

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

Floor Debate  
May 20, 2015

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SPEAKER HADLEY PRESIDING

SPEAKER HADLEY: GOOD MORNING, LADIES AND GENTLEMEN. WELCOME TO THE GEORGE W. NORRIS LEGISLATIVE CHAMBER FOR THE EIGHTY-FOURTH DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, FIRST SESSION. OUR CHAPLAIN FOR TODAY IS SENATOR BRETT LINDSTROM. PLEASE RISE.

SENATOR LINDSTROM: (PRAYER OFFERED.)

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

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

SPEAKER HADLEY: CORRECTIONS FOR THE JOURNAL?

CLERK: I HAVE NONE.

SPEAKER HADLEY: MESSAGES, REPORTS, ANNOUNCEMENTS?

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

SPEAKER HADLEY: WHILE THE LEGISLATURE IS IN SESSION AND CAPABLE OF TRANSACTING BUSINESS, I PROPOSE TO SIGN AND DO HEREBY SIGN LR251, LR253, LR264, LR267, AND LR268. MR. CLERK, WE WILL MOVE TO FINAL READING. MEMBERS SHALL RETURN TO THEIR SEATS IN PREPARATION FOR FINAL READING. OKAY. MR. CLERK, THE FIRST BILL IS LB268. (LEGISLATIVE JOURNAL PAGE 1737.) [LR251 LR253 LR264 LR267 LR268 LB268]

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CLERK: MR. PRESIDENT, WITH RESPECT TO LB268, I HAVE A SERIES OF MOTIONS TO RETURN. SENATOR COASH AS BEING THE FIRST, BUT I HAVE PRIORITY MOTIONS, MR. PRESIDENT. SENATOR McCOY WOULD MOVE TO BRACKET LB268 UNTIL APRIL 16 OF 2016. [LB268]

SPEAKER HADLEY: SENATOR McCOY, YOU'RE RECOGNIZED TO OPEN ON YOUR AMENDMENT. [LB268]

SENATOR McCOY: THANK YOU, MR. PRESIDENT AND MEMBERS. I RISE TODAY TO BRACKET THIS LEGISLATION BECAUSE I FEEL STRONG ENOUGH TO HAVE THIS DISCUSSION AGAIN THIS MORNING ON FINAL READING. PERHAPS ONE LAST TIME. PERHAPS A SECOND TO THE LAST TIME THIS BODY WILL DISCUSS THIS ISSUE THIS SESSION. I'M NOT SURE AND I SAID THIS ON SELECT FILE AND I BELIEVE I ALSO SAID IT ON GENERAL FILE, I'M NOT SURE THAT I CAN THINK OF ANOTHER ISSUE THAT WE FACED IN MY SEVEN YEARS HERE IN THE LEGISLATURE THAT I FEEL STRONGER ABOUT. I HAD AN EARLY INITIATION INTO THE OVERARCHING ISSUES SURROUNDING THE DEATH PENALTY AS I TALKED ABOUT ON GENERAL AND SELECT FILE BECAUSE IN 2009, MY FIRST YEAR IN THE LEGISLATURE, WE PASSED LEGISLATION MOVING NEBRASKA FROM THE ELECTRIC CHAIR METHOD OF EXECUTION TO LETHAL INJECTION. AS MANY OF YOU KNOW AND I'VE TALKED ABOUT, I WENT TO COLLEGE IN NORFOLK. I KNOW MADISON COUNTY PRETTY WELL. DONE A LOT OF BUSINESS THERE OVER THE YEARS. I'VE SEEN FIRSHAND JUST WHAT AN IMPACT TRAGEDIES LIKE THE BANK SHOOTING IN NORFOLK MAKE, THE IMPRINTS THAT MAKES ON A COMMUNITY FOREVER. I'VE HAD A CHANCE TO BE QUITE A BIT IN SCOTTSBLUFF AND KNOW THAT THE TRAGIC, TRAGIC CRIMES THAT HAVE BEEN COMMITTED BY THOSE WHO SIT ON DEATH ROW IN THAT COMMUNITY AND IN THAT COUNTY, WHAT IMPACT THAT'S MADE THERE. I'VE HAD A CHANCE TO SPEND QUITE A BIT OF TIME IN RICHARDSON COUNTY. DECADES LATER WHAT HAPPENED IN RULO STILL REVERBERATES, IN RULO AND FALLS CITY AND HUMBOLDT, AND OTHER AREAS OF SOUTHEAST NEBRASKA. AND THAT'S JUST TO NAME A FEW, NOT TO MENTION THE CRIMES THAT HAVE HAPPENED IN OMAHA AND LINCOLN AND ELSEWHERE. ALL THESE YEARS, NEBRASKA, WE KEPT THE DEATH PENALTY BECAUSE, AS THE LEGISLATURE AND AS THE PEOPLE OF THE STATE, WE'VE SAID THAT THE ULTIMATE PUNISHMENT SHOULD BE RESERVED FOR THOSE THAT HAVE COMMITTED THE WORST OF THE WORST OFFENSES AGAINST THEIR FELLOW NEBRASKANS. IT WAS SAID ON SELECT FILE THAT THIS ISSUE GETS TO THE CORE OF WHO WE ARE AS NEBRASKANS AND THAT'S TRUE. THAT'S WHY IT WAS UNSUCCESSFUL, BUT THAT'S WHY I BROUGHT THE VERY SERIOUS AMENDMENT TO PUT THIS AS A CONSTITUTIONAL AMENDMENT TO MAKE THIS

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A VOTE OF THE PEOPLE. PEOPLE FEEL PRETTY STRONGLY ABOUT THIS, BOTH FOR AND AGAINST, GETTING RID OF THE DEATH PENALTY. BUT IT'S MY BELIEF THAT THE VAST MAJORITY OF NEBRASKANS BELIEVE THAT WE SHOULD KEEP THE DEATH PENALTY. AND I'D ASK YOU TO CONSIDER THIS MORNING, MEMBERS, AS WE HAVE THIS DISCUSSION, TO THINK ABOUT WHAT JUSTICE LOOKS LIKE IN NEBRASKA IN A LANDSCAPE IN WHICH WE DON'T HAVE THE DEATH PENALTY. I'D ASK YOU TO THINK ABOUT THE FIVE-YEAR-OLD LITTLE BOY, JUST TWO SHORT WEEKS AGO IN MY DISTRICT THAT WAS THROWN OFF A BRIDGE, NO PREVIOUS SIGNS OF TRAUMA ACCORDING TO THE AUTOPSY REPORT, TO DROWN IN THE DARKNESS AT THE HANDS OF HIS OLDER BROTHER AND HIS OLDER BROTHER'S GIRLFRIEND. I'D ASK YOU TO THINK ABOUT THE FACT THAT THE REASON THE DOUGLAS COUNTY ATTORNEY, DON KLEINE, IS PRESSING FOR THE DEATH PENALTY IN THAT CRIME IS BECAUSE THAT MURDER WAS COMMITTED TO COVER UP AND TO GET RID OF A WITNESS TO THE PREVIOUS MURDER OF HIS MOTHER AND THE YOUNG BOY'S MOTHER. AND I WOULD ASK YOU, MEMBERS, TO THINK ABOUT THAT CRIME BECAUSE IT'S VERY APPLICABLE TO WHAT WE'RE TALKING ABOUT THIS MORNING, BECAUSE I WOULD ASK YOU WITHOUT THE DEATH PENALTY, WHAT WAS THERE THERE TO EVEN GIVE A HOPE THAT THAT CRIME WOULDN'T HAVE HAPPENED TO THAT BROTHER? BECAUSE GUESS WHAT? THAT CRIME WOULD GET COMMITTED WITH NO WAY TO GIVE THOSE WHO COMMITTED THE CRIME ANY WORSE SENTENCE THAN LIFE IN PRISON. SO, WHAT VALUE, I ASK YOU, DOES THAT YOUNG FIVE-YEAR-OLD BOY'S LIFE HAVE IF WE DON'T HAVE THE DEATH PENALTY? WHAT VALUE? BECAUSE WHAT MORE CAN WE DO THAN TO GIVE THE PERPETRATOR OF THAT CRIME LIFE IN PRISON, BUT INSTEAD WITH THE DEATH PENALTY, THAT'S AN AGGRAVATOR AND GROUNDS TO PRESS FOR THE DEATH PENALTY. AND THAT'S AN APPROPRIATE THING TO HAVE IN OUR JUSTICE SYSTEM BECAUSE PERHAPS, PERHAPS, NOT IN THIS CRIME, BUT IN A FUTURE ONE OR IN PAST ONES THAT MIGHT HAVE BEEN ENOUGH TO PREVENT SOMEBODY FROM MURDERING THIS INNOCENT LITTLE BOY. AND THEN I ASK YOU TO THINK ABOUT, MEMBERS, THE RECENT RIOT AT THE STATE PRISON IN TECUMSEH. NOW, THANK GOODNESS, NO GUARDS, NO CORRECTIONS OFFICERS WERE AMONG THOSE WHO LOST THEIR LIVES IN THIS INCIDENT. BUT EVEN WITH THE TWO INMATES WHO DID, WE MAY NEVER KNOW WHO COMMITTED THOSE MURDERS, BUT WE MAY FIND OUT SOME DAY. AND I WOULD ASK YOU, MEMBERS, JUST LIKE DAVID DUNSTER WHO SAT ON DEATH ROW UNTIL HE PASSED AWAY RECENTLY, LET'S JUST SAY FOR INSTANCE IT WAS SOMEONE AT TECUMSEH WHO ALREADY WAS SERVING A LIFE SENTENCE, WHO COMMITTED THE MURDERS OF THOSE TWO INMATES LAST WEEKEND IN TECUMSEH, WHAT GREATER PUNISHMENT CAN WE GIVE THEM WITHOUT THE DEATH PENALTY? WHAT'S TO PREVENT, OTHER THAN SOLITARY CONFINEMENT, WHICH WE'VE

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TALKED ABOUT THE PROBLEMS WITH THAT, WHAT'S TO PREVENT FURTHER BLOODSHED IN OUR PRISONS WITHOUT THE DEATH PENALTY? DAVID DUNSTER COMMITTED TWO MURDERS WHILE ON DEATH ROW, NOT IN NEBRASKA. HE CAME TO NEBRASKA TO SIT ON DEATH ROW, BUT HE COMMITTED TWO MURDERS IN OTHER PRISONS. IF ALL YOU HAVE IS A LIFE SENTENCE, WHAT VALUE IS LIFE EVEN IN OUR INMATES IN PRISON? WHAT VALUE IS THE LIVES AND SAFETY AND WELL-BEING OF OUR CORRECTIONS OFFICERS? I ASK YOU, MEMBERS, TO THINK ABOUT THAT THIS MORNING. WHAT MESSAGE ARE WE SENDING BECAUSE IN ALL THE HOURS OF DISCUSSION ON THIS ISSUE, I CHALLENGE THOSE WHO SUPPORT THE REPEAL OF THE DEATH PENALTY TO GIVE ME ONE GOOD REASON, BECAUSE THEY HAVEN'T BEEN ABLE TO DO IT TO THIS POINT AND I BELIEVE IT'S BECAUSE THEY CAN'T, TO GIVE ME ONE GOOD REASON TO ANSWER WHAT I'VE JUST BROUGHT BEFORE YOU. TO ME THAT'S COMPELLING ENOUGH REASON TO STAND BEFORE YOU THIS MORNING AND TO FIGHT THIS TO THE ABSOLUTE FINISH BECAUSE TO ME, INMATES' LIVES, WHILE THEY'RE SERVING TIME AND THEY ARE BEHIND BARS, ARE STILL OF VALUE. IF THEY DIDN'T GET SENTENCED BY A JURY AND A JUDGE TO BE PUT TO DEATH FOR THEIR CRIMES, THEN THEY DON'T DESERVE TO DIE. IT'S IRRESPECTIVE OF WHAT CRIME THEY WERE IN PRISON FOR. THEY DIDN'T GET SENTENCED TO DEATH. BUT TWO INMATES AT TECUMSEH DIED AT THE HANDS OF OTHER INMATES. THAT WASN'T...THAT WASN'T THE SENTENCE THAT WAS HANDED DOWN TO THEM. [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR McCOY: BUT THAT WAS THE JUSTICE THEY RECEIVED AT THE HANDS OF OTHER INMATES. WE KNOW WE HAVE A PROBLEM IN OUR CORRECTIONS SYSTEM. WE KNOW THERE HAVE BEEN MANY CORRECTIONS OFFICERS THAT HAVE ALREADY QUIT AT TECUMSEH AFTER LAST WEEKEND. WHAT MESSAGE ARE WE SENDING TO OUR ALREADY TROUBLED CORRECTIONS SYSTEM TO GET RID OF THE DEATH PENALTY AND TO SAY, YOU ALREADY HAVE A TOUGH JOB, WE'RE GOING TO MAKE IT TOUGHER BECAUSE NOW YOU AND YOUR FAMILIES DON'T KNOW THAT IF SOMETHING TRAGIC HAPPENS TO YOU WHILE YOU ARE SERVING AS A CORRECTIONS OFFICER IN OUR PRISONS, THERE IS NO RECOURSE IF THAT PERSON WHO PERPETRATES SUCH A CRIME IS ALREADY SERVING A LIFE SENTENCE. I ASK YOU TO THINK ABOUT THIS. IS THIS THE MESSAGE WE WANT TO SEND TO NEBRASKANS? [LB268]

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SPEAKER HADLEY: TIME, SENATOR. THANK YOU, SENATOR McCOY. THOSE IN THE QUEUE ARE SENATORS BOLZ, WILLIAMS, SEILER, CAMPBELL, KOLOWSKI, AND 25 OTHERS. SENATOR BOLZ, YOU'RE RECOGNIZED. [LB268]

SENATOR BOLZ: THANK YOU, MR. PRESIDENT. OVER THE LAST DECADE THE MURDER RATE IN NONDEATH PENALTY STATES HAS REMAINED CONSISTENTLY LOWER THAN THE RATE IN STATES WITH THE DEATH PENALTY. OF THE TOP TEN COUNTRIES WITH THE LOWEST MURDER RATES ACROSS THE WORLD, SOME HAVE CAPITAL PUNISHMENT, SOME DO NOT. COLLEAGUES, THE WAY THAT WE CAN MAKE AN IMPACT ON PUBLIC SAFETY IS NOT THROUGH TAKING A LIFE. IT'S THROUGH THE WORK THE EDUCATION COMMITTEE DOES TO GIVE PEOPLE OPPORTUNITIES. IT'S THROUGH THE WORK THE JUDICIARY COMMITTEE DOES TO PROTECT THE PUBLIC SAFETY AND SUPPORT LAW ENFORCEMENT. IT'S THROUGH THE WORK OF OUR COMMUNITIES AND OUR NEIGHBORS AND OUR FRIENDS AND OUR CHURCHES. AND COLLEAGUES, I'M PROUD TO RISE IN SUPPORT OF THIS PIECE OF LEGISLATION IN PART BECAUSE I AM A PERSON OF FAITH AND I DON'T SPEAK OF THAT ON THIS FLOOR VERY OFTEN. BUT AS A REPRESENTATIVE OF THE PEOPLE AND OF SOMEONE WHO CAMPAIGNED AS A PERSON OF FAITH, I DO FEEL COMPELLED TO SAY THAT I FEEL AS THOUGH I AM REPRESENTING THE PEOPLE OF NEBRASKA WHEN I REPRESENT COMPASSION AND WHEN I REPRESENT THE IDEA OF REDEMPTION. IF WE ARE A PEOPLE OF FAITH, WE CAN'T ONLY BELIEVE IN THE PIECES ABOUT GIVING OURSELVES UP TO GOD, OR ABOUT WHAT IT MEANS TO OBEY THE TEN COMMANDMENTS, WE ALSO HAVE TO GIVE OURSELVES UP TO THE IDEA THAT REDEMPTION IS POSSIBLE AND INVEST IN IT IN OUR CHOICES IN THIS BODY. SO, COLLEAGUES, I ENCOURAGE YOU TO JOIN ME IN SUPPORT OF LB268, AND I YIELD THE REMAINDER OF MY TIME TO SENATOR COASH. [LB268]

SPEAKER HADLEY: SENATOR COASH, YOU'RE YIELDED 3 MINUTES AND 14 SECONDS. [LB268]

SENATOR COASH: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR BOLZ. I'VE SPENT TIME THINKING ABOUT THE PEOPLE IN NEBRASKA AND HOW LB268 REFLECTS ITS PEOPLE. I BELIEVE THE NEBRASKANS BELIEVE IN DOING WHAT'S RIGHT. I BELIEVE THE NEBRASKANS BELIEVE THAT ALL LIFE IS GIVEN TO THEM BY THEIR CREATOR, THAT WE HAVE LIMITED TIME ON THIS EARTH TO DO OUR BEST, AND THAT HE WILL CALL US HOME AND WE'LL BE JUDGED BY HIM. I THINK THIS IS A PRETTY GOOD PLAN, ONE THAT I FEEL THAT THE GOVERNMENT SHOULD NOT BE INTERFERING WITH. WHEN A PERSON VIOLATES THAT PLAN THERE HAS TO BE JUSTICE AND INNOCENCE MUST BE PROTECTED. BUT JUSTICE

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DELAYED IS JUSTICE DENIED. WHEN WE DELAY JUSTICE, WE DENY IT. AND BOTH SIDES, I THINK, CAN AGREE ON THAT. OUR SYSTEM HAS BEEN CRUEL TO VICTIMS AND WE TELL THEM JUSTICE IS SERVED, BUT IT'S NOT. IT'S CRUEL. SENATOR McCOY TALKED A LITTLE EARLIER ABOUT OUR CORRECTIONS OFFICERS AND YESTERDAY I TURNED IN A RESOLUTION THAT WAS SIGNED BY EVERY MEMBER OF THIS BODY THANKING THE CORRECTIONS OFFICERS FOR THE WORK THAT THEY DO. AND WE DID THIS BECAUSE WE VALUE THEIR WORK AND BECAUSE THEY DESERVE OUR RECOGNITION. SOME HAVE SPOKEN ABOUT THEIR LACK OF HESITATION IN EXACTING DEATH ON SOMEONE WHO HAS HARMED THEIR LOVED ONES. AS A HUSBAND AND A FATHER AND A BROTHER, I UNDERSTAND THAT. NO ONE OF US WOULD GET THAT OPPORTUNITY, HOWEVER. INSTEAD, WE'RE GOING TO ASK ONE OF THESE CORRECTIONS OFFICERS TO DO THAT. NO DISCUSSION ON THIS DEBATE UP UNTIL NOW HAS BEEN GIVEN TO WHAT WE WILL BE ASKING A STATE EMPLOYEE TO DO IF WE ASK THEM TO PARTICIPATE IN AN EXECUTION. ON DIFFERENT BILLS WE'VE HAD DISCUSSION, COLLEAGUES, ON CONSCIENCE. WHO AMONG YOU... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR COASH: ...WOULD ASK A STATE WORKER MAKING \$15 AN HOUR TO PARTICIPATE IN A KILLING? I HAD THE OPPORTUNITY TO TALK TO SOME FORMER CORRECTIONS OFFICERS IN STATES WHERE THEY'VE EXECUTED PEOPLE AND EVERY ONE THAT I TALKED TO SAID, THAT DOESN'T GO AWAY. AND SOME OF THEM EVEN SAID THEY VOLUNTEERED FOR THE JOB THINKING THEY WERE EXECUTING JUSTICE, BUT AFTER IT WAS DONE, IT WAS TRAUMATIC FOR THEM, THAT IT HURTS THEM. COLLEAGUES, I'M NOT READY TO ASK A CORRECTIONS OFFICER OF ANY LEVEL, ONE WHO JUST STARTED ALL THE WAY UP TO A WARDEN OR A DIRECTOR, I'M NOT READY TO ASK THEM TO PARTICIPATE IN A KILLING ON BEHALF OF OUR STATE. I COULDN'T DO IT. [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR COASH: THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR BOLZ. THANK YOU, SENATOR COASH. SENATOR WILLIAMS, YOU'RE RECOGNIZED. [LB268]

SENATOR WILLIAMS: THANK YOU, MR. SPEAKER AND GOOD MORNING. WE HAVE BEEN ELECTED TO OUR ROLES HERE IN THE LEGISLATURE TO MAKE HARD

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DECISIONS, DECISIONS THAT FOR MANY OF US COME RIGHT AT THE ROOT OF OUR BEING, AND THIS IS CERTAINLY ONE OF THOSE DECISIONS. BUT WE AS SENATORS SITTING HERE HAVE NEVER BACKED AWAY FROM MAKING THOSE HARD DECISIONS. YOU LOOK AT THE WEEK WE HAD IN THE LEGISLATURE LAST WEEK. EXTREMELY DIFFICULT WEEK. PRISON REFORM, MEDICAL MARIJUANA, DRIVER'S LICENSES FOR DREAMERS, THE DEATH PENALTY DISCUSSION LAST WEEK. I WAS GLAD TO GO HOME AT THE END OF LAST WEEK AND I'M SURE THE OTHER 48 OF YOU WERE ALSO. BUT THE SUN CAME UP. WE CAME BACK TO THESE JOBS TO FACE MAKING DECISIONS TO CREATE THE RIGHT PATH FOR OUR STATE. AS I MENTIONED LAST WEEK, THE PROCESS THAT WE HAVE GONE THROUGH ON THIS HAS BEEN NEW TO ME AND SEVERAL OTHERS, BUT I DID HAVE THE OPPORTUNITY TO SIT IN THE HEARING AT THE JUDICIARY COMMITTEE ON LB268. THERE WERE A NUMBER OF PEOPLE. I THINK ABOUT 20 THAT TESTIFIED IN FAVOR OF REPEAL. SOME OF THOSE WERE FAMILY MEMBERS OF VICTIMS TALKING ABOUT HOW THEY ARE HAUNTED BY THE DEATH PENALTY AND HOW IT CONTINUES TO BRING BACK THE HORRIBLE MEMORIES THAT THEY HAVE OF NOT BEING ABLE TO HAVE CLOSURE WITH THEIR SITUATIONS. I ALSO WOULD REMIND EVERYONE HERE THAT THERE WAS ONLY ONE PERSON THAT CAME AND TESTIFIED IN FAVOR OF MAINTAINING THE DEATH PENALTY. THAT WAS DON KLEINE, COUNTY ATTORNEY IN DOUGLAS COUNTY...PUBLIC DEFENDER, EXCUSE ME...EXCUSE ME, COUNTY ATTORNEY IN DOUGLAS COUNTY. FROM THAT, THE JUDICIARY COMMITTEE ADVANCED LB268 TO THE FLOOR ON A UNANIMOUS VOTE. YOU'VE HEARD THE STATISTICS, HOW MANY PEOPLE HAVE BEEN CONVICTED TO DEATH IN OUR STATE, HOW MANY WE HAVE ACTUALLY EXECUTED, WHICH IS 23, AND THE 11 PEOPLE THAT WE HAVE CURRENTLY ON DEATH ROW, ONE OF WHICH WHO IS CURRENTLY ON HOSPICE. THIS PAST SUNDAY AFTERNOON, SEVERAL OF US HAD THE OPPORTUNITY TO TOUR THE TECUMSEH PRISON AND ONE OF THE THINGS WE HAD THE OPPORTUNITY TO DO WAS WALK IN AND STAND ON DEATH ROW. STAND AND LOOK AT THOSE PEOPLE WHO ARE THERE THAT HAVE BEEN COMMITTED OF THE MOST HEINOUS CRIMES IN OUR STATE. I LOOKED AT THE PERSON THAT COMMITTED THE MURDERS IN NORFOLK IN THE BANK. HE WAS POURING A CUP OF COFFEE. OTHER THAN THE CLOTHES HE WAS WEARING, HE DIDN'T LOOK ANY DIFFERENT THAN YOU AND ME. THE QUESTION THAT WE HAVE BEEN ASKED TODAY IS, WHERE DO WE GO AND WHERE DO WE STEP FORWARD? SENATOR McCOY ASKED US TO THINK ABOUT JUSTICE. JUSTICE MEANS DIFFERENT THINGS TO DIFFERENT PEOPLE. IS IT VENGEANCE? IS IT RETRIBUTION? IS IT PUNISHMENT? IS IT REVENGE? WE HAVE AN ALTERNATIVE IN OUR STATE... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

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SENATOR WILLIAMS: ...AND IN OUR MODERN SOCIETY...THANK YOU, MR. SPEAKER...TODAY THAT HAS NOT ALWAYS BEEN THERE AND THAT ALTERNATIVE PROTECTS PUBLIC SAFETY AND THAT ALTERNATIVE IS INCLUDED IN LB268, THE CONCEPT OF LIFE IMPRISONMENT WITHOUT THE POSSIBILITY OF PAROLE. AT THE END OF DAY, AS I'VE TOLD PEOPLE, YOU CAN'T NUANCE THIS DECISION. IT'S GREEN OR RED. WE MAKE THAT HARD DECISION AND AS I'VE SAID BEFORE, I WOULD NOT ATTEMPT TO CHANGE ANYONE ELSE'S MIND, BUT I AM CONFIDENT AND COMFORTABLE WITH GOD WATCHING ME IN MY DECISION. I WILL VOTE GREEN FOR LB268. THANK YOU, MR. SPEAKER. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR WILLIAMS. SENATOR SEILER, YOU'RE RECOGNIZED. [LB268]

