to testify, fill out this form. And when you do get to the table to testify, this form needs to be given to Sherry. Our intern today is a new intern, Matt Hilgenkamp from--is it Colon...? []

MATT HILGENKAMP: Colon. []

SENATOR AVERY: ...or Coh-LONE (phonetic)? []

MATT HILGENKAMP: Colon, unfortunately. []

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SENATOR AVERY: Colon, Nebraska. (Laughter) Okay. We're going to start with the agenda as posted outside the room, with LR538. Senator Pete Pirsch from Omaha. Welcome, Senator. [LR538]

SENATOR PIRSCH: Thank you, Chairman Avery, members of the Government Committee. I am state Senator Pete Pirsch--for the record P-i-r-s-c-h. I represent the 4th Legislative District. I am the sponsor of LR538. Over the past five years, the federal government increased spending by 42 percent to the highest level of spending as a share of the economy since World War II. The federal government has borrowed tremendous amounts of money to finance the skyrocketing spending. As a result, the federal budget deficit has ballooned over the past five years from \$7.3 trillion to, I believe, over \$12 trillion, perhaps up to \$13 trillion, very near--a five-year increase equal to the nation's entire accumulation of debt from the presidencies of George Washington to Bill Clinton. Further, the federal budget deficit has been projected to jump to \$17.5 trillion by 2019. Practically every state has a balanced budget requirement--and Nebraska is no exception--which necessitates that annual appropriations be balanced with revenues. And I think that, in many instances, has been the salvation of the state financially. LR538 reaffirms the Legislature's commitment to LR106, a legislative resolution passed by the Unicameral in 1976. In part, LR106 requests Congress to institute procedures to add a new article to the U.S. Constitution requiring a balanced budget. Alternatively, LR106 requests Congress to call a constitutional convention for the purpose of proposing an amendment to the Constitution requiring a balanced budget. LR106 also proposes that the legislatures of each of the states apply to Congress requesting that Congress either add a new balanced budget article to the Constitution or require Congress to call a constitutional convention for the purpose of proposing a balanced budget amendment. I think that the implications of the public debt, the federal budget deficit right now are more than...you know, we're at the point that it's kind of a...we are essentially putting our children and our children's children in debt to such a degree and such a measure that who knows if they'll ever be able to pay it off. There are other dire implications that are involved with this layer of debt. We...right now the debt is owned--nearly \$1 trillion of that debt is owned by the People's Republic of China; Japan owns the better share of \$1 trillion; the oil-exporting countries over \$200 billion; and other countries--Brazil, Hong Kong, Russia, Caribbean banking centers--own very large shares of the debt. And so it has implications for both our national security and integrity as well as market stability. As foreign investors in U.S. dollars...assets of some big losses measured in dollars...either there could be a sudden rush for the exits, in terms of the markets, and that would have...if all that outside capital were to leave--I mean, they own the debt--we would be in even direr straits. So it is--it has severe implications, and so I appreciate your time and look forward to any questions you have. [LR538]

SENATOR AVERY: Thank you, Senator. You certainly have identified a problem that

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---

we all, I think, recognize. Are you confident that you've identified the right solution?  
[LR538]

SENATOR PIRSCH: Well, I think that this...look, I'm happy for, you know...I think that it...action...first and foremost, we can talk and talk about the different types of solutions, but this one was identified by the founders of our country, our forefathers, as the appropriate state action to take. And they put a process in place in our Constitution, it was so valued to them. And so that is the, as I see it, one of the best, if not the best, course of actions that we can follow. We can't afford to any longer wait years and decades. And, you know, we've entered...like I said, this was 1976 that this original legislative resolution was passed, and we thought we were in dire straits. Now it's really getting to a critical role. You know, this is over--you know, it's going on 35 years later. I don't see--if we don't tackle this problem now, I don't see that we're going to find some secret, you know, better way to handle this. And so I think that the conversation that's going on now in this committee hearing is going on in other committee hearings across the country. And I think at some point in time we're going to hit some critical threshold where we're going to have 34, which is the magical number of states that will be calling for a constitutional convention to put this in place. So I think it's important that we do address this issue here in Nebraska at the same time. [LR538]