SENATOR SEILER: THANK YOU, MR. PRESIDENT, MEMBERS OF THE UNICAMERAL. I'D LIKE TO FOLLOW UP A LITTLE BIT WITH WHAT SENATOR WILLIAMS WAS JUST TALKING ABOUT. BACK ON MARCH 4 WE HAD A HEARING BEFORE THE JUDICIARY COMMITTEE AND YOU CAN PRETTY MUCH EXPLAIN THE PEOPLE THAT WERE PROPONENTS AND THERE WERE 14 OF THEM, AND ONE PERSON WAS AN OPPONENT. ONE OF THE...I REFER TO A COUPLE PEOPLE'S TESTIMONY. ONE IS LORAN SCHMIT, SENATOR LORAN SCHMIT, WHO YOU ALL KNOW. AND I THINK HE SUMMED IT UP BEST. HE SAID, THEREFORE, I BELIEVE THAT THE DETERRENT FACTOR IS NONEFFECTIVE. HOW DID HE REACH THAT CONCLUSION? REAL EASY. IT'S BEEN 19 YEARS, OR 18 YEARS SINCE THE EXECUTION HAS BEEN CARRIED OUT IN THE STATE OF NEBRASKA. WE'VE HAD THAT DEATH PENALTY ON THE BOOKS ALL DURING THAT PERIOD OF TIME. THINK OF THIS STATISTIC. IN NORTH OMAHA, THERE'S BEEN 21 MURDERS SINCE JANUARY 1. TWENTY-ONE MURDERS WITH THE DEATH PENALTY ON THE BOOKS. WHAT A GREAT DETERRENT THAT IS. LORAN'S RIGHT. IT'S INEFFECTIVE. IT DOESN'T WORK AS A DETERRENT. I WAS INTERESTED IN SENATOR McCOY'S DEFINITION OF THIS RECENT MURDER WHERE IT WAS THROWN OFF THE BRIDGE. THE GENTLEMAN HASN'T BEEN CONVICTED YET AND HE'S WANTING THE DEATH PENALTY. WHOA. LET'S GET OUR PRIORITIES STRAIGHT. YOU NEED A TRIAL FIRST. YOU NEED A CONVICTION SECOND, AND THEN THE JURY THAT MAKES THE CONVICTION NEEDS TO LOOK AT THE MITIGATING CIRCUMSTANCES TO DECIDE WHETHER THOSE MITIGATING CIRCUMSTANCES PRESENTED CONSTITUTES SUFFICIENT GROUNDS FOR THE DEATH PENALTY. IT'S NOT AS SIMPLE AS WAS DRAWN OUT FOR YOU. IT TAKES TIME, WORK, ENERGY, AND LOTS OF MONEY. LOTS OF MONEY. AGAIN, LORAN IS CORRECT. THE ONLY WITNESS THAT TESTIFIED FOR THE DEATH PENALTY WAS DON KLEINE, THE COUNTY ATTORNEY AT DOUGLAS COUNTY AND HE TESTIFIED ON BEHALF OF THE NEBRASKA COUNTY ATTORNEYS ASSOCIATION TO OPPOSE



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LB268. LISTEN TO HIS TESTIMONY. BUT I DO QUESTION SOMETIMES THAT HERE I AM IN THE TRENCHES FILING CASES WITH AGGRAVATING CIRCUMSTANCES ASKING A JURY TO MAKE THAT DETERMINATION OF A THREE-JUDGE PANEL WHEN THE STATE CAN'T GET ITS ACT TOGETHER...WHEN THE STATE CAN'T GET ITS ACT TOGETHER AS FAR AS THE PENALTY ITSELF. AND THERE IS NO ASSURANCE THEY'RE GOING TO GET THEIR ACT TOGETHER AFTER 19 YEARS. THAT IS THE PREDOMINANT ELEPHANT IN THE ROOM. IT ISN'T A DETERRENT. IT HASN'T BEEN USED. AND IT'S WORTHLESS. THANK YOU VERY MUCH, MR. PRESIDENT. I GIVE MY TIME THAT'S LEFT TO SENATOR COASH. [LB268]

SPEAKER HADLEY: SENATOR SEILER, THANK YOU. THERE IS 1 MINUTE LEFT, SENATOR COASH. [LB268]

SENATOR COASH: THANK YOU, SENATOR SEILER. WANT TO, IN MY BRIEF TIME, FINISH MY COMMENTS ON THE CORRECTIONS OFFICERS. REMEMBER WHAT WE'D BE ASKING SOMEONE TO DO ON OUR BEHALF. PARTICIPATE IN THE KILLING OF ANOTHER HUMAN BEING. HOW DO WE DO THAT AS A STATE? HOW DO WE SAY TO A WORKER, WHETHER THEY BELIEVE IN IT OR NOT, THIS IS PART OF YOUR JOB. YOU GET 15 BUCKS AN HOUR, WALK THIS GUY TO THE DEATH CHAMBER. IF YOU WEREN'T WILLING TO DO THAT, IF YOU WEREN'T WILLING TO BE THAT... [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR COASH: THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR COASH. SENATOR CAMPBELL, YOU'RE RECOGNIZED. [LB268]

SENATOR CAMPBELL: THANK YOU, MR. PRESIDENT. YESTERDAY IN PREPARATION FOR OUR DISCUSSION ON LB268, I SPENT TIME REVIEWING THE E-MAILS THAT I HAD RECEIVED ON THIS BILL, BOTH OF THOSE WHO WOULD SUPPORT ITS REPEAL AND THOSE WHO WOULD SUPPORT THAT WE RETAIN IT. AND I ALSO WENT THROUGH THE WRITTEN MATERIALS OR LETTERS OR NOTES THAT WERE IN THE FOLDER AS WE HAVE ACCUMULATED THEM, AND I AGREE WITH SENATOR McCOY THAT THEIR FEELINGS ARE VERY STRONG ON BOTH SIDES. BUT I WANTED THIS MORNING TO GIVE VOICE TO A COUPLE OF LETTERS THAT APPEARED IN NEWSPAPERS IN THE STATE BECAUSE I DO THINK THAT PEOPLE WHO TAKE TIME TO WRITE IN TO A NEWSPAPER HAVE STRONG FEELINGS AND

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THEY MIGHT BE HELPFUL TO BE SHARED. ON APRIL 21 OF 2015, BEN BACKUS OF GERING WROTE TO THE STAR-HERALD. I WAS ENCOURAGED TO SEE THE STAR-HERALD QUESTION THE USE OF THE DEATH PENALTY. LB268 IS PROBABLY ONE OF THE MOST IMPORTANT BILLS THIS SESSION. IT REMOVES THE ABILITY OF OUR GOVERNMENT TO RENDER A JUDGMENT OF DEATH ON ITS CITIZENS. AT A TIME WHEN OUR OPINION OF GOVERNMENT IS AT AN ALL-TIME LOW, FOR GOOD REASON, DO WE REALLY WANT TO TRUST IN THE ABILITY TO DECIDE IF SOMEONE SHOULD LIVE OR DIE? THERE ARE OTHER REASONS THAT YOU ALREADY MENTIONED SUCH AS THE COST FOR APPEALS AND LACK OF FAIRNESS AND THE PENALTIES. ONE THING YOU DID NOT MENTION IS THAT IT CAN PROVIDE CLOSURE TO A VICTIM'S FAMILY WITHOUT THE EMOTIONAL ROLLER COASTER OF MULTIPLE APPEALS AND HEARINGS. I HAVE HEARD PEOPLE CITE THE BIBLE IN DEFENSE OF CAPITAL PUNISHMENT. FORTUNATELY, JESUS IS THE WAY, AND THE LIFE, AND NOT THE OLD TESTAMENT. JESUS NEVER CONDEMNED ANYONE TO DEATH. AND WITH THAT, I'LL YIELD THE REST OF MY TIME TO SENATOR CHAMBERS IF HE WOULD LIKE THE TIME. THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE YIELDED 2 MINUTES AND 30 SECONDS. [LB268]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE, I'VE BEEN DEALING WITH THIS ISSUE FOR OVER FOUR DECADES AND NEVER HAS THERE BEEN THE KIND OF SUPPORT AMONG THE LEGISLATORS THEMSELVES AS HAS OCCURRED IN THIS INSTANCE. THERE HAVE BEEN PEOPLE WHO DESCRIBE THEMSELVES AS CONSERVATIVES ALL OVER THE COUNTRY AND IN POLITICAL OFFICE WHO HAVE SPOKEN IN VERY PRAGMATIC, WHAT YOU MIGHT CALL REALISTIC TERMS ABOUT THE EXORBITANT COST, THE RANDOMNESS OF THE PENALTY, THE FACT THAT THE APPEALS GO ON ENDLESSLY. IT IS NOT SOMETHING THAT FUNCTIONS IN THE WAY A GOVERNMENTAL, AND THEY CALL IT, THIS PROGRAM SHOULD. AND IN LINE WITH THEIR VIEWS, THAT INEFFECTIVE GOVERNMENTAL PROGRAM SHOULD BE DONE AWAY WITH, THEY NOW COME OUT STRONGLY AGAINST THE DEATH PENALTY AND SEVEN OF OUR COLLEAGUES, WHICH NEVER WOULD HAVE HAPPENED IN THE PAST, WHO DEFINED THEMSELVES AS CONSERVATIVES, HAD A PRESS CONFERENCE IN THE ROTUNDA DECLARING OPENLY THAT THIS PENALTY OUGHT TO BE DONE AWAY WITH. RETIRED SARPY COUNTY DISTRICT JUDGE RONALD REAGAN, WHO IS ON THE SENTENCING PANEL THAT SENTENCED JOHN JOUBERT TO DEATH AND HE WAS EXECUTED, SAID HE HAS BEEN AGAINST THE DEATH PENALTY. HE CARRIED OUT HIS DUTY BECAUSE THAT'S WHAT HIS JOB AS

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A JUDGE WAS, BUT HE AND ALL THE JUDGES HE TALKED TO WANT THIS PENALTY TO BE DONE AWAY WITH AND IF YOU READ HIS TESTIMONY... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR CHAMBERS: ...YOU'LL SEE WHERE HE SAID, HE HOPES THE LEGISLATURE WILL DO IT. THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: THAT WAS THE ONE MINUTE CALL, SENATOR. [LB268]

SENATOR CHAMBERS: OH, THAT WAS ONE MINUTE. THIS IS NOT A TIME FROM MY POSITION TO RAIL AGAINST ANYBODY FOR WHATEVER IT IS THAT THEY BELIEVE. I THINK AS CAESAR MAY HAVE SAID IT, THE DIE IS CAST. PEOPLE WHO HAVE CAST A VOTE FOR ABOLITION GAVE WHAT I'M CONVINCED AS A PRINCIPLE VOTE. THEY WILL CONTINUE TO DO THAT. THOSE WHO ARE OPPOSED TO THE BILL, THERE IS NOTHING I CAN SAY TO CHANGE THEIR MIND. SO, WE HAVE THIS TIME BEFORE US AND THE OPPORTUNITIES I HAVE TO SPEAK, I SHALL. THE RECORD SHOULD BE CRYSTAL CLEAR ON WHAT IT IS WE'RE DOING. IT IS HISTORIC. WE HAVE THE OPPORTUNITY TO TAKE A ONE SMALL STEP FOR THE LEGISLATURE, A GIANT LEAP FOR CIVILIZATION. [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR CHAMBERS. THOSE IN THE QUEUE: SENATOR KOLOWSKI, SENATOR CRAWFORD, GARRETT, KEN HAAR, HANSEN, AND OTHERS. SENATOR KOLOWSKI, YOU'RE RECOGNIZED. [LB268]

SENATOR KOLOWSKI: THANK YOU, MR. CHAIRMAN. GOOD MORNING, SENATORS. IT'S A VERY IMPORTANT DAY FOR ALL OF US. I STAND IN SUPPORT OF LB268 AND AGAINST THIS BRACKET MOTION. I WANT TO TAKE THIS SMALL AMOUNT OF TIME TO TALK ABOUT SOMETHING THAT'S VERY IMPORTANT WITHIN THIS CONTEXT OF THE DEATH PENALTY AND OF OUR...THE WHOLE ISSUE OF JAIL TIME AND PENALTIES. AND THAT'S DEALING WITH THE FORENSIC SCIENCE FIELD ITSELF. MY OLDEST SON IS A CSI GUY. HE'S HAD 12 YEARS SERVICE IN NEW YORK CITY AND THE PAST THREE YEARS IN THE WASHINGTON, D.C., AREA. HE'S A DNA SPECIALIST BY BACKGROUND. WE HAVE AN ISSUE WITHIN THE FORENSIC

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SCIENCE FIELD AND THE ISSUE IS VERY SIMPLE. IT'S SEPARATION OF PROSECUTORS AND LAW ENFORCEMENT FROM THEIR LOCAL FORENSICS LAB. THE ISSUE IS ONE WITHIN INDIVIDUAL STATES AND WITHIN THE NATIONAL LEVEL THAT WE ARE BATTLING AND WE'VE HAD THAT ISSUE TAKE PLACE WITHIN OUR OWN STATE IN THE LAST FEW YEARS. LABS MUST BE INDEPENDENT, MUST BE SEPARATE FROM BOTH THE PROSECUTOR'S OFFICES AND THE LAW ENFORCEMENT IN THEIR INDIVIDUAL STATES. IT'S ALL ABOUT POWER AND POLITICS IN CONTROLLING AND DEALING WITH THE EVIDENCE OF CASES. EXTREMELY IMPORTANT CONCEPT THAT IS IN CHALLENGE ACROSS THE COUNTRY AT THIS TIME. LASTLY, THE NATIONAL INNOCENCE PROJECT HAS FREED HUNDREDS FROM FALSE INCARCERATION AND FROM DEATH ROW OVER THE HISTORY OF THAT PARTICULAR PROJECT. THANK YOU FOR THAT OPPORTUNITY...THIS OPPORTUNITY TO SPEAK TO THAT ISSUE AT THIS TIME. I YIELD THE REST OF MY TIME TO SENATOR CHAMBERS. THANK YOU. [LB268]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE YIELDED 2 MINUTES AND 55 SECONDS. [LB268]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR KOLOWSKI. AFTER JUST SAYING I WON'T RAIL AGAINST ANYBODY, I MUST SPEAK VERY HARSHLY AGAINST WHAT THE GOVERNOR IS DOING. I HAD WRITTEN A RHYME THAT SAYS, WHO KNOWS WHY POLITICIANS LIE? WHO PRAY TELL CAN SAY? WE NEED, NO NEED TO PONDER, NEITHER TO WONDER, 'TIS IN THEIR DNA. THE GOVERNOR IS PRESS CONFERENCING NOW SAYING THAT THIS BILL, NOT HAVING THE WORDS WITHOUT PAROLE, MEANS THAT LIFE DOESN'T MEAN LIFE. HIS OWN ATTORNEY GENERAL SAID IN A STATEMENT, YOU ASK WHETHER A PART FROM A PARDON BOARD COMMUTATION, DOES THE ABSENCE OF THE WORDS WITHOUT THE POSSIBILITY OF PAROLE OPEN THE POSSIBILITY OF PAROLE FOR AN INMATE SENTENCED TO LIFE IN PRISON? THE ANSWER TO YOUR QUESTION IS NO. THE GOVERNOR EITHER IS NOT TALKING TO HIS ATTORNEY GENERAL OR HE'S DELIBERATELY MISLEADING, WHICH IS THE DEFINITION OF A LIE. IN NEBRASKA, LIFE CANNOT BE ANYTHING OTHER THAN LIFE UNLESS THE PARDON BOARD GIVES THE COMMUTATION. THE SUPREME COURT HAS MADE IT CLEAR THAT THE WORDS WITHOUT PAROLE HAVE NO SIGNIFICANT MEANING AND THEN THE LEGISLATURE HAS NEVER BEEN ABLE TO SHOW ONE BECAUSE IN EITHER CASE, LIFE MEANS LIFE UNLESS THE PARDON BOARD COMMUTES. IF THE PARDON BOARD DOES NOT COMMUTE A LIFE TERM TO A TERM OF YEARS, IT MEANS LIFE. THAT'S THE WAY IT ALWAYS HAS BEEN. THAT'S PURSUANT TO THE CONSTITUTION AND IF THOSE WORDS WERE PUT IN THE BILL, IT WOULD GIVE THE PUBLIC A MISCONCEPTION. FIRST OF ALL, THEY WOULD THINK THAT IT'S

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POSSIBLE TO BE PAROLED UNLESS THE WORDS WITHOUT POSSIBILITY OF PAROLE ARE PRESENT. THE PAROLE BOARD CANNOT CONSIDER ANYBODY FOR PAROLE WHO HAS A LIFE SENTENCE RIGHT NOW... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR CHAMBERS: ...AND WITH THE BILL, THAT IS THE SAME WAY. THIS BILL IS TO HAVE NO SURPLUSAGE, IT IS NOT DESIGNED TO CREATE ANY MISPERCEPTIONS. SO, WHEN THE GOVERNOR SAYS WHAT HE DID, HE OUGHT TO ASK HIS ATTORNEY GENERAL WAS HE SPEAKING CORRECTLY. I WILL SAY CATEGORICALLY, A LIFE SENTENCE IN NEBRASKA RIGHT NOW MEANS LIFE WITHOUT POSSIBILITY OF PAROLE. NOW, IF WE PUT WITHOUT POSSIBILITY OF PAROLE, THAT CANNOT RESTRICT WHAT THE PAROLE BOARD CAN DO...I MEANT THE PARDONS BOARD. WE COULD SAY, AND WE MEAN THAT THE PARDONS BOARD CANNOT COMMUTE. WELL, THE PARDONS BOARD'S POWER IS BASED ON THE CONSTITUTION. THE CONSTITUTION ALLOWS THE PARDONS BOARD TO COMMUTE ANY LIFE SENTENCE. SO, I HOPE THAT THESE COMMENTS WILL CLARIFY THAT ISSUE AND IF I HAVEN'T MADE IT CLEAR, I WILL ANSWER IT AGAIN. [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR CHAMBERS. SENATOR CRAWFORD, YOU'RE RECOGNIZED. [LB268]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. I STAND IN OPPOSITION TO THE BRACKET MOTION AND IN SUPPORT OF LB268. YOU'VE ALREADY HEARD MANY PIECES OF EVIDENCE FROM SUPPORTERS OF LB268 PROVIDING EVIDENCE THAT THE DEATH PENALTY DOES NOT PROVIDE A DETERRENT EFFECT. SENATOR McCOY ASKED, I THOUGHT, AN IMPORTANT QUESTION, WELL, WHAT ABOUT PRISON DEATH? IS IT A DETERRENT FOR PRISON DEATHS? SO, AND THAT WE HAD NOT PUT THAT EVIDENCE ON THE RECORD. AND SO, I WILL DO THAT NOW SO THAT WE WILL HAVE THAT EVIDENCE ON THE RECORD. COLLEAGUES, IN DATA FROM THE BUREAU OF JUSTICE STATISTICS, WE KNOW THAT BETWEEN 2001 AND 2007, STATES WITH THE DEATH PENALTY HAD PRISON DEATHS OVER FOUR TIMES THE RATE OF PRISON DEATHS IN STATES WITHOUT THE DEATH PENALTY. THAT IS THE EVIDENCE. STATES THAT

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HAVE THE DEATH PENALTY HAD A RATE OF PRISON DEATHS FOUR TIMES THE RATE OF PRISON DEATHS IN STATES WITHOUT THE DEATH PENALTY. SO, I THINK THAT PUTS TO REST THE QUESTION OF WHETHER OR NOT THE DEATH PENALTY PROVIDES A DETERRENT EFFECT ON PRISON DEATHS. NOW, I'D LIKE TO TURN TO THE QUESTION OF JUSTICE, MORE BROADLY. QUITE OFTEN PROPONENTS OF THE DEATH PENALTY TALK ABOUT THE NEED FOR JUSTICE, AND AS SENATOR McCOY SPOKE, HE TALKED ABOUT THE NEED FOR HEALING IN COMMUNITIES. AND COLLEAGUES, WHEN WE THINK ABOUT JUSTICE IN THE STATE OF NEBRASKA, WE NEED TO THINK ABOUT MORE THAN JUST THE PERSON WHO COMMITTED THESE HEINOUS CRIMES. IN FACT, PERHAPS WE HAVE A HIGHER DUTY OF JUSTICE TO THOSE VICTIMS AND THEIR FAMILIES. A HIGHER DUTY OF JUSTICE TO THE INNOCENT PEOPLE IN THE COMMUNITY WHO ARE NOW SUFFERING THE EFFECTS OF THAT TERRIBLE CRIME. AND THAT'S WHAT WE HEARD FROM VICTIMS' FAMILIES IN THIS DEBATE. THEY WANT US TO CONSIDER THEIR JUSTICE. WHAT'S JUST FOR THEM? AND THE PERSON THAT I GOT TO KNOW MOST CLOSELY WAS DR. ASHLEY GAGE, SOCIAL WORK PROFESSOR AT UNK, AND SHE SPOKE MOVINGLY OF HOW GRATEFUL SHE WAS THAT IN HER CASE, HER FATHER'S MURDER WAS NOT A CASE THAT ENDED UP BEING HANDLED WITH THE DEATH PENALTY BECAUSE SHE HAD CLOSURE AND SHE COULD MOVE ON. I WANT TO ADD TO THE RECORD WHAT WE KNOW ACTUALLY FROM SOCIAL SCIENCE STUDIES ABOUT THE IMPACT OF THE DEATH PENALTY ON VICTIMS, VICTIMS' FAMILIES. A 2012 MARQUETTE LAW REVIEW ARTICLE COMPARED THE EXPERIENCE OF HOMICIDE SURVIVOR FAMILIES IN TEXAS, WHICH HAS THE DEATH PENALTY, AND MINNESOTA, WHICH DOES NOT. IN A LONGITUDINAL STUDY OVER 16 YEARS, THE RESEARCHERS FOUND THAT SURVIVOR FAMILIES IN MINNESOTA DISPLAYED HIGHER LEVELS OF PHYSICAL, PSYCHOLOGICAL, AND BEHAVIORAL HEALTH. FOR EXAMPLE, TEXAN FAMILIES HAD ALMOST DOUBLE THE AMOUNT OF ONGOING TRAUMA REACTIONS AND DEPRESSION THAN MINNESOTA FAMILIES. THE STUDY ALSO FOUND THAT DESPITE CLAIMS OF JUSTICE FOR FAMILIES, THE DEATH PENALTY OFFERS LIMITED HEALING POTENTIAL AND DOES NOT BRING CLOSURE FOR TEXAS FAMILIES. PART OF THIS LACK OF CLOSURE STEMS FROM THE LACK OF CONTROL DUE TO THE LENGTH OF APPEALS PROCESS. THESE FAMILIES, OFTEN 10, 15 YEARS POSTSENTENCE, FACE PERMANENT LIMBO OF UNCERTAINTY... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT...NOT KNOWING IF AND WHEN THE CASE WOULD MOVE FORWARD. SOME FAMILIES HERE IN NEBRASKA HAVE BEEN IN THIS LIMBO FOR ALMOST 30 YEARS. COLLEAGUES, JUSTICE FOR

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THE VICTIMS' FAMILIES COMPELS US TO SUPPORT LB268. JUSTICE FOR THOSE ACCUSED ALSO COMPELS US TO SUPPORT LB268. WE HAVE SITUATIONS IN WHICH PEOPLE ARE WRONGFULLY ACCUSED, AND WE HAVE EVIDENCE, MANY CASES THAT IT'S NOT JUST THE HUNDREDS OF...OVER 100 CASES WHERE PEOPLE HAVE BEEN EXONERATED WHO HAVE A DEATH SENTENCE, WE HAVE MANY OTHER CASES WHERE PEOPLE HAVE BEEN EXONERATED BECAUSE THEY GAVE PLEAS DUE TO THE FACT THAT THE DEATH PENALTY WAS A PART OF THAT PROCESS THAT LED TO THOSE INAPPROPRIATE, INACCURATE GUILTY PLEAS. [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR CRAWFORD. THOSE IN THE QUEUE: SENATORS GARRETT, KEN HAAR, HANSEN, McCOLLISTER, McCOY, AND OTHERS. SENATOR GARRETT, YOU'RE RECOGNIZED. [LB268]

SENATOR GARRETT: THANK YOU, MR. SPEAKER. COLLEAGUES, GOOD MORNING NEBRASKA. FOR ME, THIS IS FUNDAMENTAL. I RISE IN OPPOSITION TO THE BRACKET MOTION AND IN SUPPORT OF LB268. I'VE SAID ON THE MIKE BEFORE AND I'LL SAY IT AGAIN, I'M PRO-LIFE FROM CONCEPTION TO WHEN GOD CALLS SOMEBODY HOME. I'M NOT GOING TO QUIBBLE OVER DESCRIBING INNOCENT LIFE VERSUS THOSE WHO ARE GUILTY. FOR ME, IT ULTIMATELY IS A MATTER OF CONSCIENCE. I'M NOT A CATHOLIC, BUT THE POPE AND THE ARCHDIOCESE IN OMAHA HAVE ALL COME OUT IN SUPPORT OF THE REPEAL. WE CAN TALK ALL THE PRAGMATIC DATA YOU WANT TO TALK ABOUT, WHETHER IT SERVES AS A DETERRENT OR NOT. WHAT IT COSTS. THE FACT THAT WE HAVE TWO PEOPLE WHO HAVE BEEN ON DEATH ROW FOR 35 YEARS, THAT TO ME SEEMS LIKE IT'S CRUEL AND UNUSUAL PUNISHMENT IN AND OF ITSELF. BUT, ULTIMATELY, THE BOTTOM LINE, YOU CAN SAY ALL YOU WANT WITH ALL THE OTHER THINGS, IT'S A MATTER OF CONSCIENCE. YOU EITHER BELIEVE IN LIFE OR YOU DON'T. YOU KNOW, I DIDN'T WANT TO GET UP HERE AND GET TOO DEEP INTO RELIGION, BUT, YOU KNOW, WHEN JESUS WAS CRUCIFIED, THINK ABOUT HIS WORDS, HIS LAST WORDS ON THE CROSS. HE DIDN'T LOOK DOWN AT THOSE ROMAN CENTURIONS AND SAY, I HOPE YOU FRY FOR WHAT YOU'VE DONE. HE SAID, FORGIVE THEM. I DON'T WANT TO MAKE A POLITICAL ISSUE OUT OF THIS AND THIS IS NOT A CONSERVATIVE LIBERAL ISSUE. THIS IS A MATTER OF CONSCIENCE, AND I WILL

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BE VOTING FOR THE REPEAL OF THE DEATH PENALTY, AND I'D LIKE TO YIELD THE REST OF MY TIME TO SENATOR AL DAVIS. [LB268]

SPEAKER HADLEY: SENATOR DAVIS, YOU'RE YIELDED 30 MINUTES. [LB268]

SENATOR DAVIS: (LAUGHTER) THANK YOU, MR. PRESIDENT. I DON'T THINK I CAN GO ON QUITE THAT LONG, BUT...AND THANK YOU, SENATOR GARRETT. [LB268]

SPEAKER HADLEY: THREE MINUTES, NOT 30. [LB268]

SENATOR DAVIS: I WANTED TO TALK A LITTLE BIT ABOUT SOME CASES. I STAND IN OPPOSITION TO THE BRACKET MOTION AND I STAND IN SUPPORT OF LB268. I THINK THERE ARE SO MANY REASONS WHY WE NEED TO ELIMINATE THE DEATH PENALTY IN NEBRASKA AND IN THE UNITED STATES BECAUSE IT'S FUNDAMENTALLY UNFAIR AND IT'S FUNDAMENTALLY TERRIBLE...MISTAKEN AND BAD JUSTICE. AND SO TO DO THAT, I WANTED TO TALK ABOUT SOME SPECIFIC CASES, ONE OF WHICH IS A YOUNG MAN, A YOUNG MAN AT THE TIME, NAMED RON WILLIAMSON AND I HANDED OUT THIS MORNING A PHOTOGRAPH OF HIM AFTER HE WAS RELEASED FROM DEATH ROW IN OKLAHOMA. SO, MR. WILLIAMSON HAD DREAMS JUST LIKE ALL PEOPLE DO. HE WANTED TO ASPIRE TO BE A MAJOR LEAGUE BASEBALL PLAYER AND HE PLAYED ON A SCOUT TEAM FOR THE YANKEES. HE WAS CHARGED AND CONVICTED OF MURDER IN ADA, OKLAHOMA. SERVED MANY YEARS ON DEATH ROW. I THINK 11 YEARS ON DEATH ROW. CAME WITHIN FIVE DAYS OF BEING EXECUTED BY THE OKLAHOMA STATE. WHEN HE WAS CONVICTED, HE WAS MENTALLY ILL. HE HAD BIPOLAR DISORDER, HE HAD SCHIZOPHRENIA. HE WAS CONVICTED IN PART BY SOME BAD FORENSIC EVIDENCE THAT WAS PUT TOGETHER BY AN INVESTIGATOR IN OKLAHOMA NAMED JOYCE GILCHRIST DEALING WITH HAIR AND DNA EVIDENCE. HE ALSO HAD A PUBLIC DEFENDER WHO FELL ASLEEP REGULARLY IN THE AFTERNOON. HE WAS VIOLENT IN THE COURT. HE WAS OFFENSIVE TO PEOPLE. PEOPLE WERE CONVINCED THAT THIS MAN WAS GUILTY. AND AFTER HE DIED, JOHN GRISHAM WROTE A BOOK ABOUT HIM, AND THE BOOK'S KNOWN AS THE INNOCENT MAN. IT'S A GREAT READ. I RECOMMEND EVERYONE READING THAT BOOK. [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR DAVIS: THANK YOU, MR. PRESIDENT. AND THE THINGS THAT JOHN GRISHAM HAD TO SAY, I THINK, WERE VERY PROFOUND. HE TALKED AT THE UNIVERSITY OF VIRGINIA SCHOOL OF LAW IN SEPTEMBER OF 2006 AFTER HE



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HAD DONE A LOT OF RESEARCH ON THE DEATH PENALTY AND ON THE WILLIAMSON CASE. AND THERE ARE A COUPLE OF QUOTES THAT I THINK ARE SO IMPORTANT. HE SAID, EVEN IF YOU SUPPORT THE DEATH PENALTY, YOU CANNOT SUPPORT THE DEATH PENALTY SYSTEM AS IT STANDS IN THE UNITED STATES. AND THEN THE LAST THING HE SAID AFTER HE HAD DONE THIS--I SHOULD MENTION ALSO THAT MR. WILLIAMSON HAD A FRIEND WHO WAS ALSO CONVICTED AND SENTENCED AND WAS LATER PARDONED--BUT THE LAST THING HE SAID, MR. GRISHAM SAID WHEN HE SPOKE AT THE UNIVERSITY OF VIRGINIA LAW SCHOOL, HE SAID ONE THING THIS BOOK TAUGHT ME IS THAT THERE ARE A LOT OF INNOCENT PEOPLE IN PRISON. COLLEAGUES, THE STATE SHOULD NOT EVER RISK SENTENCING SOMEONE TO DEATH WHO MIGHT BE INNOCENT. AND THAT CAN HAPPEN. IT NEARLY HAPPENED IN NEBRASKA WITH THE STOCK CASE... [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR DAVIS: THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR DAVIS. (DOCTOR OF THE DAY INTRODUCED.) SENATOR KEN HAAR, YOU'RE RECOGNIZED. [LB268]

SENATOR HAAR: MR. PRESIDENT AND MEMBERS OF THE BODY, I WOULD REQUEST THE REMAINDER OF SENATOR DAVIS' 30 MINUTES, IF I COULD. (LAUGHTER) [LB268]

SPEAKER HADLEY: DENIED. [LB268]

SENATOR HAAR: DENIED. WE HAVE A TOUGH SPEAKER. I RISE IN SUPPORT OF LB268 AND AGAINST THE BRACKET MOTION. AND WHAT I WOULD LIKE TO TALK ABOUT IS SORT OF A FOLLOW UP TO WHAT SENATOR SCHUMACHER SAID THE OTHER DAY IN A VERY POETIC MANNER. AND WHAT IT BOILS DOWN TO IS THAT I LOOK AT THE UPCOMING VOTE ON LB268 AS A VOTE, DO WE GO FORWARD AS A CIVILIZED SOCIETY, OR DO WE GO BACKWARD? AND IF YOU LOOK AT THE HISTORY OF CAPITAL PUNISHMENT IN THIS WORLD, WOW, AS RECENTLY AS THE MIDDLE AGES, YOU KNOW, PUBLIC CAPITAL PUNISHMENT WAS A FAMILY AFFAIR. PEOPLE WOULD COME WITH THEIR KIDS AND THEY WOULD BRING PICNIC LUNCHES AND IT WAS A CELEBRATION. MAYBE NOT TOO MUCH UNLIKE THAT ONE THAT SENATOR COASH DESCRIBES SOME YEARS AGO HERE IN LINCOLN. AND I JUST THINK WE HAVE TO GET AWAY FROM THAT. WE JUST HAVE

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TO SAY NO, THAT THE STATE TAKING A LIFE IN THIS WAY SHOULD NOT HAPPEN. AND LET'S BE DONE WITH THE ISSUE. LET'S METE OUT JUSTICE IN THE WAY OF LIFE IMPRISONMENT AND LET'S BE DONE WITH THIS ONE. OBVIOUSLY, WE HAVE OTHER AREAS IN OUR SOCIETY WHERE THE DEBATE SHOULD NEVER GO AWAY. THE FIRST AMENDMENT IS ONE OF THOSE. YOU KNOW, IT'S SO WELL-CRAFTED THAT WE'RE GOING TO DEBATE THE FIRST AMENDMENT FOREVER. AND THE ISSUE OF FREE SPEECH AND WHAT IS AND WHAT ISN'T, AND HOW IMPORTANT IT IS TO US. AND THAT'S VERY GOOD, BUT WITH THE DEATH PENALTY, I THINK WE NEED TO TAKE THE CIVILIZED STEP FORWARD AND SAY THE STATE WILL NOT EXECUTE PEOPLE. LET'S JUST BE DONE WITH THAT AND LET'S GO ON. LET'S METE OUT JUSTICE. I AM ALSO IMPRESSED TO JUST WATCH WHAT'S GOING ON RIGHT NOW IN OUR OWN LEGISLATURE WITH CORRECTIONS IN PRISON REFORM. AND HERE'S AN AREA WHERE I THINK WE'RE BECOMING MORE CIVILIZED. WE'RE REALIZING THAT INCARCERATION GOES BEYOND...THE ISSUE GOES BEYOND PUNISHMENT AND REVENGE AND THOSE KINDS OF THINGS AND COSTS US MONEY, AND WE'RE BECOMING MORE CIVILIZED AND WE'RE LEARNING TO DEAL WITH THAT IN A WAY THAT THAT'S HOW JUSTICE...BUT GETS BEYOND JUST THOSE FEELINGS OF LET'S LOCK THEM UP. SO, YOU KNOW, WHEN WE'RE BORN, WE AREN'T CIVILIZED. THAT'S THE WHOLE PURPOSE OF PARENTHOOD AND CIVILIZATION ITSELF AS IT MOVES FORWARD, CHANGES WHAT THOSE NORMS ARE, AND HOW WE CIVILIZE OUR CHILDREN, AND I JUST FEEL THAT IN THIS ISSUE, WE SHOULD MOVE FORWARD, BECOME... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR HAAR: ...MORE CIVILIZED, GET RID OF THE DEATH PENALTY AND MOVE ON FROM THERE. LEARN BETTER WAYS TO DEAL WITH THE PEOPLE THAT END UP IN PRISON AND THE PROTECTION OF OUR PEOPLE. AND WITH THAT, I GIVE THE REST OF MY FEW SECONDS TO SENATOR CHAMBERS SHOULD HE LIKE THEM. [LB268]

SPEAKER HADLEY: SENATOR CHAMBERS, 38 SECONDS. [LB268]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE, WITH THESE SNIPPETS OF TIME, I'LL TRY TO MAKE THE MOST OF IT. THE BILL THAT REINSTATED THE DEATH PENALTY IN THIS STATE IN 1978, OR WHATEVER IT WAS, HAD THE SAME NUMBER AS THIS BILL, LB268. SO, THE CIRCLE WILL BE COMPLETED WHEN A BILL BEARING THAT NUMBER, LB268,

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MARKS THE DEMISE OF THE DEATH PENALTY IN THIS STATE. THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR CHAMBERS. SENATOR HANSEN, YOU'RE RECOGNIZED. [LB268]

SENATOR HANSEN: THANK YOU, MR. PRESIDENT. WHILE I WAS TRYING TO FORMULATE MY THOUGHTS ON THIS, NOT MY THOUGHTS ON THIS MATTER, MY THOUGHTS ARE CLEAR, BUT MY WORDS ON THIS MATTER THIS MORNING, I READ A LETTER THAT WAS PASSED TO MY DESK IN THE NAME, CAUGHT MY ATTENTION, SO I WANTED TO READ THAT INTO THE RECORD. IT WAS PUBLISHED IN THE LINCOLN JOURNAL-STAR ON MAY 17 OF THIS YEAR ENTITLED "REPEAL THE DEATH PENALTY." BECAUSE I HAVE LOST THREE LOVED ONES TO MURDER, I FEEL PAIN AND OUTRAGE WHEN I HEAR POLITICIANS SAY WE NEED THE DEATH PENALTY FOR CASES THEY DEEM THE WORST OF THE WORST. THIS IS AN ABSURD NOTION. STUDIES HAVE SHOWN THAT THE DEATH PENALTY IS APPLIED ARBITRARILY. DON'T LOOK AT ME, OR ANY VICTIMS' FAMILY MEMBER IN THE EYE AND DICTATE THAT OUR LOVED ONE'S DEATH WASN'T THE WORST OF THE WORST. IN EACH CASE, COMPLETE HEARTBREAK AND DEVASTATION RESULT. IT IS CRUEL TO RANK OUR LOSSES. WE POUR MILLIONS OF DOLLARS IN ENDLESS MEDIA ATTENTION INTO A TINY PERCENTAGE OF CASES AND OFFER NEARLY NO ASSISTANCE TO MOST VICTIMS. IT SENDS THE FALSE MESSAGE, YOUR SUFFERING IS LESS IMPORTANT. THE DEATH PENALTY CREATES AN ARTIFICIAL DISTINCTION BETWEEN THOSE CASES DEEMED WORTHY OF SEEMINGLY INFINITE RESOURCES AND THE VAST MAJORITY OF US WHO AREN'T GIVEN THE BASIC SUPPORT TO HELP REBUILD OUR LIVES. THIS DISTINCTION IS AN UNNECESSARY HARM TO VICTIMS, BUT IT'S INEVITABLE WE'RE GOING TO KEEP GOING IN SUCH A RARE AND EXPENSIVE PUNISHMENT ON THE BOOKS. THE SOLUTION IS TO REPEAL THE DEATH PENALTY. THIS WAS FROM L.R. HANSEN OF LINCOLN. WITH THAT, I WOULD YIELD MY TIME TO SENATOR DAVIS. [LB268]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE YIELDED 3 MINUTES...SENATOR DAVIS, 3 MINUTES AND 22 SECONDS. [LB268]

SENATOR DAVIS: THANK YOU, MR. PRESIDENT. I WAS TALKING A LITTLE BIT ABOUT THE STOCK MURDERS IN 2006 MY LAST TIME AT THE MIKE AND I WANTED TO TOUCH ON THAT AGAIN BECAUSE TO ME, THE ISSUE OF POTENTIALLY PUTTING SOMEONE TO DEATH AT THE STATE...WHEN THE STATE MAKES THAT MISTAKE IS JUST NOT TOLERABLE AND THAT'S WHY I STAND SO

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STRONGLY AGAINST THIS. SO, JUST TO REFRESH THOSE PEOPLE'S MEMORIES ABOUT THOSE MURDERS, IT WAS A FARM FAMILY IN MURDOCK, NEBRASKA. THE NEXT DAY THEY...OTHER FAMILY MEMBERS HAD THOUGHT THERE HAD BEEN A CONFLICT BETWEEN THEIR NEPHEW AND THEM, SO THE POLICE BEGAN INVESTIGATING THEIR NEPHEW. HE WAS HELD FOR A LENGTHY PERIOD OF TIME. STARTED TO LISTEN TO THE POLICE AND THE POLICE WERE KIND OF FEEDING HIM INFORMATION AND EVENTUALLY HE CONFESSED THAT HE HAD DONE THAT MURDER, HE HAD MURDERED THEM. AND HE IMPLICATED A FRIEND OF HIS, ANOTHER COUSIN, I BELIEVE, AND THAT PERSON ALSO WAS BROUGHT IN AND THERE WAS MORE DISCUSSION AND HE CONFESSED. DOWN THE ROAD THE POLICE INVESTIGATOR WAS HAVING A HARD TIME FINDING EVIDENCE. THAT CAR HAD ACTUALLY BEEN DETAILED THE NEXT DAY WHICH LOOKS LIKE MORE IMPLICATION THAT THESE PEOPLE HAD BEEN GUILTY OF THE CRIME. IT WAS DETAILED EARLY IN THE MORNING THE NEXT DAY, CLEANED UP. NO EVIDENCE FOUND IN THAT CAR. LATER, DAVID KOFOED, A CRIMINAL INVESTIGATOR FROM OMAHA, DISCOVERED THE BLOOD EVIDENCE IN THE CAR THAT IMPLICATED THOSE TWO YOUNG MEN. BUT THERE WAS A TROUBLING PIECE OF EVIDENCE THAT WAS FOUND AT THAT CRIME SCENE AND THAT WAS A RING AND ON THAT RING, A VERY UNUSUAL RING, WAS WRITTEN, LOVE ALWAYS, CORY AND RYAN. AND THERE WAS A JEWELER'S MARK ON THAT RING SO THE INVESTIGATOR CHRISTINE GABIG, SHE CALLED THE JEWELER WHO HAPPENED TO BE GOING OUT OF BUSINESS--THIS STORY IS JUST AN INCREDIBLE STORY--BUT THE JEWELER WAS GOING TO GO OUT OF BUSINESS AND WAS CLOSING THE STORE THAT PARTICULAR DAY, I BELIEVE. AND THE JEWELER SAID, YES, I DO REMEMBER THAT RING AND IT'S A VERY UNUSUAL MANUFACTURED RING, SO THE JEWELER WAS ABLE TO GO THROUGH RECORDS. THEY MADE A LOT OF PHONE CALLS, THE INVESTIGATOR DID, AND SHE FOUND THE PERSON WHO HAD...WHO THAT RING HAD BEEN MADE FOR. AND THAT RING WAS IN A PICKUP THAT HAD BEEN STOLEN IN WISCONSIN TWO OR THREE DAYS PRIOR TO... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR DAVIS: THANK YOU, MR. PRESIDENT...PRIOR TO THAT MURDER. ON THE BASIS OF...AND THEY FOUND THAT PICKUP, THEY FOUND THOSE TWO PEOPLE. THE EVIDENCE THEN INDICATED THAT IT WAS A YOUNG MAN AND A YOUNG WOMAN WHO HAD DRIVEN OFF THE INTERSTATE, KILLED THE STOCK FAMILY, TO TRY TO ROB THEM, THINGS KIND OF WENT BAD THEN. BUT THE POINT BEING, MR. KOFOED PLANTED EVIDENCE IN THAT CAR, WHICH WASN'T RIGHT. THAT WAS A TERRIBLE INJUSTICE, AND HE WAS EVENTUALLY CHARGED AND CONVICTED AND MR. MOCK, WHO WAS THE, I THINK, SPECIAL INVESTIGATOR,

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HE TOLD 20/20, BUT FOR THE FINDING OF THAT RING, LIVERS AND SAMPSON MIGHT BE ON DEATH ROW RIGHT NOW IN NEBRASKA. COLLEAGUES, THAT'S WHY WE NEED TO DO AWAY WITH THE DEATH PENALTY. WE CAN'T TRUST THE SYSTEM ANYMORE. THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR DAVIS. THOSE IN THE QUEUE: SENATOR McCOLLISTER, McCOY, MORFELD, STINNER, BRASCH, AND OTHERS. SENATOR McCOLLISTER, YOU'RE RECOGNIZED. [LB268]

SENATOR McCOLLISTER: THANK YOU, MR. PRESIDENT AND GOOD MORNING, COLLEAGUES. LIKE THE REST OF YOU, I UNDERSTAND THE GRAVITY OF THE SITUATION THAT WE ARE FACING THIS MORNING. IT'S A DECISION THAT REQUIRES PRAYER AND DEEP REFLECTION. WE HAVE ALL HEARD THE CONFLICTING STATISTICS ON MURDER CONVICTION, ERROR RATES, WHETHER AN EXECUTION TRULY IS A DETERRENT OR WHETHER THE RELATIVE COST OF EXECUTION VERSUS LIFE IN PRISON ARE THE MOST EXPENSIVE OR THE CHEAPEST FOR THE STATE. I HAVE COME TO BELIEVE THAT THE STATISTICS A SENATOR TENDS TO BELIEVE, FOLLOW YOUR CORE OF BELIEFS. THOSE STATISTICS YOU CITE COULD BE EASILY REFUTED BY THE OPPOSITE PARTY. SO, WHAT'S MOST COMPELLING TO ME ARE SOME OF THE TESTIMONY OVER THOSE FAMILIES THAT HAVE BEEN TOUCHED BY MURDER. LET ME READ A LETTER, SIGN ON A LETTER, REPEAL THE NEBRASKA'S DEATH PENALTY. AND IT'S ACTUALLY FROM THE FAMILIES OF MURDER VICTIMS. WE ARE INDIVIDUALS AND FAMILIES WHO HAVE LOST LOVED ONES TO MURDER. AT THE MOMENT, NONE OF US COULD HAVE PREDICTED OR PREPARED FOR A TRAGEDY ROBBED US OF CHILDREN, PARENTS, SPOUSES, BROTHERS, SISTERS, AND OTHER FAMILY MEMBERS. OUR DIRECT EXPERIENCES WITH THE CRIMINAL JUSTICE SYSTEM AND STRUGGLING WITH GRIEF HAD LED US TO BELIEVE TO THE SAME CONCLUSION. NEBRASKA'S DEATH PENALTY FAILS MURDER VICTIMS' FAMILIES. WE NEVER ASKED TO BE IN THIS POSITION, AND WOULD DO ANYTHING TO CHANGE IT. WE REALIZE, HOWEVER, THAT NOTHING CAN ERASE THE LOSS OF THAT SENSELESS ACT OF VIOLENCE BROUGHT INTO OUR LIVES. WE CAN HONOR THE MEMORY OF OUR LOVED ONES AND OTHER FAMILIES WHO MAY FACE TRAGEDY BY WORKING FOR EFFECTIVE RESPONSES TO VIOLENCE. THE REALITY OF THE DEATH PENALTY IS THAT IT DRAGS OUT THE LEGAL PROCESS FOR DECADES. IN NEBRASKA, THE DEATH PENALTY IS A FALSE PROMISE THAT GOES UNFULFILLED LEAVING VICTIMS' FAMILIES FRUSTRATED AND ANGRY OVER YEARS OF FIGHTING THE LEGAL SYSTEM. VICTIMS' FAMILIES IN CAPITAL CASES GO BACK TO COURT FOR YEARS ON END WHERE THE PRESS REPLAYS THE DETAILS OF CRIME AGAIN AND AGAIN. THE RESULT IS, THE CASE NEVER COMES

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TO AN END. THE SYSTEM BURDENS OUR VAST MAJORITY OF CASES THAT DON'T RESULT IN THE DEATH SENTENCE. AS THE STATE HANGS ON THIS BROKEN SYSTEM, IT WASTES MILLIONS OF DOLLARS THAT COULD GO TOWARD MUCH NEEDED VICTIMS' SERVICES. THE DEATH PENALTY IS SAID TO BE RESERVED FOR THE PARTICULARLY HEINOUS MURDERS. WE HAVE DIFFICULTY UNDERSTANDING THIS POSITION. THE IMPLICATION IS THAT OTHER MURDERS ARE ORDINARY AND DO NOT MERIT THE DEATH PENALTY. FROM EXPERIENCE, WE CAN TELL YOU THAT EVERY MURDER IS HEINOUS, A TRAGEDY FOR THE LOST ONE'S FAMILY. THE DEATH PENALTY HAS THE EFFECT OF ELEVATING CERTAIN VICTIMS' FAMILIES ABOVE OTHERS. NEBRASKA SHOULD BE BETTER THAN THAT. I YIELD THE BALANCE OF MY TIME TO SENATOR CHAMBERS. [LB268]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE YIELDED 1 MINUTE AND 34 SECONDS. [LB268]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR McCOLLISTER. THE DATE WHEN THE DEATH PENALTY WAS REINSTATED IN NEBRASKA, THE YEAR WAS 1973. THE BILL WAS LB268. IT WAS INTRODUCED BY SENATOR DENNIS RASMUSSEN. I WAS IN THE LEGISLATURE AT THAT TIME. I WAS AGAINST HIS BILL. I AM THE INTRODUCER OF LB268 IN THE YEAR 2015. NEBRASKA WILL STEP INTO HISTORY BY ABOLISHING THE DEATH PENALTY. THIS WILL BE THE FIRST SO-CALLED CONSERVATIVE STATE TO HAVE DONE SO. NEBRASKA WAS THE FIRST STATE. THANKS TO THE ASSISTANCE I RECEIVED FROM MY COLLEAGUES TO CALL FOR DIVESTMENT OF PUBLIC FUNDS FROM SOUTH AFRICA, THE FEDERAL GOVERNMENT FOLLOWED, THE COUNTRY FOLLOWED AND NOW NEBRASKANS ARE PROUD OF WHAT THEY DID. I THINK ONCE THIS BECOMES AN ACCOMPLISHED FACT, EVERYBODY IS GOING TO ACCEPT IT BECAUSE THERE ARE MANY PEOPLE IN NEBRASKA WHO THINK THERE'S NO DEATH PENALTY NOW ANYWAY. IF THIS BILL...NOT IF, WHEN IT IS PASSED, AND WHEN IT BECOMES LAW, NOTHING IS GOING TO CHANGE. THE DEATH PENALTY IS NOT USED. AND WE DON'T HAVE TO GO TO ANOTHER STATE TO SHOW WHAT HAPPENS IN PRISON. IF ANY PRISONERS KNOW THAT THERE'S A DEATH PENALTY, THOSE AT TECUMSEH KNOW BECAUSE THAT'S WHERE DEATH ROW IS HOUSED. NOT ONLY IS DEATH ROW... [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR CHAMBERS: ...HOUSED THERE, THEY HAVE 11 MEN ON DEATH ROW. TIME? [LB268]