SENATOR AVERY: Thank you. Questions from the committee? Senator Price. [LR538]

SENATOR PRICE: Thank you, Senator Avery. Senator Pirsch, you know, along the lines of what Senator Avery was saying, this being a panacea of a solution--obviously, it's not. And I just wanted to say more of a statement that we see, I guess...is it correct that approximately in 2020, 90 percent of our GDP will be consumed by just servicing the debt? And that how can you run your house or your business in that manner if 90 cents of every dollar has to go just to pay the debt and if your debtors come calling? So I'd like to ask that--have you had any conversations or any involvement with people outside of the state of Nebraska on this? [LR538]

SENATOR PIRSCH: Well, other than the fact that this is raised in almost every major, you know, business journal and economics journal, that this is a very dire problem that the nation faces and that it has been ignored for years and decades and decades. But with respect to that, I'd be open to take in any other, more plausible alternatives, but I don't see any. I don't see that Congress is going to have internally the strength and fortitude in a way that--it has demonstrated it has not in the past--to internally reform and calling for this--for spending restraint or balancing the budget. [LR538]

SENATOR PRICE: So then do you see this as a springboard? If 33 other states have signed on, does this--will this engender an action, or are you familiar with what mechanisms we would have to engage in to be that swing vote? [LR538]

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SENATOR PIRSCH: Well, what would happen...and we would have it narrowly called for--for this specific purpose--as envisioned by the forefathers as they designed this paradigm in the Constitution--the call for the constitutional convention. And there would have to be, for this convention to be called, my understanding is, 34 states. And at that point in time, as that momentum would build, I think the message may be made more clear to Congress that this is not something that can wait anymore. They may decide to take action internally themselves. That's fine, you know, in...but we can't just sit back and hope for better days without being willing to take an active step ourselves in the process and making sure that that outcome does come about. [LR538]

SENATOR PRICE: Thank you. [LR538]

SENATOR SULLIVAN: Senator. [LR538]

SENATOR AVERY: Any other...? [LR538]

SENATOR SULLIVAN: Thank you, Senator. [LR538]

SENATOR AVERY: Senator Sullivan. [LR538]

SENATOR SULLIVAN: Senator Pirsch, can you shed a little light on what happened in 1976? Were there any substantive results? [LR538]

SENATOR PIRSCH: Well...and it was--this legislative resolution was passed in 1976. The critical threshold of 34 states, to my understanding, was not quite reached. A couple, few of the states may have, in the interim, repealed their approval of the resolutions--I think one or two or three states. To be quite honest, there is...I'm not sure that it's a settled matter of law; this is constitutional law that is kind of new ground and new territory. And so the Constitution is a little silent on--with respect to how long, you know, these state legislative resolutions remain in effect, in terms of calling for...and what exactly the language has to say. There...I know, I've become aware of at least one constitutional law professor, I believe--I've been told--who has the opinion that they are not indefinite in duration even though the Legislature in '76 has never repealed that. But he...his...this constitutional law professor, to my understanding, says that it probably, you know, at this point in time, is not in effect anymore, is his opinion. There...so this does have a certain gravity attached to it, that we want to make sure that this is in force in Nebraska. And, you know, this...like I said, we are getting to the point now, you know, where it--where the debt is going to go to--is projected to be \$17.5 trillion in just nine years from now. And, keep in mind, five years ago it was, you know, something like \$7 trillion. So it's--we're getting to, really, the exponential point where it's unsustainable, and so this is an alarm and a call to action. And I think that it is of the highest importance that we address this. And, no, we are not members of Congress, but that does not excuse our inattention to what is a very pressing matter to the state of

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---

Nebraska. And that is why...and the forefathers saw this and put this plan in the Constitution for us to take action. And so this isn't some new and unplanned-for or unwarranted action. Thanks. [LR538]

SENATOR SULLIVAN: Thank you. [LR538]

SENATOR AVERY: Any other questions? Senator Giese. [LR538]