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SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR CHAMBERS. SENATOR McCOY, YOU'RE RECOGNIZED. [LB268]

SENATOR McCOY: THANK YOU, MR. PRESIDENT. WOULD SENATOR CHAMBERS YIELD, PLEASE? [LB268]

SPEAKER HADLEY: SENATOR CHAMBERS, WILL YOU YIELD? [LB268]

SENATOR CHAMBERS: YES, I WILL. [LB268]

SENATOR McCOY: THANK YOU, SENATOR. WAS THE OBAMA ADMINISTRATION WRONG TO PRESS FOR THE DEATH PENALTY ON THE BOSTON BOMBER? [LB268]

SENATOR CHAMBERS: I CANNOT RESPOND TO ANYTHING ABOUT WHATEVER ANYBODY ELSE DID. ANYBODY WHO WAS FOR THE DEATH PENALTY IN MY OPINION IS WRONG. [LB268]

SENATOR McCOY: OKAY, THANK YOU, SENATOR, I APPRECIATE THAT. THE BOSTON BOMBER JUST RECEIVED A DEATH PENALTY SENTENCE AS ALL OF US KNOW THAT HAVE BEEN WATCHING THE NEWS. THE REASON THAT THIS WAS PURSUED FEDERALLY IS BECAUSE THE FEDERAL GOVERNMENT STILL HAS THE DEATH PENALTY. THE STATE OF MASSACHUSETTS DOES NOT. SO, THIS INDIVIDUAL, WHO PERPETRATED A TRAGIC LOSS OF LIFE AND THE MAIMING AND DISFIGURING OF SO MANY INDIVIDUALS IN BOSTON, RECEIVED THE DEATH PENALTY, DEATH SENTENCE FOR THOSE CRIMES. SENATOR CHAMBERS ALSO MENTIONED, AND I HANDED OUT A PRESS RELEASE FROM GOVERNOR PETE RICKETTS FROM A SHORT TIME AGO, HIS VERY FIRM AND EMPHATIC OPPOSITION TO LB268 AND HE VOWED TO VETO IT. GOVERNOR RICKETTS CLEARLY STATED, AND I AGREE, A VOTE YES ON CLOTURE ON THIS BILL IS A VOTE TO REPEAL THE DEATH PENALTY. AND I WOULD ASK YOU, IF YOU DISAGREE WITH ME ON THIS, I'D ASK YOU, MEMBERS, TO GO TAKE A LITTLE INFORMAL STRAW POLL AMONG YOUR CONSTITUENTS AND ASK THEM ABOUT UNITED STATES SENATOR BEN NELSON'S VOTE ON OBAMACARE, BECAUSE LET ME TELL YOU WHAT IT WAS. YOU KNOW, HOW MANY FOLKS IN NEBRASKA DO YOU THINK REALIZE THAT

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SENATOR NELSON ACTUALLY VOTED NO ON THE UNDERLYING LEGISLATION? HE VOTED YES ON CLOTURE. AND I WOULD ASK YOU TO GO ASK SOME OF YOUR CONSTITUENTS WHETHER YOU THINK HE VOTED YES OR NO ON OBAMACARE. THEY KNOW GOOD AND WELL WHAT CLOTURE MEANS. THEY KNOW WHAT A CLOTURE VOTE MEANS. AND IT COST ONE OF OUR LONGTIME SERVING UNITED STATES SENATORS...IT ARGUABLY COST HIM HIS JOB. I WOULD TELL YOU TO THINK LONG AND HARD ON THIS, THOSE OF YOU WHO MAY THINK THAT, WELL, I'LL JUST GIVE A CLOTURE VOTE ON THIS ISSUE AND I'LL VOTE NO ON THE BILL. NO, A CLOTURE VOTE IS A VOTE TO REPEAL THE DEATH PENALTY. YOU KNOW, I ALSO WANT TO TALK ABOUT, AS I DID IN MY REMARKS ON SELECT FILE. AND I WOULD SAY THIS TO SENATOR SEILER IN RESPONSE TO WHAT HE SAID ABOUT MY COMMENTS. I DIDN'T PURPORT TO SAY THAT THIS INDIVIDUAL WHO ALLEGEDLY COMMITTED THESE CRIMES, ONE OF THE MURDERS WHO TOOK PLACE IN MY DISTRICT, I DIDN'T IMPLY THAT HE HAD ALREADY RECEIVED THE DEATH PENALTY. I VERY CLEARLY SAID THAT DOUGLAS COUNTY ATTORNEY DON KLEINE IS PRESSING FOR THE DEATH PENALTY. I, OF COURSE, BELIEVE AS I HOPE WE ALL DO, AND I'M SURE WE ALL DO, THAT IN OUR COUNTRY, YOU'RE INNOCENT UNTIL PROVEN GUILTY, NOT THE OTHER WAY AROUND. [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR McCOY: NOW, THIS INDIVIDUAL ADMITTED TO THE CRIMES AND REPORTED HIMSELF, TURNED HIMSELF IN AT A POLICE STATION. SO SENATOR SEILER IS CORRECT. THIS INDIVIDUAL HAS NOT RECEIVED A TRIAL YET OR A CONVICTION OR A SENTENCE, BUT HE'S ADMITTED TO THE CRIMES. YOU KNOW, I'D ALSO LIKE TO TALK ABOUT THE LIVES, THE FAMILIES, AS I DID ON SELECT FILE, WHO ARE IN FAVOR OF THE DEATH PENALTY. SURE, THERE ARE SOME WHO ARE NOT, AND I RESPECT THAT. BUT WE HAVE JUSTICE IN OUR COUNTRY AND WE HAVE JUSTICE IN OUR STATE FOR A REASON. [LB268]

SPEAKER HADLEY: TIME, SENATOR. THANK YOU, SENATOR McCOY. THOSE IN THE QUEUE: SENATORS MORFELD, STINNER, BRASCH, EBKE, PANSING BROOKS, AND NORDQUIST. SENATOR MORFELD, YOU'RE RECOGNIZED. [LB268]

SENATOR MORFELD: THANK YOU, MR. SPEAKER. I RISE IN OPPOSITION TO THE BRACKET MOTION AND LB...OR EXCUSE ME, IN SUPPORT OF LB268. AND I HAVE NOT TALKED MUCH ON THIS ISSUE BECAUSE I'VE ALWAYS MADE MY POSITION AND SUPPORT OF THE REPEAL VERY CLEAR. HOWEVER, THE REASON WHY I OPPOSE THE DEATH PENALTY IS BECAUSE JUST AS I BELIEVE STRONGLY THAT



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NO INDIVIDUAL HAS THE RIGHT TO TAKE THE LIFE OF ANOTHER, NOR SHOULD THE STATE. AND AS LEGISLATORS, WE DETERMINE THE POWER OF THE STATE TO EITHER TAKE A LIFE OR NOT. AND THAT'S WHAT LB268 IS ABOUT. I HAVE TO RECONCILE THOSE TWO THINGS AND THAT'S WHY I'M OPPOSED TO THE DEATH PENALTY BECAUSE JUST AS I BELIEVE NO ONE HAS THE RIGHT TO TAKE THE LIFE OF ANOTHER, THE STATE SHOULD NOT HAVE THE POWER AND AUTHORITY TO TAKE THE LIFE OF ANOTHER AS WELL. MANY PEOPLE ON THIS FLOOR HAVE TALKED ABOUT JUSTICE. ONE MEMBER HAS OPENLY WONDERED WHETHER OR NOT THIS BODY BELIEVES IN JUSTICE. JUSTICE HAS MANY FORMS AND MANY DIFFERENT DEFINITIONS. I WAS JUST LOOKING IN THE DICTIONARY AND ONE OF THE DEFINITIONS IS FAIRNESS. THE PRINCIPLE OF MORAL RIGHTNESS. AGAIN, JUST AS THOSE INDIVIDUALS THAT HAVE TAKEN THE LIVES OF OTHERS UNJUSTLY, I DO NOT BELIEVE THAT THE STATE SHOULD HAVE A RIGHT TO TAKE THE LIFE OF ANOTHER AS WELL. AND MANY OF MY COLLEAGUES THIS MORNING HAVE LAID OUT THE REASONS WHY. THAT WE HAVE OFTEN A FLAWED JUSTICE SYSTEM, AND NOT BY ANY FAULT OF ANY PARTICULAR PERSON. I KNOW MANY PEOPLE ON BOTH THE PUBLIC DEFENDER'S SIDE AND THE PROSECUTORIAL SIDE WHO ARE UPSTANDING PROSECUTORS AND PUBLIC DEFENDERS. BUT BECAUSE NONE OF US ARE PERFECT, AND WE CANNOT CREATE A PERFECT SYSTEM IN WHICH WE KNOW FOR A FACT WHETHER JUSTICE HAS BEEN SERVED BY THE STATE KILLING ANOTHER HUMAN BEING, JUST AS WE KNOW THAT IT IS WRONG FOR ANOTHER HUMAN BEING TO TAKE THE LIFE OF ANOTHER. THE GOVERNOR AND SENATOR McCOY HAVE ASKED ME TO LISTEN TO MY CONSTITUENTS. OH, I HAVE. AND OVERWHELMINGLY THEY HAVE TOLD ME IN MY DISTRICT, AT LEAST, AND I KNOW MANY OF YOUR DISTRICTS MAY BE DIFFERENT, THAT THE DEATH PENALTY IS A MORAL WRONG. BUT I ALSO ASK THAT YOU LISTEN TO YOURSELF BECAUSE IN OUR REPRESENTATIVE DEMOCRACY, WE ARE SENT NOT JUST SIMPLY AS DIRECT REPRESENTATIVES OF OUR CONSTITUENTS, BUT ALSO WE ARE SENT HERE TO KNOW THE FACTS AND TO GATHER THE INFORMATION AND LISTEN TO THE DEBATE AND MAKE TOUGH DECISIONS, INFORMED DECISIONS. THAT IS THE CORNERSTONE OF A REPRESENTATIVE DEMOCRACY IS WELL-INFORMED REPRESENTATIVES WHO UNDERSTAND THE FACTS, DIVE INTO THE ISSUES, LISTEN TO THE DEBATE, AND MAKE TOUGH DECISIONS. AND THEY MAY NOT ALWAYS COINCIDE EXACTLY WITH A STRAW POLL IN YOUR DISTRICT. I KNOW THAT VENGEANCE IN PARTICULAR IS A POWERFUL FEELING, BUT I ASK THAT WE STEP BACK AND REMEMBER THAT WE ARE CHARGED WITH THE DISPOSITION OF JUSTICE AND NOT JUST VENGEANCE. AND THAT IS EXACTLY WHAT I BELIEVE THE DEATH PENALTY IS, IT'S VENGEANCE, NOT JUSTICE. [LB268]

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SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR MORFELD: THANK YOU, MR. PRESIDENT. SENATOR McCOY BROUGHT UP WHAT I BELIEVE ARE SOME VEILED THREATS, THAT A CLOTURE VOTE IS A VOTE TO REPEAL THE DEATH PENALTY. WELL, I SUPPOSE IF DISHONEST PEOPLE MAKE THOSE CLAIMS AND CALL THAT A VOTE AGAINST THE DEATH PENALTY, THEN I SUPPOSE SOME PEOPLE WILL BELIEVE THAT. HOWEVER, WE KNOW HERE THAT A CLOTURE VOTE IS TO END WHAT WE CALL FILIBUSTER, AND TO MAKE IT SO THAT A BILL CAN HAVE ITS DAY, AN EITHER UP OR DOWN VOTE. SO, DISHONEST PEOPLE IN THIS BODY WANT TO MAKE THAT THREAT AND THEN PERPETUATE THAT THREAT TO MEMBERS OF THIS BODY, THEN THEY CAN GO FORTH AND DO THAT, BUT THEY ARE DISHONEST THEN. REMEMBER, WE SHOULD NOT BE USING VENGEANCE TO CREATE POLICY. I'VE HAD WRONGS COMMITTED AGAINST ME AS AN ADULT AND EVEN WRONGS COMMITTED TO ME AS A BOY. [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR MORFELD: THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: SENATOR MORFELD. SENATOR STINNER, YOU'RE NEXT. [LB268]

SENATOR STINNER: THANK YOU, MR. PRESIDENT. I'D LIKE TO YIELD MY TIME TO SENATOR McCOY. [LB268]

SPEAKER HADLEY: SENATOR McCOY, YOU'RE YIELDED 4 MINUTES AND 53 SECONDS. [LB268]

SENATOR McCOY: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR STINNER. I WOULD REMIND SENATOR MORFELD, I'M NOT OFFERING ANY SORT OF A VEILED THREAT. I HAVE NO WAY TO CARRY OUT ANY THREAT NOR WOULD I THREATEN ANYONE. THIS VOTE IS UP TO EACH MEMBER. I'M JUST MERELY REMINDING MEMBERS OF THIS BODY JUST A FEW SHORT YEARS AGO, IN A NATIONALLY AND GLOBALLY SCRUTINIZED VOTE, A FORMER TWO-TERM GOVERNOR OF THIS STATE, AND A TWO-TERM UNITED STATES SENATOR WAS FORCED TO RETIRE BECAUSE OF A CLOTURE VOTE AND THE OUTCRY IN HIS HOME STATE OF THE GREAT STATE OF NEBRASKA. CLOTURE IS VOTING FOR THIS

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BILL. THAT'S NOT A THREAT. THAT'S NOT RHETORIC. THAT'S REALITY. YOU CAN CALL IT CUTTING OFF DEBATE, SO DID SENATOR NELSON. HE TRIED THAT MOVE. DIDN'T WORK FOR HIM, AND HE HAD A WAY BIGGER BULLY PULPIT THAN ANY OF THE 49 OF US DO. THE PEOPLE OF NEBRASKA ARE VERY INTELLIGENT. THEY'RE SAVVY. THEY'RE WATCHING THIS DEBATE. THEY'RE KEEPING TRACK OF THIS ISSUE. WHY DO YOU THINK I BROUGHT TO YOU THE AMENDMENT TO PUT THIS TO A VOTE OF THE PEOPLE. AND UNLESS ANYONE FORGET, THAT AMENDMENT RECEIVED 22 VOTES. AND I DIDN'T ASK FOR A CALL OF THE HOUSE AND I DIDN'T ASK FOR A ROLL CALL VOTE. SO, CLEARLY THERE'S A NUMBER OF MEMBERS OF THIS BODY WHO THOUGHT THAT THIS SHOULD GO TO A VOTE OF THE PEOPLE. I DON'T WANT TO STEAL SENATOR GROENE'S THUNDER. HE HAS A HAND OUT THAT I THINK IS VERY, VERY GOOD FOR THIS DISCUSSION THIS MORNING, THE SWORD OF JUSTICE AND LADY JUSTICE. I CAN'T YIELD HIM TIME BECAUSE SENATOR STINNER YIELDED IT TO ME, AND I KNOW HE'LL HAVE AN OPPORTUNITY TO TALK ABOUT IT LATER. BUT I WOULD ASK YOU, MEMBERS, TAKE A LOOK AT THAT PICTURE. WHAT IS IN THE RIGHT HAND OF LADY JUSTICE? IT ISN'T A SET OF KEYS. THE LEFT HAND ARE A SET OF SCALES. SCALES OF JUSTICE. IN THE RIGHT HAND IS A SWORD. IT'S NOT A SET OF KEYS TO A CELL BLOCK FOR LIFE IN PRISON. THAT'S WHY THAT SWORD IS IN THAT HAND. BECAUSE IN AMERICA, WE RECOGNIZE WITH OUR JUSTICE SYSTEM THAT THERE ARE APPROPRIATE PUNISHMENTS AND SENTENCES AND CONSEQUENCES FOR APPROPRIATE CRIMES. THAT'S WHY THE FEDERAL GOVERNMENT STILL HAS THE DEATH PENALTY. YOU KNOW, I'D ASK YOU ALSO, MEMBERS, TO CONSIDER THE FACT THAT WE HAVE A PRESIDENT OF THE UNITED STATES AND A DEPARTMENT OF JUSTICE THAT HAS SOUGHT AT EVERY TURN IN THE LAST SEVEN YEARS TO PREVENT PHARMACEUTICAL COMPANIES FROM MANUFACTURING AND SELLING THE DRUGS REQUIRED FOR LETHAL INJECTIONS TO STATES TO CARRY OUT JUSTICE. BUT YET, DID YOU SEE THE FEDERAL GOVERNMENT AND THIS PRESIDENT MAKE ANY MOVE TO ABOLISH THE DEATH PENALTY IN THE FEDERAL GOVERNMENT? NO. AND I WOULD ASK YOU, MEMBERS, WHY IS THAT? BECAUSE EVEN THIS PRESIDENT, WHO I RESPECT AS I RESPECT ANY PRESIDENT, RECOGNIZES THAT WHEN YOU DEAL WITH CRIMES LIKE AN OKLAHOMA CITY BOMBING THAT WE JUST COMMEMORATED... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR McCOY: ...A 20TH ANNIVERSARY FOR, WITH TIMOTHY McVEIGH WHO WAS EXECUTED FOR THAT CRIME, THAT EVEN THE FEDERAL GOVERNMENT RECOGNIZES FOR SOME CRIMES, DEATH IS THE ONLY APPROPRIATE PUNISHMENT. THAT'S WHY I RISE THIS MORNING. THAT'S WHY I'M PASSIONATE

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ABOUT THIS ISSUE BECAUSE THE ULTIMATE PUNISHMENT SHOULD BE RESERVED FOR THOSE WHO HAVE COMMITTED THE MOST HEINOUS CRIMES AGAINST NEBRASKANS. NO, IT'S NOT USED FREQUENTLY. IT SHOULDN'T BE, BUT IT SHOULD BE THERE TO USE. [LB268]

SPEAKER HADLEY: TIME, SENATOR. THANK YOU, SENATOR McCOY. SENATOR BRASCH, YOU'RE RECOGNIZED. [LB268]

SENATOR BRASCH: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. HOW APPROPRIATE, LADY JUSTICE. THAT'S EXACTLY WHAT I WAS GOING TO SPEAK ON THIS MORNING. AND SHE DOES HOLD A SWORD. AND LADY JUSTICE IS SHOWN WITH AN UNSHEATHED SWORD READY FOR USE IN THE INTEREST OF JUSTICE. AND THAT'S FROM HECKEL AND FARMANN, 1959, PAGE 234. THE INTEREST PROCLAIMED HERE MARKS JUDICIARY ACTION OR ENFORCEMENT OF JUSTICE. LADY JUSTICE IS DEPICTED HOLDING A DOUBLE-EDGED SWORD IN HER RIGHT HAND WHICH TROPES THE OUTCOME OF THOSE DELIBERATIONS FOR OR AGAINST LITIGATING PARTIES. IN THE DOUBLE-EDGED SWORD, WE FIND TWO EMBEDDED MEANINGS: ONE, A SWORD REPRESENTS THE ENFORCEMENT OF JUSTICE OR JUDGMENT. TWO, A SWORD THAT REPRESENTS PROTECTION OF THE LAW OR DEFENSE. JUXTAPOSING THESE TWO IDEAS WE FORMULATE THIS DOUBLE-EDGED SWORD OR THE REQUIREMENT OF PUNISHMENT AND DEFENSE. I WANTED TO ADD THAT 32 STATES RETAIN THE DEATH PENALTY AS DOES THE MILITARY AND THE FEDERAL GOVERNMENT. I REPRESENT THREE COUNTIES IN NORTHEAST NEBRASKA, CONSTITUENTS OVERWHELMINGLY SUPPORT THE DEATH PENALTY. THAT'S WHERE I CALL HOME. WHERE I RESIDE WHILE IN SESSION IS IN A NORTHEAST LINCOLN NEIGHBORHOOD. THEY HAVE ECHOED THEIR SUPPORT IN RETAINING THE DEATH PENALTY. THIS LEGISLATURE MADE NATIONAL NEWS, FOX NEWS AND OTHERS NOT VERY LONG AGO. YOUR DECISION TODAY, I BELIEVE, WILL ALSO MAKE FOX NEWS AND NATIONAL NEWS. WE'LL REPEAT HISTORY AGAIN. AND SENATOR CHAMBERS, I CONGRATULATE YOU. YOU SAID IT TOOK 40 YEARS TO FIND A LEGISLATURE OF KINDRED SPIRITS AT LEAST ON THIS ISSUE BECAUSE IT SEEMED LIKE YESTERDAY WE WERE NOT WORTHY OF OUR POSITION IN OUR POST, THAT WE WERE GUILTY OF ALL SORTS OF CRIMES DATING BACK GENERATIONS AND GENERATIONS. YOU KNOW, I, FOR ONE, BELIEVE THAT YOU LISTEN TO YOUR CONSTITUENTS. YOU ARE MINDFUL OF WHAT 40 YEARS OF LEGISLATORS BELIEVED WAS JUST, WHAT OUR SYMBOL OF JUSTICE, THE SCALE, THE BLINDFOLD, THE SWORD, ARE MEANINGFUL TO YOU. AND THAT WE NOT FALL OR BE SWAYED FOR WHAT OTHER REASONS OTHER THAN JUSTICE. IN NORTHEAST NEBRASKA, IT IS...IT SEEMS LIKE YESTERDAY. WE STILL KNOW OF THE HORRIFIC MURDEROUS OUTCOMES, THE

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LIVES LOST AT THE BANK ROBBERY. IT'S HARD TO FORGET THAT, EVEN THOUGH IT'S A DECADE AGO. PEOPLE ARE ASKING FOR JUSTICE. WITH TERM LIMITS, IT SEEMS LIKE YESTERDAY THAT I CAME HERE AND TOOK MY POST, BUT IN SPEAKING WITH OTHER PAST SERVANTS, PUBLIC SERVANTS, THOSE WHO HAVE SERVED, THEY'RE ALSO ASKING, WHY HAVE WE SWAYED IN OUR OPINION?  
[LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR BRASCH: WHY ARE OUR CHURCHES GETTING SMALLER, YET THE NEED FOR PUBLIC SERVICE GROWING LARGER AND LARGER? WHERE IS OUR CORE OF VALUES? AND WHERE ARE OUR POSITIONS WHEN IT...WHEN WE NEED TO MAKE DIFFICULT DECISIONS. THESE ARE NOT EASY. THESE ARE NOT JOYFUL. THEY ARE DIFFICULT. AND WE ARE DEEMED TO MAKE THOSE DECISIONS. AND I'M NOT GOING FORGET WHAT 40 YEARS OF LEGISLATIVE HISTORY OR FURTHER HAS STOOD FOR JUSTICE AND THE SWORD, AND I'M HOPING THAT AS YOU MOVE FORWARD IN THIS STATE THAT YOU ARE MINDFUL OF THOSE WHO YOU REPRESENT. THANK YOU, MR. PRESIDENT, AND THANK YOU, COLLEAGUES.  
[LB268]

SPEAKER HADLEY: THANK YOU, SENATOR BRASCH. THOSE IN THE QUEUE: SENATOR EBKE, PANSING BROOKS, NORDQUIST, SCHNOOR, AND BAKER. SENATOR EBKE, YOU'RE RECOGNIZED. [LB268]

SENATOR EBKE: THANK YOU, MR. PRESIDENT. COLLEAGUES, TODAY WE ARE FACING PROBABLY THE MOST EMOTIONAL AND DIFFICULT DECISION THAT ANY OF US, CERTAINLY ANY OF US FRESHMAN, HAVE HAD TO MAKE. AND WE'VE BEEN TOLD TIME AND TIME AGAIN THAT WE SHOULD BE LISTENING TO OUR CONSTITUENTS. BUT IF YOUR DISTRICT IS ANYTHING LIKE MINE, YOU HAVE HEARD VOICES ON BOTH SIDES OF THE ISSUE. YOU'VE HEARD THOSE WHO HAVE BEEN VERY MUCH PRO CONTINUATION OF THE DEATH PENALTY AND JUST AS MANY, IN MY INSTANCE, WHO HAVE BEEN VERY MUCH IN FAVOR OF REPEAL. I GOT A LETTER FROM ONE OF MY CONSTITUENTS YESTERDAY, ONE OF THOSE YOUNG CONSTITUENTS. AND HER NAME WAS ELLA MURRAY. AND SHE WROTE ME THIS LETTER AND I THOUGHT I'D LIKE TO SHARE IT WITH YOU. IT SAYS DEAR SENATOR EBKE, MY NAME IS ELLA MURRAY AND I'M 9 YEARS OLD. I AM FROM DESHLER, NEBRASKA. I DON'T THINK THE DEATH PENALTY IS RIGHT. MY DAD TOLD ME ABOUT A MAN ON THE NEWS WHO GOT IT. WOW. SOME PEOPLE HAVE TO GET DRUGS, PUT THEM TO SLEEP, AND GIVE THEM THE BAD DRUGS THAT

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MAKE YOUR HEART STOP. I THINK THAT'S BAD. I THINK YOU SHOULD CHANGE THE NAME TO LIFE PENALTY AND PUT THEM IN JAIL FOR THE REST OF THEIR LIVES. BY THE WAY, I THINK YOU SHOULD DO SOMETHING ABOUT JAIL MEMBERS KILLING OTHER JAIL MEMBERS. I AGREE WITH ELLA. PS: PLEASE TELL THE GOVERNOR ABOUT MY LETTER. BEST WISHES, ELLA VIOLET (PHONETIC) MURRAY. YOU KNOW, NO ONE DENIES THE VERY HORRIFIC NATURE OF SOME OF THESE CRIMES THAT WE'VE TALKED ABOUT. AND I REALLY DO APPRECIATE THE SENTIMENT THAT MANY OF MY COLLEAGUES HAVE EXPRESSED AND THAT MANY OTHERS HAVE EXPRESSED, THAT PERHAPS THE DEATH PENALTY OUGHT TO BE AN OPTION FOR THOSE WHO HAVE...YOU KNOW, WHO ARE THE WORST OF THE WORST, WHO HAVE COMMITTED THE MOST HEINOUS OF ALL CRIMES. I UNDERSTAND THAT SENTIMENT. BUT I CAN'T DEFINE WHAT THE WORST OF THE WORST IS. I THINK IT WAS SENATOR McCOLLISTER WHO MADE ALLUSION TO THAT A LITTLE WHILE AGO. I CAN'T DEFINE WHAT THE WORST OF THE WORST IS. I CAN'T DEFINE WHAT THE MOST HEINOUS OF CRIMES ARE. IF IT'S MY CHILD WHO WAS KILLED, THEY'RE ALL HEINOUS. IT DOESN'T MATTER EXACTLY HOW THEY'RE COMMITTED. I THINK THAT'S A DIFFICULT THING FOR US TO DEFINE IN STATUTE WHICH MAKES THE DEATH PENALTY MUCH MORE ARBITRARY IN ITS EXECUTION. I TOLD A GROUP OF CONSTITUENTS ON SATURDAY, THEY ASKED ME ABOUT THE DIFFERENT SIDES OF THE DEATH PENALTY. AND I TALKED TO THEM ABOUT THAT FOR A LITTLE WHILE. THIS IS IN BRUNING, A COFFEE WE HAD. AND I TOLD HIM THIS. I SAID, YOU KNOW, AS A CONSERVATIVE, I DON'T TRUST THE GOVERNMENT TO MANAGE MY HEALTHCARE. AND I DON'T TRUST THE GOVERNMENT TO DO MANY OTHER THINGS, FRANKLY. I DON'T...I'M NOT SURE THAT THE GOVERNMENT CAN BE EFFECTIVE OR EFFICIENT OR ALWAYS RIGHT. AND SO I'M NOT REALLY SURE THAT WE CAN ALWAYS TRUST THE GOVERNMENT TO BE ABSOLUTELY RIGHT IN THE TRYING AND THE CONVICTION AND THE EXECUTION OF THOSE WHO HAVE BEEN ACCUSED OF MURDER. FOR MANY OF US, THIS IS A MATTER OF CONSCIOUS. IT'S CERTAINLY A MATTER OF CONSCIOUS FOR ME, AT LEAST IN PART. BUT IT'S ALSO A MATTER OF TRYING TO BE PHILOSOPHICALLY CONSISTENT. IF GOVERNMENT SHOULDN'T BE TRUSTED TO MANAGE OUR HEALTHCARE, WHICH I THINK MANY OF US IN THIS ROOM WOULD AGREE, THEN WHY SHOULD IT BE TRUSTED TO CARRY OUT AN IRREVOCABLE SENTENCE OF DEATH? I WOULD...SENATOR SCHEER WHO SITS ON THE OTHER SIDE OF THIS ISSUE THAN I DO ASKED ME A FEW MINUTES AGO IF I WOULD GIVE HIM A LITTLE BIT OF TIME IN ORDER TO READ A LETTER FROM A CONSTITUENT. AND FEELING THE DESIRE TO... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

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SENATOR EBKE: ...BE SOMEWHAT FAIR, I AM GOING TO YIELD HIM THE REST OF MY TIME. [LB268]

SPEAKER HADLEY: SENATOR SCHEER, YOU'RE YIELDED 52 SECONDS. [LB268]

SENATOR SCHEER: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR EBKE. I WANT YOU TO HEAR FROM THE TRUE VICTIMS. IN REGARDS TO KEEPING THE DEATH PENALTY, IT IS EASY TO SEE BY THE WAY YOU VOTED AGAINST IT THAT YOU HAVE NEVER LOST A LOVED ONE DUE TO A MURDER. FOR EXAMPLE, IN OUR FAMILY, WE LOST A BEAUTIFUL NIECE IN THE MURDERS OF THE NORFOLK BANK. IT WASN'T A ROBBERY. IT WAS AN INTENTIONAL SHOOTING ALL CAUGHT ON CAMERA. THEY DIDN'T ASK FOR MONEY. THEY JUST FIRED AT PEOPLE THAT WERE WORKING THERE. THIS AFFECTS NOT ONLY FAMILY, BUT ESPECIALLY THEIR CHILDREN TO THIS DAY. AND JUST AS THEY WERE MURDERERS, THEY'RE STILL ALIVE SITTING IN PRISON. THEY WERE SENTENCED TO DEATH. WE CLOTHE THEM, WE FEED THEM, WE KEEP THEM WARM, AND WE OFFER THEM PRIVILEGES. WHY? HOW MUCH DOES IT COST THE TAXPAYERS EVERY DAY? WHY WORRY ABOUT DEATHS BEING PAINFUL? THEY DIDN'T WORRY ABOUT THE PAIN CAUSED, BOTH PHYSICAL AND EMOTIONAL, TO THOSE THAT...SO MANY. WE ASK YOU TO CONSIDER THIS AS YOU VOTE... [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR SCHEER: ...HOW YOUR CONSTITUENTS WANT YOU TO VOTE, AND TO STAND ALSO BY YOUR OWN CONVICTIONS AND CONSCIOUSNESS. WE PRAY YOU DO THE RIGHT THING. MARVIN ELWOOD, LEGENE (PHONETIC) ELWOOD, BRENT (PHONETIC) ELWOOD, RITA (PHONETIC)... [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED. [LB268]

SENATOR PANSING BROOKS: THANK YOU, MR. PRESIDENT. THIS IS A PAINFUL SUBJECT. SENATOR SCHEER IS CORRECT. THERE ARE FAMILIES THAT ARE HURTING ON ALL SIDES OF THESE ISSUES. THE VICTIMS' FAMILIES HAVE SPOKEN OUT MANY TIMES ON BOTH SIDES. BUT THERE IS CLEARLY NOT CONSENSUS ON THIS ISSUE AMONG VICTIMS' FAMILIES. MIRIAM KELLE, THE SISTER OF JAMES THIMM, WHO WAS TORTURED AND MURDERED, WROTE IN A LETTER TO THE EDITOR EARLIER THIS MONTH, QUOTE, HEAR ME CLEARLY, THE ONLY THING THE DEATH PENALTY HAS DONE FOR MY FAMILY IS KEPT US IN A TREMENDOUS

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PAINFUL LIMBO FOR 30 YEARS. SHAME ON THOSE SENATORS WHO CHOSE TO DWELL IN THE MUCK OF SADISTS INSTEAD OF THINKING CRITICALLY ABOUT THE BEST POLICY OPTION FOR OUR STATE. THEIR NONSENSE IS EXACTLY WHY THE DEATH PENALTY SHOULD BE REPEALED, UNQUOTE. OF COURSE, YOU CAN HEAR THE PAIN IN HER VOICE. THE ANGER, ALL ANGER IS ROOTED IN PAIN AND SORROW. THE PARENTS OF THE YOUNGEST VICTIM IN THE BOSTON MARATHON BOMBING LAST MONTH WROTE IN A LETTER TO THE EDITOR OF THE BOSTON GLOBE, SENATOR McCOY MENTIONED, YES, HE GOT THE DEATH PENALTY. BUT THEY WROTE, WE UNDERSTAND ALL TOO WELL THE HEINOUSNESS AND BRUTALITY OF THE CRIMES COMMITTED. WE WERE THERE. WE LIVED IT. THE DEFENDANT MURDERED OUR 8-YEAR-OLD SON, MAIMED OUR 7-YEAR-OLD DAUGHTER, AND STOLE PART OF OUR SOUL. WE KNOW THAT THE GOVERNMENT HAS ITS REASONS FOR SEEKING THE DEATH PENALTY, BUT THE CONTINUED PURSUIT OF THAT PUNISHMENT COULD BRING YEARS OF APPEALS AND PROLONG RELIVING THE MOST PAINFUL DAY OF OUR LIVES. WE HOPE OUR TWO REMAINING CHILDREN DO NOT HAVE TO GROW UP WITH THE LINGERING, PAINFUL REMINDER OF WHAT THE DEFENDANT TOOK FROM THEM, WHICH YEARS OF APPEALS WOULD UNDOUBTEDLY BRING. FOR US, THE STORY OF MARATHON MONDAY 2013 SHOULD NOT BE DEFINED BY THE ACTIONS OR BELIEFS OF THE DEFENDANT, BUT BY THE RESILIENCY OF THE HUMAN SPIRIT AND THE RALLYING CRIES OF THIS GREAT CITY. WE CAN NEVER REPLACE WHAT WAS TAKEN FROM US, BUT WE CAN CONTINUE TO GET UP EVERY MORNING AND FIGHT ANOTHER DAY. AS LONG AS THE DEFENDANT IS IN THE SPOTLIGHT, WE HAVE NO CHOICE BUT TO LIVE A STORY ON HIS TERMS, NOT OURS. THE MINUTE THE DEFENDANT FADES FROM OUR NEWSPAPERS AND TV SCREENS IS THE MINUTE WE BEGIN THE PROCESS OF REBUILDING OUR LIVES AND OUR FAMILY. THOSE ARE STRONG WORDS, STRONG WORDS ABOUT THE LACK OF CLOSURE WHICH PEOPLE CLAIM THE DEATH PENALTY BRINGS. TODAY WE'VE HAD AMAZING DISCUSSION. VOTE TO CONTINUE TO KEEP THE DEATH PENALTY BECAUSE THE VOTE WILL AFFECT HOW YOU MIGHT BE REELECTED, REALLY? LOOK AT WHAT HAPPENED TO SENATOR BEN NELSON. VOTE AGAINST LB268 BECAUSE SYMBOLS OF GREEK AND ROMAN ALLEGORY SHOW WE SHOULD DO THAT. SENATOR McCOY MENTIONED, WHAT GREATER PUNISHMENT IS THERE IF WE DON'T HAVE THE DEATH PENALTY? WHAT ARE WE GOING TO DO? WHAT ARE WE GOING TO DO WITH THE CRIMINALS THAT ARE IN PRISON? WELL, NO MATTER WHAT THE TOP LIMIT IS, YOU STILL HAVE THE ABILITY FOR BAD ACTORS TO ACT BADLY. CLEARLY DEATH PENALTY INMATES AND DEATH ROW INMATES CAN COMMIT FURTHER ADDITIONAL CRIMES. HOPEFULLY WE ARE DOING EVERYTHING WE CAN TO PROTECT OUR OFFICERS WHO ARE SERVING US AND PROTECTING US BY KEEPING THEM AWAY FROM OUR SOCIETY. THE ARGUMENTS



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HAVE BEEN CLEAR. CLEARLY IT'S FISCALLY UNSOUND. CLEARLY IT'S APPLIED INEQUITABLY. CLEARLY RETRIBUTION AND REVENGE ARE NOT VIABLE REASONS FOR THE CONTINUATION... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR PANSING BROOKS: ...OF THE DEATH PENALTY. JUDGE REAGAN GAVE THE EXAMPLE WHEN HE TESTIFIED AT THE HEARING THIS YEAR THAT JOUBERT DROVE FIVE MILES WITH THE NEWSPAPER BOY IN OMAHA. AND HE COULD HAVE DRIVEN TWO MILES TO OMAHA (SIC--IOWA) WITH NO DEATH PENALTY. THERE'S NO DETERRENCE. JUDGE REAGAN WENT ON TO SAY THIS CAUSES DISRESPECT FOR THE LAW. AND BISHOP ANN SHERER FROM MISSOURI CAME BECAUSE SHE HELD THE HAND OF ONE OF THE INMATES ON DEATH ROW AS HE WAS BEING KILLED. AND HER COMMENTS WERE: RETRIBUTION NEVER HEALS, IT ONLY DESTROYS. THANK YOU, MR. PRESIDENT. PLEASE VOTE FOR LB268 AND AGAINST THE BRACKET MOTION. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR PANSING BROOKS. SENATOR NORDQUIST, YOU'RE RECOGNIZED. [LB268]

SENATOR NORDQUIST: THANK YOU, MR. PRESIDENT. WOULD SENATOR McCOY YIELD TO A QUESTION? [LB268]

SPEAKER HADLEY: SENATOR McCOY, WILL YOU YIELD? [LB268]

SENATOR McCOY: YES. [LB268]

SENATOR McCOY: SENATOR McCOY, WOULD LB268 BECOME LAW IF THIS BILL RECEIVED MORE THAN 33 VOTES ON THE CLOTURE VOTE BUT LESS THAN 25 VOTES ON PASSAGE? [LB268]

SENATOR McCOY: NO, I DON'T BELIEVE IT WOULD. [LB268]

SENATOR NORDQUIST: THANK YOU, SENATOR McCOY. CLEARLY, A CLOTURE VOTE IS NOT THE SAME AS A VOTE ON THE BILL. AND I'LL JUST SPEAK FOR MY CONSTITUENTS. MY CONSTITUENTS ARE SMART ENOUGH TO UNDERSTAND THAT. AND YOU CAN MAKE THE DETERMINATION FOR YOUR OWN CONSTITUENTS. YOU KNOW, IT'S TIME FOR US TO STAND HERE TODAY, TO SHOW

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COURAGE. YES, IT'S GOING TO TAKE POLITICAL COURAGE. YES, IT'S GOING TO TAKE MORAL COURAGE TO STAND HERE TODAY AND TO REPEAL THE DEATH PENALTY IN OUR STATE. IT'S CRYSTAL CLEAR THAT THE DEATH PENALTY IN OUR STATE IS BROKEN. IT'S BEING APPLIED ARBITRARILY AND WE'RE NOT ABLE TO EVEN OBTAIN WHAT IT TAKES TO CARRY OUT EXECUTIONS IN OUR STATE. AND PROPONENTS HAVE COME TO THE POINT OF POINTING TO A DEPICTION OF A ROMAN GODDESS AS EVIDENCE FOR...AS EVIDENCE FOR MAINTAINING THE DEATH PENALTY IN OUR STATE. IF WE'RE GOING TO FOLLOW LAWS OF ROME, I PRINTED OUT A LIST AND THERE'S A NUMBER OF DOOZIES IN THERE, INCLUDING ONE WHERE THE MASTER CAN SEND HIS SLAVE TO THE BEASTS IN THE AMPHITHEATER AS LONG AS HE HAS AUTHORIZATION. OBVIOUSLY, WE ARE BEYOND THAT. BUT IF WE ARE GOING TO USE THAT, HOW ABOUT WE LOOK FULLY AT THAT DEPICTION OF THE ROMAN GODDESS OF JUSTICE AND LOOK AT THE BLINDFOLD. JUSTICE IS SUPPOSED TO BE BLIND. AND RIGHT NOW IN OUR STATE, IT'S NOT BLIND FOR THE PERPETRATORS OF THE CRIME, AND IT'S NOT BLIND FOR THE VICTIMS OF THE CRIME. IT'S NOT BLIND FOR THE VICTIMS OF THE CRIME AS WE TALKED EXTENSIVELY ON SELECT FILE BECAUSE WE HAVE 235 FIRST DEGREE MURDER CONVICTIONS SINCE 1973, SINCE THE DEATH PENALTY HAS BEEN IN PLACE, 16 PERCENT OF THE MURDERS. FIRST DEGREE MURDER IS THE WORST OF THE WORST IN OUR LAWS, BUT YET ONLY 31 HAVE RESULTED IN DEATH SENTENCES. ONLY 2 PERCENT OF ALL MURDERS RESULT IN DEATH SENTENCES, AND SINCE 1973, THERE'S BEEN THREE EXECUTIONS, LESS THAN 1 PERCENT. CLEARLY, THE IMPLEMENTATION OF THE DEATH PENALTY, IT'S NOT BLIND RIGHT NOW IN NEBRASKA. AND IT'S BROKEN. WE ARE PICKING...WE HAVE AN ARBITRARY PROCESS RIGHT NOW TO PICK THE WORST OF THE WORST. WE TALKED ABOUT CASES ON SELECT FILE, THE ONE IN DAKOTA COUNTY WHERE A GUY RAPED A TWO-YEAR-OLD, SUFFOCATED HER, AND DIDN'T RESULT IN THE DEATH PENALTY, IT RESULTED IN LIFE; WHERE BODIES WERE THROWN INTO THE MISSOURI RIVER AND THEY WOULDN'T SINK SO THEY SLIT THE BODIES UP AND THREW THEM BACK IN THE RIVER; A CASE IN NORTH OMAHA WHERE A SHOP OWNER WAS BOUND WITH COMPUTER WIRE, HEAD WAS BAGGED AND SHOT EXECUTION-STYLE, DIDN'T RECEIVE THE DEATH PENALTY. CLEARLY, IT IS NOT BEING IMPLEMENTED WITH BLIND JUSTICE IN OUR STATE. THAT'S ONE OF THE REASONS IT'S BROKEN. OBVIOUSLY, ON SELECT FILE, TOO, WE TALKED EXTENSIVELY ABOUT THE ABILITY FOR OUR STATE TO OBTAIN THE LETHAL INJECTION DRUGS. MAY 28, 2009, GOVERNOR HEINEMAN SIGNED THE BILL REPLACING THE ELECTRIC CHAIR WITH LETHAL INJECTION. JANUARY 24, 2010, THE LAST U.S. MAKER OF SODIUM THIOPENTAL WILL NO LONGER SELL FOR EXECUTIONS. FEBRUARY 2010, GOVERNOR HEINEMAN APPROVES THE LETHAL INJECTION PROTOCOL. JANUARY 7, 2011, CORRECTIONS OFFICIALS... [LB268]

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SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR NORDQUIST: ....OBTAIN SODIUM THIOPENTAL FROM INDIA. THEY ANNOUNCED IN JANUARY ALSO THAT THEY ARE PREPARED TO CARRY OUT EXECUTIONS. IN APRIL OF THAT YEAR, THE SUPREME COURT SET A DATE FOR CAREY DEAN MOORE. THEN THE DEA SAID CORRECTIONS DID NOT HAVE A LICENSE TO LEGALLY IMPORT. THE MOORE EXECUTION WAS POSTPONED. IN JUNE, NEBRASKA OBTAINS A PROPER DRUG LICENSE FROM THE DEA. OCTOBER, THEY ACQUIRE A FRESH SUPPLY OF SODIUM THIOPENTAL. THE ATTORNEY GENERAL ASKS FOR AN EXECUTION FOR MICHAEL RYAN. RYAN ASKED THE COURT TO REMOVE THE ATTORNEY GENERAL FROM THE CASE. THE SUPREME COURT DENIES THAT. IN JANUARY 2012, THE COURT ISSUES AN EXECUTION WARRANT FOR RYAN. IN FEBRUARY, A DISTRICT COURT JUDGE IN RICHARDSON COUNTY REVIEWED THE PROTOCOL. THEY REJECTED THE CONCERNS ABOUT THAT. A FRESH BATCH WAS OBTAINED. IN OCTOBER 2013, BRUNING STATES NEBRASKA NEEDS A NEW LETHAL INJECTION PROTOCOL. AND HERE WE ARE... [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR NORDQUIST: ...STILL TODAY. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR NORDQUIST. [LB268]

SENATOR NORDQUIST: THANK YOU. [LB268]

SPEAKER HADLEY: SENATOR SCHNOOR, YOU'RE RECOGNIZED. [LB268]

SENATOR SCHNOOR: THANK YOU, MR. PRESIDENT. WHEN WE STARTED OUT TODAY, THE PRESIDENT ANNOUNCED...THE SPEAKER ANNOUNCED THAT OVER 25-PLUS PEOPLE IN THE QUEUE TO SPEAK AND SENATORS STARTED LAUGHING. SO SHAME ON ALL OF YOU FOR DOING THAT. THIS IS THE MOST SERIOUS MATTER THAT WE WILL EVER DISCUSS AND IT STARTED OUT WITH PEOPLE LAUGHING. WHAT MOTIVATES YOU TO MAKE YOUR DECISION? FROM MY POINT OF VIEW, WHAT MOTIVATES YOU TO TAKE THIS TOOL OUT OF THE HANDS OF OUR JUDICIAL JUSTICE SYSTEM? YOU KNOW, I LOOKED AT SOME SURVEYS, SOME RECENT SURVEYS. THERE WAS A POLL DONE IN OCTOBER OF 20...OCTOBER 23, 2014, THAT SIX IN TEN FAVOR THE DEATH PENALTY, A GALLUP POLL;

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RECENTLY, 63 PERCENT IN FAVOR, A KETV POLL JUST SINCE OUR LAST DEBATE, 77 PERCENT IN FAVOR OF THE DEATH PENALTY. SO WHAT'S MOTIVATING YOU IN YOUR DECISION? LET'S GO TALK ABOUT SOME RECENT HISTORY HERE ON THE FLOOR OF THIS SENATE. SENATOR CHAMBERS HAS RECENTLY TALKED ABOUT KINDRED SPIRITS. BUT REMEMBER, IF YOU VOTE IN FAVOR OF THIS, YOU'LL BE KNOWN TO HAVE TAKEN THE SIDE OF A SENATOR THAT I BELIEVE HAS MORE MURDERS IN HIS DISTRICT THAN ALL OF THE STATE OF NEBRASKA COMBINED. YOU'LL BE TAKING THE SIDE OF THE SENATOR THAT ON JANUARY 9, 2002, SAT HERE ON THE FLOOR AND HANDED OUT DESECRATED ROSARY BEADS AND TALKED ABOUT THE CATHOLIC CHURCH IN A NEGATIVE WAY. YOU'LL ALSO BE REMEMBERED FOR SIDING WITH THE SENATOR THAT HAS SAID THAT POLICE ARE HIS ISIS AND WHERE HE WOULD SHOOT FIRST AND ASK QUESTIONS LATER, BECAUSE THAT'S WHO IS PRESENTING THIS BILL. AND LET'S NOT FORGET THE RECENT VOTE TRADING THAT I TALKED ABOUT. AND IT DIDN'T TAKE THE MEDIA LONG TO FIGURE THAT OUT. SO THIS SMALL HANDFUL OF SENATORS, THEY HAVE A CHANCE TO REDEEM THEMSELVES HERE VERY SHORTLY. THEY HAVE A CHANCE TO DO THE RIGHT THING, TO DO THAT REDEMPTION THAT SENATOR BOLZ HAD TALKED ABOUT VERY EARLY THIS MORNING IN THE START OF OUR DEBATES. FOR THAT SMALL HANDFUL, REMEMBER NOW YOU ARE KNOWN AS THE EMBODIMENT OF THE NEGATIVE PERCEPTION OF WHAT PEOPLE CALL A SENATOR, BUT YOU STILL CAN REDEEM YOURSELF. SENATOR COASH MADE SOME COMMENTS ABOUT WHAT THE FOLKS WILL HAVE TO DO THAT WILL HAVE TO CARRY OUT THESE SENTENCES. OUR MILITARY IS ASKED TO DO THAT EVERY DAY. [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR SCHNOOR: THANK YOU. I WILL YIELD THE REST OF MY TIME TO SENATOR GROENE. [LB268]

SPEAKER HADLEY: SENATOR GROENE, YOU'RE YIELDED 50 SECONDS. [LB268]

SENATOR GROENE: THANK YOU, SENATOR. I DON'T KNOW IF I WANT IT. YOU'RE DOING A GREAT JOB, SIR. SENATOR McCOY SUMMED UP LADY JUSTICE BETTER THAN I COULD AND SENATOR BRASCH. ONE POINT YOU OUGHT TO LOOK AT THAT STATUE, TOO, WHAT HAND IS THAT SWORD IN? IT'S IN THE STRONG HAND, THE RIGHT HAND. YOU DON'T UNSHEATHE A SWORD UNLESS YOU'RE GOING TO USE IT. I'VE HEARD HOW WE EVOLVED. READ THE BIBLE, FOLKS. THAT WAS 2,000 YEARS AGO. SOME OF THAT STUFF WAS IN THERE FOR 6,000 YEARS. HAS THE

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HUMAN CONDITION CHANGED? HAS IT EVOLVED? NO, IT HASN'T. THERE'S EVIL IN THE WORLD AND CIVILIZED SOCIETIES HAVE ALWAYS HANDLED IT. THE DEATH PENALTY IS A MORAL RIGHT OF A CIVIL SOCIETY. I WILL QUOTE YOU... [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR GROENE: I'LL BE... [LB268]

SPEAKER HADLEY: SENATOR BAKER, YOU ARE RECOGNIZED. [LB268]