SENATOR GIESE: Thank you, Chairman Avery. Senator Pirsch, you mentioned in '76 there was two or three other states that did this. [LR538]

SENATOR PIRSCH: I'm going by a quick look off...and I don't have that information with me right now, but I can certainly get it. But it seemed like there was quite a few states...I want to say--just my memory--is maybe in the 20s that did pass this. And, you know, I'm not sure why; you know, I just looked at a quick chart... [LR538]

SENATOR GIESE: And then... [LR538]

SENATOR PIRSCH: ...and so I'm not too familiar with the exact circumstances. [LR538]

SENATOR GIESE: I guess I'm more curious about today's...is there a time line that we have to follow to...you mentioned 34 states. What's the--what are we talking time line here? And how many do we have? [LR538]

SENATOR PIRSCH: Well, I think it's a...again, the Constitution is silent with respect to the exact--there's no specific time line laid out--like 34 states must enact the exact same language within two years of the first state... [LR538]

SENATOR GIESE: So this is just a...if Nebraska wants to do it today and Iowa wants to do it tomorrow and... [LR538]

SENATOR PIRSCH: I think there'd be a reasonableness, just based upon...you know, implied in there that obviously...and I think constitutional law scholars would probably differ on what, if any...some may hold that once passed, the legislative resolution stays into effect unless negated by that legislature; in which case one may argue that the '76 resolution still holds sway--legal effect. Others may argue, as I know at least one reputable constitutional law scholar in the state has argued, that...and I think he even posited a certain, you know, perhaps several years or four years, something along that line. So it's not a settled matter of law. But in any case, we don't want that...in passing this it would make clear that we still--that we're passing this again. And so we can take away some of that, any legal argument or, you know, gray area, in terms of whether the '76 legislative resolution still holds sway. [LR538]

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---

SENATOR GIESE: Thank you. [LR538]

SENATOR PIRSCH: Yeah. [LR538]

SENATOR AVERY: Any more questions? Seeing none, thank you, Senator Pirsch. [LR538]

SENATOR PIRSCH: You bet. Thank you for your time. [LR538]

SENATOR AVERY: Any proponent testimony? Any opponent testimony? Anybody wish to testify in a neutral capacity? Seeing none, that ends the hearing on LR538. We'll now move to LR539. Senator Fulton, I'll give you 30 minutes. [LR538]

SENATOR FULTON: 30? [LR539]

SENATOR AVERY: You and all of your other testifiers. [LR539]

SENATOR FULTON: Thank you. [LR539]

SENATOR AVERY: And we will be using the light system after you end. [LR539]

SENATOR FULTON: Thank you, Mr. Chairman, members of the committee. For the record my name is Tony Fulton, T-o-n-y F-u-l-t-o-n, and I represent District 29. I bring to you this resolution, LR539. And I have spoken with each of you individually; you're aware of the history. I'd like the record to show that that which was said and done and considered for LR292 is similar for...the two resolutions are similar in substance. In order to comply with Rule 4, Section 2, we've made a change; we no longer use the word "memorialize." We've changed that word, or that verb, to "encourage," so that: "the Legislature encourages the Congress of the United States to adhere to the principles of federalism in accord with the Ninth and Tenth Amendments to the U.S. Constitution." That is the only change. So it is my hope--I have spoken with the Speaker about it; I've spoken with our Chairman; I've spoken with you individually--it is my hope that this committee, similarly to what was done with LR292, can move LR539 forward, as the Speaker has intended his intention to schedule it. And that's what I was hoping for LR292, but those rules--which we need to abide by. So. Any questions, I'd be glad to answer them. [LR539]

SENATOR AVERY: Thank you, Senator. Any questions from the committee? I think we did this before, and that's why you don't have any questions this time. Thank you. [LR539]

SENATOR FULTON: Okay. Thank you, Mr. Chairman. [LR539]

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Government, Military and Veterans Affairs Committee  
April 08, 2010

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SENATOR AVERY: Do we have any proponent testimony? Any opponent testimony? Did a good job. Any neutral testimony? Seeing none, that will end the hearing on LR539. And I would ask the committee to stay behind for a quick exec session. [LR539]