SENATOR BAKER: THANK YOU, MR. PRESIDENT. HERE WE ARE JUST MINUTES AWAY FROM TAKING A VOTE, ONE OF THE MOST IMPORTANT VOTES WE'LL EVER MAKE IN THIS LEGISLATURE. I STOP TO THINK ABOUT WHY I WAS ELECTED AND WHAT THE PEOPLE WHO VOTED FOR ME EXPECTED ME TO DO AS THEIR ELECTED REPRESENTATIVE. I THINK THEY EXPECT ME TO LISTEN TO THE CONSTITUENTS, EXPECT ME TO STUDY THE INFORMATION THOROUGHLY, THEN TO APPLY IN MY OWN JUDGMENT. I WAS KNOWN IN DISTRICT 30 TO A FAIR NUMBER OF PEOPLE HAVING SERVED AS SUPERINTENDENT SUCCESSFULLY FOR A NUMBER OF YEARS AND KNOWN BY OTHERS FOR HAVING SERVED IN THAT AREA AS A SUPERINTENDENT. I THINK GENERALLY PEOPLE BELIEVED THAT I SHOWED GOOD JUDGMENT IN MY LEADERSHIP OF THE SCHOOL DISTRICTS. OFTENTIMES I WOULD SEEK TO FIND A WIN-WIN SOLUTION TO PROBLEMS. I THINK A WIN-WIN IS BETTER THAN A COMPROMISE. HOWEVER, IN THIS CASE, WE'RE GOING TO BE PUSHING A RED OR GREEN BUTTON PRETTY SOON. SO THERE'S NO OPPORTUNITY TO TRY TO FIND A WIN-WIN, NO OPPORTUNITY FOR A COMPROMISE. I'M GOING TO BE SUPPORTING LB268. IN DOING SO, I KNOW THAT I'M GOING TO PLEASE SOME OF MY PEOPLE IN DISTRICT 30. I'M ALSO GOING TO DISAPPOINT SOME OF THE PEOPLE, MAYBE EVEN DISMAY SOME OF THE PEOPLE IN DISTRICT 30. THIS IS A NONPARTISAN LEGISLATURE. WE DEAL WITH A LOT OF COMPLEX ISSUES. AND THESE COMPLEX ISSUES THAT WE'VE DEALT WITH SO FAR, IT HASN'T BEEN REPUBLICAN OR DEMOCRAT, IT HASN'T BEEN A CONSERVATIVE OR REPUBLICAN SPLIT. SUPPORT FOR THESE THINGS SUCH AS INCREASING THE GAS TAX, PREVIOUS VOTES ON DEATH PENALTY, THERE HAVE BEEN PEOPLE ACROSS THE BOARD, PEOPLE WHO WOULD IDENTIFY THEMSELVES AS CONSERVATIVES, PEOPLE WHO CONSIDER THEMSELVES ON OPPOSITE ENDS OF THE SPECTRUM, AND A WHOLE LOT OF THE REST OF US IN THE MIDDLE. I THINK THAT I WILL YIELD THE REST OF MY TIME TO SENATOR SMITH. [LB268]

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SPEAKER HADLEY: SENATOR SMITH, YOU'RE YIELDED 2 MINUTES AND 12 SECONDS. [LB268]

SENATOR SMITH: THANK YOU, MR. PRESIDENT, AND THANK YOU, SENATOR BAKER, FOR YIELDING ME SOME TIME. FIRST, I WANT TO THANK MY COLLEAGUES HERE TODAY FOR SERVING, FOR SERVING THE STATE OF NEBRASKA, FOR SERVING YOUR CONSTITUENTS. IT'S NOT EASY AT TIMES. AND THIS IS ONE OF THE MOST DIFFICULT ISSUES TO DISCUSS AND TO DEBATE. I CERTAINLY...IT CERTAINLY IS FOR ME. IT'S ONE THAT LEAVES A KNOT IN MY STOMACH. AND IF IT DOES NOT FOR YOU, SOMETHING IS WRONG WITH YOU. AND I THINK BETTER OF MY COLLEAGUES AND I THINK BETTER OF THE CITIZENS THAT SENT YOU HERE THAN TO JUDGE YOU ON HOW YOU ARRIVE AT YOUR DECISIONS AND ON YOUR VOTES. UNFORTUNATELY, SENATOR McCOY IS CORRECT. SOME ELECTED OFFICIALS--I REALLY WOULD HOPE NOT TO BELIEVE IT'S THOSE AMONG US--BUT SOME CAST THEIR VOTES ONLY TO KEEP THEIR JOB OR TO GAIN A HIGHER ELECTED OFFICE. [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR SMITH: THIS IS NOT A JOB FOR ME. THIS IS SERVICE AND I HOPE IT IS FOR YOU. I DON'T THINK ANY ONE OF US HAVE TAKEN THIS LIGHTLY. AND MANY OF YOU, LIKE ME, ARE CONFLICTED. THANK YOU FOR STRUGGLING WITH THIS. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR SMITH. SENATOR KRIST, YOU'RE RECOGNIZED. [LB268]

SENATOR KRIST: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. GOOD MORNING, NEBRASKA. WHEN YOU'RE WALKING THE STREETS, KNOCKING ON DOORS, AND WONDERING HOW YOU'RE GOING TO SPEND \$1,000 A MONTH AND REALIZING THAT YOU'RE NOT DOING THIS FOR THE MONEY, YOU'RE DOING IT BECAUSE YOU WANT TO SERVE. AND IN MY LIFE, IT'S BEEN AN EXTENSION OF SERVICE, 21 YEARS IN THE AIR FORCE AND NOW THIS LEGISLATURE THAT I'M PROUD TO BE A PART OF. AND IN THAT TIME, I HAVE NEVER ON THIS MIKE QUESTIONED THE CONVICTION OF ONE OF MY FELLOW SENATORS OR SHAMED THEM PUBLICLY OR PRIVATELY. I HAVE, HOWEVER, BEEN THE VICTIM OF SEVERAL POTENTIAL CENSURE MOTIONS FOR SPEAKING MY MIND. AND I'M PRETTY PROUD OF THAT. I WILL SAY THE SAME THING I SAID ON THE FIRST TWO ROUNDS OF DEBATE. I AM A PRO-LIFE, COMMITTED, CONVICTED PERSON WHO

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BELIEVES IN LIFE FROM CONCEPTION TO NATURAL DEATH. I HAVE COME TO THAT POINT IN MY LIFE AFTER 58 YEARS OF EXPERIENCING THIS WORLD, EXPERIENCING WHAT HAPPENS TO A CHILD WHO IS BORN IN SOUTHWEST ASIA WHO'S MISSING ARMS OR LEGS OR WHO IS NOT CORRECT AND BEING LEAVING LEFT IN THE DESERT FOR DEAD BECAUSE IT'S ALLAH'S DECISION WHETHER THAT CHILD SHOULD LIVE OR DIE. I'VE SEEN THAT. I'VE SEEN WHAT HAPPENS IN CHOP CHOP SQUARE, WHERE THE HUMANITY OF CUTTING OFF AN ARM OR A HAND AND MAKING SOMEONE NOT POLITICALLY CORRECT IS THE DECISION THAT IS MADE BY A JUDGE. YOU SEE THE RIGHT HAND, YOU CAN STILL EXIST IN THE CULTURE. IF YOU DON'T HAVE THE RIGHT HAND, YOU CANNOT EXIST. I HAVE SEEN WHAT HAPPENS WHEN A MAN IS LOWERED ON TO A STUMP AND HIS HEAD FALLS INTO A BUCKET. I HAVE WATCHED FIVE FIGHTERS TAKE OFF AND ONLY FOUR COME BACK. I'VE SEEN SOME PRETTY HORRENDOUS THINGS. BUT TO THINK THAT THIS CIVILIZED WORLD THAT WE LIVE IN STILL BELIEVES THAT IT CAN TAKE A LIFE, REGARDLESS OF WHETHER THAT PERSON HAS TAKEN A LIFE OR SEVERAL, BOTHERS ME. IT BOTHERS ME DEEPLY. I WILL CONTINUE TO BE COMMITTED EVEN THOUGH I'M ASKED TO SHAME MYSELF FOR MY COMMITMENT TO MY RELIGIOUS BELIEFS, TO ALL THAT I KNOW, BECAUSE THIS I WILL TELL YOU, WHEN YOU EXIST IN THIS WORLD TODAY, IT IS A CULMINATION OF ALL OF THE EXPERIENCES THAT YOU'VE HAD--GOOD, BAD, UGLY, DIFFERENT, IN CONTRARY TO WHAT YOU BELIEVE, OR IN SUPPORT OF THOSE THINGS THAT YOU ARE DEEPLY COMMITTED TO BELIEVE. I GUESS I DON'T HAVE TO SAY IT, BUT I WILL NOT SUPPORT THE BRACKET MOTION. I WILL SUPPORT LB268. AND AT THE END OF THE DAY, THERE WILL BE A NEW LEGISLATURE THAT WILL HAVE TO MAKE THIS DECISION AGAIN AND AGAIN AND AGAIN. AND I'M CONVINCED THAT THAT'S TRUE BECAUSE THERE WILL BE PEOPLE... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR KRIST: ...WHO SAY WE NEED TO REINSTATE THE DEATH PENALTY. AND I HOPE THEY ARE AS COMMITTED AS I AM IN DOING THE RIGHT THING. IN SUMMARY, I WOULD SAY THIS, YOU CANNOT LOOK AT ONE MAN ON THIS FLOOR AND SAY THAT HE IS RESPONSIBLE FOR THIS DECISION. YOU MUST LOOK AT EVERYONE WHO SIGNS ON TO THAT BILL, THIS BILL, OR ANY OTHER BILL, WHO BELIEVES IT'S THE RIGHT THING TO DO. SO IN JUST A FEW MINUTES, WE WILL TAKE THE VOTE. JOIN ME IN DOING THE RIGHT THING AND VOTING FOR LB268. THANK YOU. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR KRIST. SENATOR RIEPE, YOU'RE RECOGNIZED. [LB268]

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SENATOR RIEPE: THANK YOU, MR. PRESIDENT AND MEMBERS OF THIS CHAMBER. I THINK THE TONE OF THE CONVERSATION AND THE DISCUSSION HAS IMPROVED. I WANT TO SHARE THAT I WAS VERY DISAPPOINTED WHEN IT STARTED OUT. IT CAME OUT AS A PROPOSAL OF WHO LOVES JESUS THE MOST AND I DON'T THINK THAT THAT IS A PLACE FOR THIS CHAMBER, NOR DO I THINK IT'S A DISCUSSION THAT NEEDS TO BE. IT HAS A STIFLING EFFECT ON ANYONE THAT WANTS TO STATE SOME OTHER OPINION OR WHO WANTS TO COMPARE THEIR RELIGIOUS STATUS TO ONE ANOTHER. IF I GO FURTHER, I WILL TALK ABOUT SOME OF THE SITUATIONS THAT ARE REPETITIVE. BUT INSTEAD OF THAT, I WOULD LIKE TO YIELD MY TIME TO SENATOR GROENE BECAUSE I THINK HE'S NOT HAD TIME TO TALK. AND SO I WOULD LIKE TO GIVE MY TIME TO HIM IF HE WOULD ACCEPT. [LB268]

SPEAKER HADLEY: SENATOR GROENE, YOU'RE YIELDED 4 MINUTES AND 10 SECONDS. [LB268]

SENATOR GROENE: THANK YOU, SENATOR RIEPE. ALL THE CITIZENS OUT THERE, IF YOU WONDER WHY OPPONENTS OF THIS BILL HAVEN'T HAD A LOT OF TIME TO TALK IN OUR TWO HOURS, IT'S A PROCEDURE. SOME OF US ROOKIES DIDN'T UNDERSTAND IT. WHEN A BILL COMES UP FIRST, IF YOU HIT YOUR GREEN LIGHT THAT YOU'RE HERE, IF YOU HIT THE WHITE LIGHT RIGHT AWAY, YOU GET FIRST IN THE QUEUE. THE PROPONENTS OF LB268 DID THAT AND DID IT WELL. SO ARE YOU LISTENING OUT THERE? THERE'S A LOT WE HAD TO SAY. WE'RE NOT GOING TO HAVE THAT OPPORTUNITY. MY CONSTITUENTS KNOW WHERE I STOOD WHEN I RAN. I WONDER IF SOME OF THE FOLKS VOTING FOR THIS TOLD THEIR CONSTITUENTS, WERE HONEST WITH THEM, THAT THEY'RE GOING TO VOTE THIS WAY, BECAUSE I KNOW WHAT THE POLLS SAY, I KNOW WHAT PEOPLE SAY. PEOPLE WANT JUSTICE. I WAS IN A CONVENIENCE STORE IN A SMALL TOWN, WASN'T IN MY DISTRICT THE OTHER DAY. AND A PERSON RECOGNIZED ME, WALKED UP TO ME AT THE CHECKOUT AND SAID, THE DEATH PENALTY, SIR, WHAT'S GOING ON IN THIS STATE DOWN THERE? AND I SAID, VOTE TRADING; CONSCIENCE, LACK OF IT. A YOUNG LADY BEHIND ME, SHE SAID SHE WAS AT THE...AT THE CASH REGISTER SAID...WE WERE TALKING ABOUT WHAT HAPPENED IN OMAHA. SHE SAID YOU MEAN, I'VE BEEN ABUSED IN MY LIFE. I'VE GOT CHILDREN. YOU'RE TELLING ME IF SOMEONE HIT ME WITH A BASEBALL BAT AND I WAS LAYING THERE AND I SEEN THEM CARRY OFF MY CHILDREN BEFORE I PASSED AWAY AND HE TOOK MY CHILD ALIVE AND THREW HIM IN A RIVER, THERE WOULDN'T BE JUSTICE? I SAID, NO. NO, THERE WOULDN'T. SHE ABOUT CRIED, AND I DID, TOO, BECAUSE WE'VE GOT SOME LILY-WHITE PEOPLE HERE, LIVED IN MIDDLE-CLASS AMERICA, NEVER SEEN EVIL. THEY WATCH REALITY



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SHOWS. SUPREME COURT JUSTICE POTTER STEWART HAD THE MOST FAMOUS QUOTE: I KNOW IT WHEN I SEE IT. AND I BELIEVE THE JURIES WHEN THEY SEE IT AND THEY HEAR THE EVIDENCE, THEY KNOW IT WHEN THEY SEE IT. COMMENTS ABOUT DAKOTA CITY AND...THAT WE WEREN'T INVOLVED WITH, WE WEREN'T THERE, WE WEREN'T THE JURY, WE WEREN'T THE THREE-JUDGE PANEL. THEY KNOW IT WHEN THEY SEE IT. THEY KNOW IT WHEN THEY SEE EVIL. AND I TRUST THEM TO DO THE RIGHT THING. SO IN OUR LILY-WHITE SOCIETY, WHO LIVE THEIR PERFECT MIDDLE-CLASS LIVES, SAY WE CAN'T PULL THE LEVER, WELL, GOD MADE PEOPLE WHO CAN. WE TALKED ABOUT THE MILITARY. THE OLD SAYING IS 15 PERCENT OF THE MILITARY IS THE ONLY ONES THAT ACTUALLY AIM. THE OTHER 85 PERCENT DON'T. WE WOULDN'T HAVE FREEDOM IN THIS COUNTRY UNLESS THAT 15 PERCENT AIMED. BUT THE REALITY IS THAT 70 PERCENT OF THE PEOPLE OF THIS STATE UNDERSTAND JUSTICE. [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR GROENE: AND THEY ARE APPALLED. THEY'RE ABSOLUTELY APPALLED AT WHAT'S GOING ON HERE. NOW IF I SEE A CLOTURE VOTE AND THEN A VOTE OPPOSITE, I AM GOING TO WORK HARD TO MAKE SURE THAT PERSON NEVER SEES PUBLIC OFFICE AGAIN. IS THAT A THREAT? THAT'S REALITY. THAT'S REALITY BECAUSE THE PEOPLE DESERVE REPRESENTATION OF WHAT THEY BELIEVE, NOT BECAUSE I WOULDN'T PULL THE LEVER. THIS IS DISGUSTING. AND I DON'T CARE WHAT ANYBODY SAYS. COLLEGIALITY OUT THE WINDOW, I REPRESENT PEOPLE. I DON'T REPRESENT ANYBODY IN THIS ROOM. I REPRESENT PEOPLE. AND THEY WANT JUSTICE. AND THEY WANT THE OPPORTUNITY FOR JUSTICE. BUT WE FEEL PERSONALLY WHAT WE WOULD DO. WE REPRESENT A CIVIL SOCIETY THAT WANTS JUSTICE AND WE DEMAND IT. LET THE JURY DECIDE. THANK YOU. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR GROENE. SENATOR COOK, YOU ARE RECOGNIZED. [LB268]

SENATOR COOK: THANK YOU, MR. PRESIDENT, AND GOOD MORNING, COLLEAGUES. IT IS INDEED A HISTORIC DAY. AND GREETINGS FROM LILY-WHITE NEBRASKANS WHO DO NOT SUPPORT THE DEATH PENALTY AND WHO KNEW THAT WHEN THEY ELECTED ME TWICE TO THIS OFFICE. I SIMPLY WANT TO POINT OUT THE FACT, HAD THE OPPORTUNITY TO VISIT WITH SOME FAMILY MEMBERS OF MURDER VICTIMS WHO TESTIFIED IN SUPPORT OF THIS MEASURE AT THE HEARING. HERE'S WHAT WE REMINDED EACH OTHER OF THIS MORNING. A VOTE

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FOR THIS BILL DOES NOT BRING YOUR LOVED ONE BACK. ALSO, THE WAY THE DEATH PENALTY IS METED OUT BY THE STATE OF NEBRASKA, YOU DON'T GET TO USE THE SAME METHODOLOGY THAT TOOK YOUR LOVED ONE FROM YOU. IT'S REALLY QUITE SIMPLE. GREEK AND ROMAN SYMBOLS ASIDE, WE CERTAINLY DON'T WANT TO IMPLEMENT MANY OF THE THINGS THAT WERE UTILIZED IN ANCIENT TIMES AS THEY RELATE TO JUSTICE OR LIBERTY, ANYBODY IN THIS ROOM, MAN OR WOMAN. WITH THAT, MR. PRESIDENT, I WOULD YIELD THE BALANCE OF MY TIME TO THE CHAMPION OF THIS ISSUE FOR FOUR DECADES, SENATOR ERNIE CHAMBERS. [LB268]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE YIELDED 3 MINUTES AND 35 SECONDS. [LB268]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR COOK. MEMBERS OF THE LEGISLATURE, IT'S IRONIC THAT THIS SYMBOL OF THE SWORD-BEARING WOMAN WAS GIVEN TO US WHICH REPRESENTS JUSTICE. BUT THE SCALES MEAN THAT JUSTICE MUST BE DONE BEFORE YOU EXECUTE. WILLIAM MARION DID NOT HAVE THAT HAPPEN TO HIM. HE WAS INNOCENT AND HE WAS EXECUTED IN THIS STATE. AND IN THE '90s, THE PARDONS BOARD OF NEBRASKA FORMALLY AND OFFICIALLY CONVENED AND GAVE HIM A POSTHUMOUS PARDON. IT DOESN'T SAY THEY SAID, OOPS, THE JOKE IS ON US. BUT THESE PEOPLE WHO MAKE THESE KIND OF COMMENTS HAVE NOTHING OF SUBSTANCE TO SAY ON THE ISSUE. AND THOSE WHO HAVE TALKED THIS MORNING DO. I AM PLEASED AT THE COMMENTS THAT HAVE BEEN EXPRESSED THIS MORNING IN OPPOSITION TO A PUNISHMENT WHICH EUROPEANS REFER TO AS BARBARIC. THERE HAS NEVER BEEN THE EFFORTS BEING PUT FORTH TO GET DRUGS TO TAKE LIFE AS IS BEING DONE IN THIS INSTANCE, AND THE ONE BEING DEALT WITH HAS BEEN SHOWN TO BE A THIEF. SO TO BRING ABOUT DEATH ON BEHALF OF THE STATE, PEOPLE CAN BE CORRUPTED WHEN THEY ORDINARILY WALK A HIGHER ROAD. THE LEGISLATURE HAS THE OPPORTUNITY TODAY TO TAKE AWAY ALL OF THAT KIND OF WHEELING, DEALING, AND PRETENSE. WHEN WE VOTE TO ABOLISH THE DEATH PENALTY, WHAT WE REALLY DO IS REMOVE A SHAM. WHEN YOU HAVE A SO-CALLED PENALTY AND IT HASN'T BEEN IMPLEMENTED IN NEARLY 20 YEARS, THAT DOES NOT FULFILL THE ROLE OF A PENALTY, NO MATTER WHAT KIND OF DEFINITION YOU USE. THE DEATH PENALTY ON THE BOOKS DISTORTS THE SYSTEM EVEN THOUGH JUDGES KNOW THAT THEY'RE NOT GOING TO BE EAGER TO PRONOUNCE A DEATH SENTENCE EVEN WHEN THE PROSECUTOR SEEKS IT IN THE STATE. THEY ARE WELL AWARE OF THE AMOUNT OF TIME THAT'S GOING TO BE CONSUMED IN APPEALS, THE AMOUNT OF MONEY THAT WILL BE SPENT IF THERE IS A DEATH PENALTY

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IMPOSED, AND IT'S NOT LIKELY TO BE CARRIED OUT. SO THE SHAM IS TO HOLD IT OUT THERE AND SAY THIS IS SOMETHING THAT IS GOING TO MAKE A DIFFERENCE WHEN IT DOESN'T. NEBRASKA HAS A CHANCE TO STEP INTO HISTORY, ON THE RIGHT SIDE OF THE HISTORY... [LB268]

SPEAKER HADLEY: ONE MINUTE. [LB268]

SENATOR CHAMBERS: ...TO TAKE A STEP THAT WILL BE BENEFICIAL TOWARD THE ADVANCEMENT OF A CIVILIZED SOCIETY WHICH IS SHOWING ITS MATURITY AND IS REFLECTING A HUMANE SENSE OF JUSTICE. AND I DON'T SEE THAT AS BEING BAD FOR ANYBODY. AS FOR THE LETTER THAT SENATOR SCHEER READ, I GOT A COPY OF IT TOO. THEY SHOULDN'T PRESUME THAT ALL OF US WHO ARE AGAINST THE DEATH PENALTY NEVER HAD A RELATIVE WHO WAS MURDERED. THEY TALKED ABOUT A NIECE; I HAD A NEPHEW. BUT I DON'T BRING SOMEBODY WHO HAS MET A VERY VIOLENT BRUTAL END TO TELL YOU THIS IS WHY YOU OUT TO DO SOMETHING OR THE OTHER. THAT'S SOMETHING FOR ME TO DEAL WITH. THE PEOPLE IN MY DISTRICT KNOW THAT I'M AGAINST THE DEATH PENALTY, HAVE ALWAYS BEEN AGAINST THE DEATH PENALTY. THE FAMILY OF A YOUNG LADY NAMED... [LB268]

SPEAKER HADLEY: TIME, SENATOR. [LB268]

SENATOR CHAMBERS: ...KENYATTA BUSH...YOU SAID TIME? [LB268]

SPEAKER HADLEY: YES. [LB268]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB268]

SPEAKER HADLEY: THANK YOU, SENATOR CHAMBERS. MR. CLERK, YOU HAVE A MOTION ON THE DESK. [LB268]

CLERK: MR. PRESIDENT, I DO. SENATOR CHAMBERS WOULD MOVE TO INVOKE CLOTURE PURSUANT TO RULE 7, SECTION 10. [LB268]

SPEAKER HADLEY: IT IS THE RULING OF THE CHAIR THAT THERE HAS BEEN FULL AND FAIR DEBATE ACCORDED TO LB268. 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. [LB268]

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CLERK: MR. PRESIDENT, WE'RE ACTUALLY ON FINAL READING, WHICH MEANS THEY SHOULD BE HERE. BUT WE CAN ASK THE MEMBERS TO CHECK IN, OKAY? [LB268]

SPEAKER HADLEY: OKAY. ALL MEMBERS SHOULD PLEASE CHECK IN. THIS IS THE FINAL READING, IF YOU'RE HERE. THERE'S BEEN A REQUEST FOR A ROLL CALL VOTE IN REVERSE ORDER. SENATOR LARSON, WILL YOU PLEASE CHECK IN? EVERYONE NEEDS TO CHECK IN. OKAY, I'M SORRY. EVERYONE, PLEASE CHECK IN. ALL MEMBERS PLEASE CHECK IN. SENATOR McCOLLISTER AND SENATOR GROENE, PLEASE CHECK IN. ALL MEMBERS HAVE CHECKED IN. THERE'S BEEN A REQUEST FOR A ROLL CALL VOTE IN REVERSE ORDER. MR. CLERK, PLEASE CALL THE ROLL IN REVERSE ORDER. [LB268]

CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGE 1738.) 34 AYES, 14 NAYS, MR. PRESIDENT, ON THE MOTION TO INVOKE CLOTURE. [LB268]

SPEAKER HADLEY: THE MOTION TO INVOKE CLOTURE IS ADOPTED. MEMBERS, THE NEXT VOTE IS ON THE ADOPTION OF THE BRACKET MOTION TO LB268. ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. HAVE ALL THOSE VOTED? RECORD, MR. CLERK. [LB268]

CLERK: 14 AYES, 31 NAYS, MR. PRESIDENT, ON THE MOTION TO BRACKET THE BILL. [LB268]

SPEAKER HADLEY: THE AMENDMENT FAILS. MEMBERS, WE WILL NOW VOTE ON ADVANCEMENT OF LB268 TO E&R...AT THIS TIME, THE FIRST VOTE IS TO DISPENSE WITH THE FINAL READING. ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB268]

CLERK: 37 AYES, 8 NAYS, MR. PRESIDENT, TO DISPENSE WITH THE AT-LARGE READING. [LB268]

SPEAKER HADLEY: THE AT-LARGE READING IS DISPENSED WITH. MR. CLERK, PLEASE READ THE TITLE. [LB268]

CLERK: (READ TITLE OF LB268.) [LB268]

SPEAKER HADLEY: SENATOR McCOY. [LB268]

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SENATOR McCOY: I REQUEST A ROLL CALL VOTE IN REGULAR ORDER, PLEASE.  
[LB268]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB268 PASS? THERE'S BEEN A REQUEST FOR A ROLL CALL VOTE IN REGULAR ORDER. PROCEED, MR. CLERK.  
[LB268]

CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGE 1739.) 32 AYES, 15 NAYS, MR. PRESIDENT, ON THE FINAL PASSAGE OF LB268. [LB268]

SPEAKER HADLEY: LB268 PASSES. WE WILL NOW GO TO FINAL READING. WE WILL DO THE CONSENT CALENDAR. IF ANY THREE MEMBERS OF THE LEGISLATURE OBJECT TO A BILL BEING CONSIDERED IN CONSENT CALENDAR, PLEASE ADVISE THE CLERK IN WRITING. UPON EITHER THE COMPLETION OF DEBATE OR THE EXPIRATION OF 15 MINUTES, WHICHEVER COMES FIRST, A VOTE SHALL BE TAKEN TO ADVANCE THE BILL AND ANY PENDING MOTIONS PURSUANT TO RULE 5, SECTION 6(d). ANY AMENDMENT ADOPTED, OTHER THAN THE STANDING COMMITTEE AMENDMENTS, WHICH ADD NEW SUBJECT MATERIAL TO THE BILL WILL RESULT IN THE BILL NOT BEING SCHEDULED AT THE NEXT STAGE OF THE DEBATE. MR. CLERK, FOR ANNOUNCEMENTS. [LB268]

CLERK: MR. PRESIDENT, A COMMUNICATION FROM THE GOVERNOR TO THE CLERK. (READ RE LB554, LB656, LB657, LB658, LB659, LB660, LB661, LB662, LB663, and LB663A.) I ALSO HAVE A JUDICIARY COMMITTEE CONFIRMATION REPORT, MR. PRESIDENT. THAT'S ALL THAT I HAVE. THANK YOU. (LEGISLATIVE JOURNAL PAGE 1740.) [LB554 LB656 LB657 LB658 LB659 LB660 LB661 LB662 LB663 LB663A]

SPEAKER HADLEY: THANK YOU, MR. CLERK. MR. CLERK, WE'LL MOVE TO FINAL READING. MEMBERS SHOULD RETURN TO THEIR SEATS IN PREPARATION FOR FINAL READING. IF MEMBERS WILL PLEASE RETURN TO THEIR FINAL SEATS IN PREPARATION FOR FINAL READING. MR. CLERK, THE FIRST BILL IS LB55. [LB55]

CLERK: (READ LB55 ON FINAL READING.) [LB55]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB55 PASS? ALL THOSE IN

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FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. HAVE ALL VOTED THAT WISH? RECORD, MR. CLERK. [LB55]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1741.) 46 AYES, 0 NAYS, 2 PRESENT AND NOT VOTING, 1 EXCUSED AND NOT VOTING, MR. PRESIDENT. [LB55]

SPEAKER HADLEY: LB55 PASSES. WE WILL NOW PROCEED TO LB104. [LB55 LB104]

CLERK: (READ LB104 ON FINAL READING.) [LB104]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB104 PASS? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. HAVE ALL VOTED? RECORD, MR. CLERK. [LB104]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1741-1742.) 46 AYES, 0 NAYS, 2 PRESENT AND NOT VOTING, 1 EXCUSED AND NOT VOTING.) [LB104]

SPEAKER HADLEY: LB104 PASSES. WE WILL NOW PROCEED TO LB123. [LB104 LB123]

CLERK: (READ LB123 ON FINAL READING.) [LB123]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB123 PASS? ALL IN FAVOR VOTE AYE; OPPOSED VOTE NAY. HAVE ALL VOTED THAT WISH? RECORD, MR. CLERK. [LB123]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1742.) 47 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, 1 EXCUSED AND NOT VOTING, MR. PRESIDENT. [LB123]

SPEAKER HADLEY: LB123 PASSES. MR. CLERK, THE NEXT BILL IS LB138. THE FIRST VOTE IS TO DISPENSE WITH THE AT-LARGE READING. ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB123 LB138]

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CLERK: 44 AYES, 1 NAY, MR. PRESIDENT, TO DISPENSE WITH THE AT-LARGE READING. [LB138]

SPEAKER HADLEY: THE AT-LARGE READING IS DISPENSED WITH. MR. CLERK, PLEASE READ THE TITLE. [LB138]

CLERK: (READ TITLE OF LB138.) [LB138]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB138 PASS? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. HAVE ALL VOTED THAT WISH? RECORD, MR. CLERK. [LB138]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1743.) 47 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, 1 EXCUSED AND NOT VOTING, MR. PRESIDENT. [LB138]

SPEAKER HADLEY: LB138 PASSES. MR. CLERK, THE NEXT BILL IS LB195. THE FIRST VOTE IS TO DISPENSE WITH THE FINAL READING. ALL THOSE IN FAVOR VOTE AYE; OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB138 LB195]

CLERK: 46 AYES, 1 NAY, MR. PRESIDENT, TO DISPENSE WITH THE AT-LARGE READING. [LB195]

SPEAKER HADLEY: THE AT-LARGE READING IS DISPENSED WITH. MR. CLERK, PLEASE READ THE TITLE. [LB195]

CLERK: (READ TITLE OF LB195.) [LB195]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB195 PASS? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB195]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1744.) 49 AYES, 0 NAYS, MR. PRESIDENT, ON THE FINAL PASSAGE OF LB195. [LB195]

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SPEAKER HADLEY: LB195 PASSES. THE NEXT BILL IS LB206. MR. CLERK, THE FIRST VOTE IS TO DISPENSE WITH THE AT-LARGE READING. ALL IN FAVOR VOTE AYE; OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB195 LB206]

CLERK: 41 AYES, 1 NAY, MR. PRESIDENT, TO DISPENSE WITH THE AT-LARGE READING. [LB206]

SPEAKER HADLEY: THE AT-LARGE READING IS DISPENSED WITH. MR. CLERK, PLEASE READ THE TITLE. [LB206]

CLERK: (READ TITLE OF LB206.) [LB206]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB206 PASS? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. HAVE ALL VOTED THAT...RECORD, MR. CLERK. [LB206]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1745.) 47 AYES, 0 NAYS, 2 PRESENT AND NOT VOTING, MR. PRESIDENT. [LB206]

SPEAKER HADLEY: LB206 PASSES. WE WILL NOW PROCEED TO LB246. [LB206 LB246]

CLERK: (READ LB246 ON FINAL READING.) [LB246]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB246 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB246]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1745-1746.) 47 AYES, 0 NAYS, 2 PRESENT AND NOT VOTING, MR. PRESIDENT. [LB246]

SPEAKER HADLEY: LB246 PASSES. WE WILL NOW PROCEED TO LB257. [LB246 LB257]

CLERK: (READ LB257 ON FINAL READING.) [LB257]



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SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB257 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB257]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1746.) 49 AYES, 0 NAYS, MR. PRESIDENT, ON THE FINAL PASSAGE OF LB257. [LB257]

SPEAKER HADLEY: LB257 PASSES. WE WILL NOW PROCEED TO LB277. [LB257 LB277]

CLERK: (READ LB277 ON FINAL READING.) [LB277]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB277 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB277]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1747.) 48 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, MR. PRESIDENT. [LB277]

SPEAKER HADLEY: LB277 PASSES. WE WILL NOW PROCEED TO LB283. [LB277 LB283]

CLERK: (READ LB283 ON FINAL READING.) [LB283]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB283 PASS WITH THE EMERGENCY CLAUSE ATTACHED? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB283]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1747-1748.) 48 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, MR. PRESIDENT. [LB283]

SPEAKER HADLEY: LB283 PASSES WITH THE EMERGENCY CLAUSE ATTACHED. MR. CLERK, THE NEXT BILL IS LB287. MR. CLERK, THE FIRST VOTE IS TO DISPENSE WITH THE AT-LARGE READING. ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB283 LB287]

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CLERK: 44 AYES, 1 NAY, MR. PRESIDENT, TO DISPENSE WITH THE AT-LARGE READING. [LB287]

SPEAKER HADLEY: THE AT-LARGE READING IS DISPENSED WITH. MR. CLERK, PLEASE READ THE TITLE. [LB287]

CLERK: (READ TITLE OF LB287.) [LB287]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB287 PASS? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB287]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1748-1749.) 48 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING. [LB287]

SPEAKER HADLEY: LB287 PASSES. MR. CLERK, NEXT IS LB291. [LB287 LB291]

CLERK: (READ LB291 ON FINAL READING.) [LB291]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB291 PASS WITH THE EMERGENCY CLAUSE ATTACHED? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB291]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1749-1750.) 49 AYES, 0 NAYS, MR. PRESIDENT, ON THE FINAL PASSAGE OF LB291. [LB291]

SPEAKER HADLEY: LB291 PASSES WITH THE EMERGENCY CLAUSE. MR. CLERK, NEXT BILL IS LB296. [LB291 LB296]

CLERK: (READ LB296 ON FINAL READING.) [LB296]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB296 PASS WITH THE EMERGENCY CLAUSE ATTACHED? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB296]

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CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1750.) 49 AYES, 0 NAYS, MR. PRESIDENT, ON THE FINAL PASSAGE OF LB296. [LB296]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, LB296 PASSES. WE WILL NOW GO TO LB310. [LB296 LB310]

CLERK: (READ LB310 ON FINAL READING.) [LB310]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB310 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB310]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1750-1751.) 49 AYES, 0 NAYS, MR. PRESIDENT, ON THE FINAL PASSAGE OF LB310. [LB310]

SPEAKER HADLEY: LB310 PASSES. MR. CLERK FOR ANY ANNOUNCEMENTS. [LB310]

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

SPEAKER HADLEY: WE WILL STAND AT EASE UNTIL 12:25.

EASE

SPEAKER HADLEY: SENATORS, PLEASE RETURN TO THE CHAMBER. WE WILL START THE AFTERNOON SESSION. WHILE THE LEGISLATURE IS IN SESSION AND CAPABLE OF TRANSACTING BUSINESS, I PROPOSE TO SIGN AND DO HEREBY SIGN LB55, LB104, LB123, LB138, LB195, LB206, LB246, LB257, LB277, LB283E, LB287, LB291E, LB296E, AND LB310. MR. CLERK. AND LB268. MR. CLERK, SOME ITEMS. [LB55 LB104 LB123 LB138 LB195 LB206 LB246 LB257 LB277 LB283 LB287 LB291 LB296 LB310 LB268]

ASSISTANT CLERK: MR. PRESIDENT, THREE ITEMS: NAME ADD TO LB268, SENATOR BOLZ; LR338, SENATORS GARRETT, HILKEMANN, McCOLLISTER, SCHEER, EBKE, SCHNOOR, HANSEN, SCHILZ, AND BOLZ. THAT'S ALL I HAVE. (LEGISLATIVE JOURNAL PAGE 1751.) [LB268 LR338]

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MR. PRESIDENT, MOVING TO GENERAL FILE, LB315, BY SENATOR HOWARD. (READ TITLE.) THE BILL WAS READ FOR THE FIRST TIME ON JANUARY 15, REFERRED TO THE HEALTH AND HUMAN SERVICES COMMITTEE. THAT COMMITTEE PLACED THE BILL ON GENERAL FILE WITH COMMITTEE AMENDMENTS. (AM458, LEGISLATIVE JOURNAL PAGE 614.) [LB315]

SENATOR KRIST PRESIDING

SENATOR KRIST: THANK YOU, MR. CLERK. SENATOR HOWARD, YOU'RE RECOGNIZED TO OPEN ON LB315. [LB315]

SENATOR HOWARD: THANK YOU, MR. PRESIDENT. GOOD AFTERNOON, COLLEAGUES. LB315 IS A BILL THAT DEALS WITH RAC AUDITS OR AUDITS PERFORMED BY RECOVERY AUDIT CONTRACTORS FOR CLAIMS OF MEDICAID SERVICES. IT WAS ADVANCED FROM THE HEALTH AND HUMAN SERVICES COMMITTEE BY A UNANIMOUS VOTE AND I WOULD LIKE TO THANK SPEAKER HADLEY FOR PRIORITIZING THIS BILL. AS BACKGROUND, THE AFFORDABLE CARE ACT CONTAINED A PROVISION THAT REQUIRED STATES TO PASS LAWS SETTING UP RAC AUDITS TO REVIEW AND AUDIT MEDICAID PROGRAMS TO FIND AND RECOVER IMPROPER PAYMENTS. AS A RESULT OF THE FEDERAL REQUIREMENT, NEBRASKA PASSED A RAC AUDIT BILL IN 2011. AN RFP WAS ISSUED IN 2012 AND A CONTRACT WAS AWARDED TO HEALTH MANAGEMENT SYSTEMS OR HMS IN DECEMBER OF 2012. LET ME FIRST EXPLAIN WHAT A RAC AUDIT IS NOT. IT IS NOT AN ATTEMPT TO FIND FRAUD OR ABUSE OF THE MEDICAID SYSTEM. FRAUD IS HANDLED ELSEWHERE IN THE MEDICAID SYSTEM. INSTEAD, MEDICAID RAC AUDITS ARE TO DETERMINE IMPROPER PAYMENTS. THESE AUDITS ARE, BY FEDERAL LAW, CONTINGENT FEE IN NATURE AND ALLOW THE AUDITOR TO FIND IMPROPER BILLINGS AND RECOVER ANY OVERPAYMENT AND ALSO IDENTIFY UNDERPAYMENTS. TO BE DIPLOMATIC, WE HAVE SEEN DIFFICULTIES WITH OUR MEDICAID RAC AUDITS IN NEBRASKA. LB315 IS AN ATTEMPT TO TRY TO ADDRESS SOME OF THE PROBLEMS THAT HAVE ARISEN AS A RESULT OF THESE AUDITS. THIS LEGISLATION IS BASED ON A LAW IN LOUISIANA AND THERE ARE SIMILAR BILLS PENDING IN OTHER STATES. FIRST LET ME TELL YOU HOW THE SYSTEM WORKS. A PROVIDER FINDS OUT THAT HE OR SHE IS BEING AUDITED WHEN A LETTER ARRIVES THAT ANNOUNCES THAT THE PROVIDER HAS BEEN AUDITED FOR THE PROVISION OF A PARTICULAR MEDICAID SERVICE AND THAT SHE NOW OWES A REIMBURSEMENT TO THE STATE FOR OVERBILLING FOR THIS SERVICE OR THE AUDITOR WILL SEND A LETTER THAT SAYS, I'LL BE THERE TOMORROW AND I WILL REVIEW ALL OF YOUR DOCUMENTATION FOR A PARTICULAR SERVICE FOR THE PAST THREE

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YEARS. THE PROVIDER CAN APPEAL THE DECISION, ALTHOUGH VERY LITTLE INFORMATION IS GIVEN ABOUT THE APPEAL PROCESS. BUT BEFORE SHE CAN APPEAL, THE PROVIDER HAS TO PAY THE MONEY CLAIMED TO BE OVERPAID. THEN THE APPEAL STARTS AND MONTHS MAY GO BY BEFORE A DECISION IS ULTIMATELY RENDERED. IN THE MEANTIME, THE BURDEN IS ON THE PROVIDER TO PROVE THAT THE BILLING WAS APPROPRIATE. THAT TAKES HOURS OF TIME AND MANPOWER TO PULL RECORDS AND DETERMINE BACKGROUND INFORMATION TO PROVE THAT SERVICES WERE GIVEN AND APPROPRIATELY BILLED. AS A RESULT, LB315 SETS FORTH IN STATE STATUTE WHAT FEDERAL LAW ALLOWS OR REQUIRES. LB315 REQUIRES THAT ALL AUDITS MUST TAKE PLACE WITHIN A CERTAIN TIME PERIOD, THE AUDIT MUST BE CONCLUDED WITHIN A CERTAIN NUMBER OF DAYS OF THE RECEIPT OF REQUESTED INFORMATION TO GIVE CLOSURE WITHIN A REASONABLE AMOUNT OF TIME. LB315 ALLOWS THE ABILITY TO PAY FOR SERVICES OR PRODUCTS PROVIDED IF THE SERVICE WAS REQUIRED BUT NOT BILLED CORRECTLY. LB315 REQUIRES THE RAC AUDITOR TO UTILIZE THE ASSISTANCE OF PROVIDERS FROM THE PRACTICE AREAS BEING AUDITED SO THAT PROBLEMS ARE ADDRESSED UP FRONT. LB315 REQUIRES WRITTEN NOTICE OF THE REASON FOR AN ADVERSE DETERMINATION THAT INCLUDES AN EXPLANATION OF WHY THERE WAS SUCH A DETERMINATION AND THE PROCEDURES FOR REIMBURSEMENT AND APPEAL. THE BILL WILL REQUIRE A MINIMUM OF 10 DAYS' NOTICE FOR ON-SITE AUDITS TO GIVE THE PROVIDER TIME TO PULL THE FILES NECESSARY FOR THE AUDIT. AND LB315 CLARIFIES THAT CAPITATED MEDICAID MANAGED CARE OR SERVICES PROVIDED WITH PRIOR AUTHORIZATION ARE, AS ALLOWED BY FEDERAL LAW, EXCLUDED FROM RAC AUDITS. LB315 ALLOWS THE PROVIDER TO PAY FOR OVERPAYMENT ONLY AFTER ALL APPEALS HAVE BEEN CONCLUDED UNLESS FRAUD IS SUSPECTED AND A FRAUD INVESTIGATION HAS BEEN INITIATED. THIS LEGISLATION WILL MAKE IT A REQUIREMENT TO NOTIFY THE PROVIDER, AS IS REQUIRED BY FEDERAL LAW, OF UNDERPAYMENTS. AND LB315 LIMITS THE AMOUNT OF RECORDS THAT CAN BE AUDITED AT ONE TIME, SETS FORTH MATRIX FOR THE RAC AUDITOR TO MAKE PUBLIC, AND REQUIRES TRAINING AND EDUCATIONAL PROGRAMS FOR THE RAC AUDITOR FOR MEDICAID PROVIDERS. THE LEGISLATION ALLOWS PROVIDERS TO SUBMIT RECORDS IN AN ELECTRONIC, DVD, CD, OR FACSIMILE FORMAT. AND LB315 ESTABLISHES AN APPEALS PROCESS FOR PROVIDERS. DURING THE HEARING WE HEARD FROM PROVIDER AFTER PROVIDER TESTIFYING ABOUT THE HARDSHIPS, BOTH FINANCIAL AND LOGISTIC, THAT THEY FACED BECAUSE OF THESE RAC AUDITS. SOME PROVIDERS TESTIFIED THAT IF THIS PROCESS WAS NOT CHANGED THEY WOULD BE FORCED TO GIVE UP THEIR STATUS AS A MEDICAID PROVIDER. ONE PROVIDER, IN PARTICULAR, FROM FALLS CITY WHO WAS A DENTIST, HAD RECEIVED THE BENEFIT OF MEDICAID

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WHILE HE WAS IN DENTAL SCHOOL FOR HIMSELF AND HIS FAMILY. AND SO NOW HE TAKES ON MEDICAID PATIENTS TO GIVE BACK TO THE PROGRAM THAT WAS GOOD TO HIM WHEN HE WAS IN SCHOOL. BUT HE'S NOT SURE IF HE CAN STAY AS A MEDICAID PROVIDER BECAUSE OF THE EXPERIENCE HE HAD WITH THE RAC AUDITORS THIS YEAR. MEDICAID PROVIDERS IN CERTAIN SPECIALTIES ARE BECOMING HARDER AND HARDER TO FIND. MANY WILL TELL YOU THAT MEDICAID REIMBURSEMENT BARELY COVERS THE COST OF SERVICE AND THE INCREASED PAPERWORK AND BUREAUCRACY MAKE IT DIFFICULT TO COMPLY WITH THE PROGRAM. WE HAVE WORKED EXTENSIVELY WITH THE DEPARTMENT ON A COMMITTEE AMENDMENT THAT SENATOR CAMPBELL WILL BE INTRODUCING AND I AM VERY SUPPORTIVE OF THE CHANGES THAT THE AMENDMENT MAKES. THANK YOU FOR YOUR CONSIDERATION OF THIS MATTER AND I WOULD URGE THE BODY TO VOTE GREEN ON LB315. THANK YOU, MR. PRESIDENT. [LB315]

SENATOR KRIST: AS THE CLERK STATED, THERE ARE COMMITTEE AMENDMENTS. SENATOR HOWARD AS THE VICE-CHAIR...WHO IS OPENING? I'M SORRY. SENATOR CAMPBELL, AS THE CHAIR FOR HEALTH AND HUMAN SERVICES, YOU'RE RECOGNIZED TO OPEN ON YOUR AMENDMENT. [LB315]

SENATOR CAMPBELL: THANK YOU, MR. PRESIDENT. THE COMMITTEE AMENDMENT TO LB315 REPRESENTS A COMPROMISE BETWEEN THE DENTAL ASSOCIATION OF NEBRASKA AND THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO IMPROVE THE RAC PROCESS. AND REALLY, COLLEAGUES, SENATOR HOWARD WORKED VERY HARD WITH BOTH GROUPS TO FIND THESE COMPROMISES AND I MUCH APPRECIATE ALL THE WORK THAT SHE PUT INTO IT. AM458 DOES SEVERAL THINGS TO STREAMLINE THE AUDIT PROCESS AND ENSURE A MORE FAIR AND PRODUCTIVE AUDIT THAT INCLUDES COOPERATION BETWEEN THE PROVIDERS, THE AUDITOR CONTRACTORS, AND THE DEPARTMENT. NUMBER ONE: THE AMENDMENT SHORTENS THE TIME ALLOWED FOR REVIEW OF CLAIMS FROM THREE YEARS AFTER THE INITIAL PAYMENT DATE TO TWO YEARS AFTER THE INITIAL CLAIM DATE. NUMBER TWO: REQUIRES THE CONTRACTOR TO NOTIFY PROVIDERS WITHIN 60 CALENDAR DAYS OF CONCLUDING AN AUDIT INSTEAD OF 90, AS ALLOWED UNDER FEDERAL REGULATIONS; ALSO CLARIFIES THE TIME FRAME FOR FILING AN APPEAL. NUMBER THREE: INCLUDES A PROCEDURE FOR PROVIDERS TO REBILL CORRECTED CLAIMS DISCOVERED BY THE AUDIT. NUMBER FOUR: ADDS LANGUAGE TO COMPLY WITH FEDERAL REGULATIONS ENSURING CLAIMS ARE NOT AUDITED MORE THAN ONCE AND THAT ONLY ONE AUDIT CAN OCCUR AT A TIME. NUMBER FIVE: UPDATES THE APPEALS PROCESS TO COMPLY WITH

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DEPARTMENT POLICIES. NUMBER SIX: INCLUDES THE DEPARTMENT IN TRAINING PROGRAMS WITH THE PROVIDERS AND RECOVERY AUDIT CONTRACTORS; AND, LASTLY, HARMONIZES LANGUAGE AT THE REQUEST OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES. I CERTAINLY ENCOURAGE YOUR GREEN VOTE ON AM458 AND TO THE UNDERLYING BILL, LB315, BECAUSE I THINK IT SETS A GREAT PATH FOR THE DEPARTMENT AND THE DENTISTS ACROSS THE STATE TO WORK TOGETHER. THANK YOU, MR. PRESIDENT. [LB315]

SENATOR KRIST: THANK YOU, SENATOR CAMPBELL. MR. CLERK, FOR AN AMENDMENT. [LB315]

ASSISTANT CLERK: MR. PRESIDENT, SENATOR HOWARD MOVED TO AMEND THE COMMITTEE AMENDMENTS WITH AM510. (LEGISLATIVE JOURNAL PAGE 1570.) [LB315]

SENATOR KRIST: SENATOR HOWARD, YOU'RE RECOGNIZED TO OPEN. [LB315]

SENATOR HOWARD: THANK YOU, MR. PRESIDENT. AM510 TO AM458 IS A TECHNICAL AMENDMENT THAT ALLOWS FOR ADDITIONAL FORMS OF ELECTRONIC SUBMISSION FOR RECORDS. CURRENTLY, THE LANGUAGE IN AM458 ONLY ALLOWS FOR ELECTRONIC SUBMISSION BY DIGITAL VERSATILE DISC OR DVD AND A FACSIMILE. AND THIS WOULD ENSURE THAT WE DON'T NEED TO REOPEN STATUTES WHEN NEW TECHNOLOGY COMES ALONG IN THE FUTURE. THIS AMENDMENT MAKES NO SUBSTANTIVE CHANGE TO AM458 AND I WOULD URGE ITS ADOPTION. THANK YOU, MR. PRESIDENT. [LB315]

SENATOR KRIST: THANK YOU, SENATOR HOWARD. YOU'VE HEARD THE OPENING TO AM510 TO AM458 AND THE BILL, LB315. THOSE WISHING TO SPEAK, SENATOR McCOLLISTER, YOU'RE RECOGNIZED. [LB315]

SENATOR McCOLLISTER: THANK YOU, MR. PRESIDENT. GOOD AFTERNOON, COLLEAGUES. I WONDER IF SENATOR HOWARD WOULD YIELD FOR A QUESTION. [LB315]

SENATOR KRIST: SENATOR HOWARD, WILL YOU YIELD? [LB315]

SENATOR HOWARD: YES, I WILL. [LB315]

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SENATOR McCOLLISTER: THE FISCAL NOTE INDICATES A \$800,000 EXPENDITURE, ABOUT A HALF MILLION DOLLARS FROM THE STATE AND THE BALANCE FROM THE FEDERAL GOVERNMENT. IN THE PROCESS OF CONDUCTING THESE AUDITS, IS THERE A RECOVERY OF MONEY THAT WOULD COME BACK TO THE STATE? [LB315]

SENATOR HOWARD: CURRENTLY, THEY ALREADY HAVE TO DO THE RAC AUDIT, SO THIS BILL SHOULDN'T HAVE ANY FISCAL IMPACT. BUT WHAT THE RAC AUDITORS ARE ABLE TO RECOVER WITH THE FUNDS THAT GO BACK TO THE STATE, THEY RECEIVE A PORTION OF IT. [LB315]

SENATOR McCOLLISTER: DO YOU HAVE ANY HISTORICAL NUMBERS TO INDICATE WHAT THAT RECOVERY HAS BEEN? [LB315]

SENATOR HOWARD: NO, WE DON'T. THE RAC AUDITORS ARE SUPPOSED TO REPORT METRICS ON THE WEB SITE. UNFORTUNATELY, THEY DID NOT REPORT THAT METRIC TO US PUBLICLY. [LB315]

SENATOR McCOLLISTER: AFTER AN AUDIT HAS OCCURRED, IS THERE EVER SANCTIONS LEVIED AGAINST FOLKS THAT HAVE HAD EGREGIOUS INSTANCES OF FRAUD OR ANYTHING ELSE? [LB315]

SENATOR HOWARD: NOT THAT I KNOW OF. I DON'T KNOW IF A PROVIDER COULD LOSE THEIR PROVIDER STATUS AS A MEDICAID BILLER BECAUSE OF AN OVERPAYMENT. WHAT HAPPENED IN THIS INSTANCE WAS THEY AUDITED OUR DENTAL UNIT. AND NEBRASKA HAS A TRADITION WHERE, IN PEDIATRIC DENTISTS, THEY CAN ONLY DO A CLEANING EVERY SIX MONTHS. AND SO IF THEY DID A CLEANING WITH FIVE MONTHS AND 15 DAYS TOO SOON, THEN THAT WAS CONSIDERED AN OVERBILLING AND THE RAC AUDITORS SORT OF CALLED THEM OUT ON THAT. [LB315]

SENATOR McCOLLISTER: WHAT'S THE PERCENTAGE OF RECOVERY THAT THOSE AUDITORS GET? [LB315]

SENATOR HOWARD: I DON'T KNOW. IT HASN'T BEEN REPORTED TO US. [LB315]

SENATOR McCOLLISTER: OKAY. THANK YOU, SENATOR. [LB315]



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SENATOR HOWARD: THANK YOU, SENATOR. [LB315]

SENATOR McCOLLISTER: THANK YOU, MR. PRESIDENT. [LB315]

SENATOR KRIST: THANK YOU, SENATOR McCOLLISTER AND SENATOR HOWARD.  
SENATOR KOLTERMAN, YOU'RE RECOGNIZED. [LB315]

SENATOR KOLTERMAN: THANK YOU, MR. PRESIDENT. COLLEAGUES, I RISE IN GREAT SUPPORT OF ALL THESE AMENDMENTS IN THIS BILL. IF YOU WANT TO KNOW WHAT CAN CRIPPLE A BUSINESS, YOU OUGHT TO TALK TO THE DENTISTS IN THIS STATE THAT HAD THESE RAC AUDITS HEAPED UPON THEM. IN FACT, THE PROBLEM WE HAVE RIGHT NOW IS WE'RE LOSING DENTISTS THAT WANT TO TAKE CARE OF MEDICAID PATIENTS SIMPLY BECAUSE THEY DON'T WANT TO HAVE TO GO THROUGH THIS NONSENSE AND THE UNFAIR ADVANTAGE THAT THE AUDITOR HAS, SHOWING UP ON THEIR DOORSTEP, REQUESTING A THOUSAND FILES, SPENDING WEEKS AND MONTHS OF THEIR TIME AWAY FROM TAKING CARE OF THEIR PATIENTS. NOW, I THINK A FAIR AUDIT IS A FAIR AUDIT. AND WE NEED TO AUDIT BECAUSE, OBVIOUSLY, IN SOME BUSINESSES THERE'S ALWAYS A BAD APPLE. BUT THIS HAS BEEN CRIPPLING TO OUR DENTISTS WHO, IN MANY CASES, ARE DOING A SERVICE FOR THE MEDICAID POPULATION IN THIS STATE AND IT'S RIDICULOUS WHAT THEY'VE BEEN THROUGH AND WE NEED TO SEE TO IT THAT THAT STOPS. SENATOR HOWARD HAS BROUGHT SOME VERY GOOD CHANGES TO THE PROCESS AND IT MAKES THEM MORE ACCOUNTABLE TO US, THE POPULATION, MY CONSTITUENTS AND YOURS. SO IF YOU HAVEN'T HAD A CHANCE TO TALK TO YOUR DENTIST ABOUT RAC AUDITS, I WOULD SUGGEST THAT YOU CONTACT THEM AND ASK THEM WHAT THEIR THOUGHTS ARE. BE PREPARED THOUGH, YOU'RE GOING TO GET AN EARFUL. WE NEED TO HAVE AUDITS, BUT NOT TO THE EXTENT THAT IT'S GOING TO CRIPPLE THE BUSINESS AND TAKE PEOPLE OUT OF THE BUSINESS OF TAKING CARE OF NOT ONLY MEDICAID PATIENTS BUT OTHER PATIENTS. WHAT'S HAPPENED HAS BEEN CRIPPLING TO SMALL BUSINESS AND IT NEEDS TO STOP. SO I'D ENCOURAGE YOU TO VOTE YES, YES, YES. THANK YOU. [LB315]

SENATOR KRIST: THANK YOU, SENATOR KOLTERMAN. SENATOR SCHEER, YOU'RE RECOGNIZED. [LB315]

SENATOR SCHEER: THANK YOU, MR. PRESIDENT. WOULD SENATOR HOWARD ANSWER A QUESTION FOR ME REAL QUICK? [LB315]

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SENATOR HOWARD: CERTAINLY. [LB315]

SENATOR KRIST: SENATOR HOWARD, WILL YOU YIELD? [LB315]

SENATOR SCHEER: OH, I'M SORRY. [LB315]

SENATOR HOWARD: YES. [LB315]

SENATOR SCHEER: SENATOR HOWARD, HOW WILL THIS BILL AFFECT THE RAC AUDITS THAT THEY PERFORM ON HOSPITALS? [LB315]

SENATOR HOWARD: SO ARE YOU ASKING ABOUT MEDICARE RAC AUDITS OR MEDICAID RAC AUDITS? [LB315]

SENATOR SCHEER: EITHER, OR, OR BOTH. [LB315]

SENATOR HOWARD: SO THIS WILL IMPACT MEDICAID RAC AUDITS EXCLUSIVELY. I THINK THE RAC AUDITS THAT YOU'RE ASKING ABOUT THAT WE'VE HAD PROBLEMS WITH PREVIOUSLY ARE ON THE MEDICARE SIDE. LAST YEAR WAS THE FIRST YEAR THAT THE STATE OF NEBRASKA PERFORMED RAC AUDITS ON MEDICAID AND THEY SPECIFICALLY LOOKED AT THEIR DENTAL POPULATION FOR A SPECIFIC SERVICE. AND SO NEXT YEAR THEY'RE LOOKING AT MORE PRIMARY CARE. AND SO THEY PROBABLY WOULDN'T REACH INTO HOSPITAL RAC AUDITS THE WAY THAT MEDICARE DOES. [LB315]

SENATOR SCHEER: DO YOU ANTICIPATE BRINGING BACK LEGISLATION NEXT YEAR THAT WOULD HELP THE HOSPITAL ASSOCIATION WITH THE SAME PROBLEMS THEY'RE EXPERIENCING WITH MEDICARE? [LB315]

SENATOR HOWARD: I WOULD BE HAPPY TO HELP THE HOSPITAL ASSOCIATION WITH THEIR RAC AUDITS, ALTHOUGH I'M NOT SURE IF WE ARE ABLE TO LEGISLATE AROUND MEDICARE BECAUSE IT'S A FEDERAL PROGRAM. [LB315]

SENATOR SCHEER: OKAY, THANK YOU VERY MUCH. THANK YOU, MR. PRESIDENT. [LB315]

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SENATOR KRIST: THANK YOU, SENATOR SCHEER AND SENATOR HOWARD.  
SENATOR FRIESEN, YOU'RE RECOGNIZED. [LB315]

SENATOR FRIESEN: THANK YOU, MR. PRESIDENT. WOULD SENATOR HOWARD  
YIELD TO A QUESTION? [LB315]

SENATOR KRIST: SENATOR HOWARD, WILL YOU YIELD? [LB315]

SENATOR HOWARD: YES, I WILL. [LB315]

SENATOR FRIESEN: I GUESS, WALK ME A LITTLE BIT THROUGH THE PROCESS  
HERE. THE FISCAL COST OF THIS BILL, WHAT DOES THAT PAY FOR? [LB315]

SENATOR HOWARD: THERE SHOULD BE NO COST FOR THIS BILL. WE ARE  
ALREADY PERFORMING RAC AUDITS, WE ARE ALREADY SUPPOSED TO BE  
PERFORMING THEM WITHIN THE FEDERAL GUIDELINES. THIS CODIFIES FEDERAL  
GUIDELINES FOR THE STATE. [LB315]

SENATOR FRIESEN: OKAY. SO THERE IS NO FISCAL NOTE, THEN? [LB315]

SENATOR HOWARD: THERE'S A LB315A. THERE'S AN APPROPRIATIONS BILL  
BECAUSE THE DEPARTMENT FELT THAT THEY NEEDED AN FTE TO HELP THEM  
WITH THE RAC AUDITS. BUT I PROMISE TO WORK WITH THEM BETWEEN NOW  
AND SELECT TO SEE IF WE COULD GET RID OF THAT APPROPRIATION. [LB315]

SENATOR FRIESEN: OKAY. THANK YOU. THANK YOU, MR. PRESIDENT. [LB315]

SENATOR KRIST: THANK YOU, SENATOR FRIESEN AND SENATOR HOWARD.  
SEEING NO ONE ELSE IN THE QUEUE, SENATOR HOWARD, YOU'RE RECOGNIZED  
TO CLOSE ON AM510. [LB315]

SENATOR HOWARD: THANK YOU, MR. PRESIDENT. I WOULD SIMPLY ASK THE  
BODY TO VOTE GREEN ALL THE WAY FOR LB315. THANK YOU. [LB315]

SENATOR KRIST: THANK YOU, SENATOR HOWARD. YOU HEARD THE CLOSING ON  
AM510. THE QUESTION IS, THE ADOPTION OF AM510. THOSE IN FAVOR VOTE AYE;

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OPPOSED NAY. HAVE ALL THOSE VOTED THAT WISH TO? PLEASE RECORD, MR. CLERK. [LB315]

ASSISTANT CLERK: 28 AYES, 0 NAYS ON THE ADOPTION OF THE AMENDMENT TO THE COMMITTEE AMENDMENT, MR. PRESIDENT. [LB315]

SENATOR KRIST: AM510 IS ADOPTED. SEEING NO ONE ELSE IN THE QUEUE, SENATOR CAMPBELL, YOU'RE RECOGNIZED TO CLOSE ON YOUR COMMITTEE AMENDMENT. SENATOR CAMPBELL WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF AM458. THOSE IN FAVOR VOTE AYE; OPPOSED NAY. PLEASE RECORD, MR. CLERK. [LB315]

ASSISTANT CLERK: 30 AYES, 0 NAYS ON THE ADOPTION OF THE COMMITTEE AMENDMENT, MR. PRESIDENT. [LB315]

SENATOR KRIST: AM458 IS ADOPTED. SENATOR HOWARD, YOU'RE RECOGNIZED TO CLOSE ON YOUR BILL. SENATOR HOWARD WAIVES CLOSING. THE QUESTION IS THE ADVANCEMENT OF LB315 TO E&R INITIAL. THOSE IN FAVOR VOTE AYE; OPPOSED, NAY. PLEASE RECORD, MR. CLERK. [LB315]

ASSISTANT CLERK: 29 AYES, 0 NAYS ON THE MOTION TO ADVANCE THE BILL. [LB315]

SENATOR KRIST: LB315 ADVANCES. NEXT ITEM. [LB315]

ASSISTANT CLERK: MR. PRESIDENT, LB315A, INTRODUCED BY SENATOR HOWARD. (READ TITLE.) [LB315A]

SENATOR KRIST: SENATOR HOWARD, YOU'RE RECOGNIZED. [LB315A]

SENATOR HOWARD: THANK YOU, MR. PRESIDENT. AS I MENTIONED EARLIER IN MY CONVERSATION WITH SENATOR FRIESEN, THE DEPARTMENT FEELS AS THOUGH THEY NEED AN FTE TO HELP IMPLEMENT THIS BILL, ALTHOUGH THEY ARE ALREADY SUPPOSED TO BE DOING WHAT IS IN THIS BILL IN THE FIRST PLACE, SO I RESPECTFULLY DISAGREE WITH THE A BILL. BUT I WOULD ASK THE BODY TO ADVANCE IT TO SELECT FILE SO I HAVE A CHANCE TO WORK WITH THE DEPARTMENT. THANK YOU, MR. PRESIDENT. [LB315A]

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SENATOR KRIST: THANK YOU, SENATOR HOWARD. SEEING NO ONE IN THE QUEUE, SENATOR HOWARD, YOU'RE RECOGNIZED TO CLOSE. SENATOR HOWARD WAIVES CLOSING. THE QUESTION IS, THE ADVANCEMENT OF LB315A TO E&R INITIAL. ALL THOSE IN FAVOR VOTE AYE; OPPOSED NAY. PLEASE RECORD, MR. CLERK. [LB315A]

ASSISTANT CLERK: 28 AYES, 0 NAYS ON THE MOTION TO ADVANCE THE BILL. [LB315A]

SENATOR KRIST: LB315A ADVANCES. NEXT ITEM. [LB315A]

ASSISTANT CLERK: NEXT BILL, MR. PRESIDENT, LB452, INTRODUCED BY SENATOR HILKEMANN. (READ TITLE.) THE BILL WAS READ FOR THE FIRST TIME ON JANUARY 20 OF THIS YEAR, REFERRED TO THE HEALTH AND HUMAN SERVICES COMMITTEE, THE COMMITTEE PLACED THE BILL ON GENERAL FILE WITH NO COMMITTEE AMENDMENTS. [LB452]

SENATOR KRIST: THANK YOU, MR. CLERK. GOOD AFTERNOON, SENATOR HILKEMANN. YOU'RE RECOGNIZED TO OPEN ON YOUR BILL. [LB452]

SENATOR HILKEMANN: THANK YOU, MR. SPEAKER AND MEMBERS OF THIS BODY. I AM INTRODUCING LB452. IT WAS A BILL BROUGHT ON BEHALF OF THE NEBRASKA MEDICAL ASSOCIATION AND I WANT TO THANK THE SPEAKER FOR HAVING PRIORITIZED THIS BILL. LB452 WILL CREATE A BASELINE BY WHICH ALL HEALTH OCCUPATIONS AND PROFESSIONS REGULATED UNDER THE UNIFORM CREDENTIALING ACT CAN FOLLOW AS A GUIDE IN THEIR HEALTHCARE ADVERTISEMENTS. THIS BILL WAS HEARD, AS YOU SAID, IN FRONT OF THE HEALTH AND HUMAN SERVICES COMMITTEE AND IT ADVANCED UNANIMOUSLY AND WITHOUT OPPOSITION. LB452 REQUIRES THAT THE ADS NOT INCLUDE ANY DECEPTIVE OR MISLEADING INFORMATION OR INFORMATION THAT MISSTATES, FALSELY DESCRIBES, OR FALSELY REPRESENTS THE PROVIDER'S SKILLS, TRAINING, EXPERTISE, EDUCATION, BOARD CERTIFICATION, OR CREDENTIALS. EARLIER THIS SESSION WE'VE DEBATED OTHER MEDICAL BILLS. WHAT THIS DOES...WE HAVE SOME PROFESSIONS WHICH OVERLAP. AND SO WHAT THIS WILL DO IS, IT WILL PROVIDE CLARITY IN EDUCATION AND IN THE PROVIDER'S EXPERTISE. OPENNESS AND TRANSPARENCIES ARE WORDS WE HEAR ALL THE TIME, SOMETIMES TO THE POINT OF BEING TRITE. BUT WHERE ARE THEY MORE IMPORTANT THAN WITH OUR OWN HEALTHCARE? SPAS, HEALTH CLUBS NOW ADVERTISE MESSAGES, FACIALS, BOTOX INJECTIONS. THE PUBLIC, WHEN

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DECIDING WHO WILL PROVIDE THEIR HEALTHCARE, DESERVES TO KNOW THAT THE PERSON PERFORMING THOSE SERVICES IS QUALIFIED AND LICENSED. THE BILL ALSO PROVIDES FOR DISCIPLINARY ACTION. A CREDENTIAL HOLDER CAN BE DENIED, REFUSED RENEWAL, SUSPENDED, OR REVOKED UPON NONCOMPLIANCE WITH THE AMENDED ADVERTISING PROVISIONS. IN CONCLUSION, LB452 WILL STREAMLINE AND STANDARDIZE HEALTHCARE ADVERTISEMENTS AND RESULT IN LESS CONFUSION OR, AT WORST, FALSE INFORMATION. I WOULD URGE THIS BODY TO MOVE LB452 TO E&R INITIAL. I WILL BE HAPPY TO ANSWER ANY QUESTIONS. THANK YOU, MR. PRESIDENT. [LB452]

SENATOR KRIST: THANK YOU, SENATOR HILKEMANN. YOU'VE HEARD THE OPENING ON LB452. SENATOR RIEPE, YOU'RE RECOGNIZED. [LB452]

SENATOR RIEPE: MR. PRESIDENT AND MEMBERS OF THIS CHAMBER AND NEBRASKANS, THANK YOU. SENATOR HILKEMANN, WOULD YOU YIELD TO A QUESTION, PLEASE? [LB452]

SENATOR KRIST: SENATOR HILKEMANN, WILL YOU YIELD? [LB452]

SENATOR RIEPE: I DID VOTE TO...AND I FELT AND FEEL THAT THIS IS A GOOD BILL. I'M JUST...THE QUESTION THAT I HAVE IS, WHO DECIDES WHETHER SOMETHING IS MISLEADING? AND IS THIS UNDER THE DEPARTMENT OF HEALTH AND HUMAN SERVICES? IS THAT WHERE THE ADMINISTRATION OF THIS GOES? [LB452]

SENATOR HILKEMANN: THIS IS GOING TO BE UNDER THE LICENSING BUREAUS. [LB452]

SENATOR RIEPE: OKAY. OKAY. AND THEY WOULD THEN DECIDE WHETHER SOMETHING WAS MISLEADING OR IS THERE A PANEL OR SOMETHING OR...? [LB452]

SENATOR HILKEMANN: YES, SIR. YES, SENATOR RIEPE, THEY WOULD HAVE THAT. [LB452]

SENATOR RIEPE: OKAY, THANK YOU. THANK YOU, MR. SPEAKER. [LB452]

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SENATOR KRIST: THANK YOU, SENATOR RIEPE AND SENATOR HILKEMANN. SEEING NO ONE ELSE IN THE QUEUE, SENATOR HILKEMANN, YOU'RE RECOGNIZED TO CLOSE. SENATOR HILKEMANN WAIVES CLOSING. THE QUESTION IS THE ADVANCEMENT OF LB452 TO E&R INITIAL. ALL THOSE IN FAVOR VOTE AYE; OPPOSED, NAY. HAVE ALL THOSE VOTED THAT WISH TO? PLEASE RECORD, MR. CLERK. [LB452]

ASSISTANT CLERK: 26 AYES, 0 NAYS ON THE MOTION TO ADVANCE THE BILL, MR. PRESIDENT. [LB452]

SENATOR KRIST: LB452 ADVANCES. NEXT ITEM. [LB452]

ASSISTANT CLERK: MR. PRESIDENT, THE NEXT BILL, LB540, INTRODUCED BY SENATOR CRAWFORD. (READ TITLE.) THE BILL WAS READ FOR THE FIRST TIME ON JANUARY 21. IT WAS REFERRED TO THE URBAN AFFAIRS COMMITTEE. THAT COMMITTEE PLACED THE BILL ON GENERAL FILE WITH NO COMMITTEE AMENDMENTS. [LB540]

SENATOR KRIST: SENATOR CRAWFORD, YOU'RE RECOGNIZED TO OPEN ON YOUR BILL. [LB540]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT, AND GOOD AFTERNOON, COLLEAGUES. LB540 WOULD AMEND THE STATE BUILDING CODE BY ADOPTING NEW VERSIONS OF THREE MODEL BUILDING CODES, WHICH MAKE UP OUR STATE BUILDING CODE, UPDATING OUR STATE BUILDING CODE FOR THE FIRST TIME SINCE 2011. THE LEGISLATURE FIRST ADOPTED A STATEWIDE BUILDING CODE IN 1987 TO GOVERN THE CONSTRUCTION, RECONSTRUCTION, ALTERATION, AND REPAIR OF BUILDINGS IN NEBRASKA. THE PURPOSE OF THE STATE BUILDING CODE IS TO PROTECT THE LIFE, HEALTH, PROPERTY, AND PUBLIC WELFARE OF NEBRASKANS BY ADOPTING MINIMUM STANDARDS FOR BUILDING, DESIGN, AND CONSTRUCTION AND TO PROVIDE FOR THE USE OF MODERN AND INNOVATIVE CONSTRUCTION TECHNIQUES. SINCE 2003, NEBRASKA HAS ADOPTED A SERIES OF MODEL CODES PUBLISHED BY THE INTERNATIONAL CODE COUNCIL, OR ICC, A NATIONAL ASSOCIATION THAT DEVELOPS MODEL BUILDING CODES AND STANDARDS. NEARLY ALL STATES AND LOCAL GOVERNMENTS NATIONWIDE HAVE ADOPTED ONE OR MORE OF THE ICC MODEL CODES. THE STATE BUILDING CODE CONSISTS OF THREE MODEL CODES: THE INTERNATIONAL BUILDING CODE OR THE IBC, WHICH COVERS ALL NEW CONSTRUCTION EXCEPT ONE- AND TWO-FAMILY DWELLINGS; THE INTERNATIONAL RESIDENTIAL CODE

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OR IRC, WHICH COVERS NEW CONSTRUCTION OF ONE- AND TWO-FAMILY DWELLINGS; AND THREE, THE INTERNATIONAL EXISTING BUILDING CODE OR IEBC, WHICH COVERS REPAIR, ALTERATION, ADDITION, AND CHANGE OF OCCUPANCY FOR EXISTING BUILDINGS. NEW EDITIONS OF THESE CODES ARE PUBLISHED EVERY THREE YEARS AND WE CURRENTLY HAVE ADOPTED, BY REFERENCE, THE 2009 VERSIONS OF THE CODES, WITH THE EXCEPTION OF ONE SECTION OF THE IRC. MEMBERS SHOULD HAVE RECEIVED A SERIES OF MAPS WHICH ILLUSTRATE STATEWIDE ADOPTION OF BUILDING CODES IN THE UNITED STATES. HISTORICALLY, NEBRASKA TENDS TO LAG SOMEWHAT BEHIND OTHER STATES IN ADOPTING BUILDING CODES. WHILE WE ARE CURRENTLY ON THE 2009 EDITION OF THE CODES, A LARGE NUMBER OF STATES HAVE ALREADY ADOPTED THE 2012 EDITIONS OF THESE CODES. IN ADDITION, SINCE THESE MAPS WERE PRINTED THE STATE OF IDAHO UPDATED THEIR BUILDING CODES, SO THEY ARE NOW ON THE 2012 IRC. AS OTHER STATES BEGIN TO MOVE FORWARD IN CONSIDERING EVEN THE 2015 CODES, I THINK IT'S IMPORTANT THAT THE LEGISLATURE UPDATE OUR STATE BUILDING CODE FROM WHAT IS NOW A SIX-YEAR-OLD SET OF CODES. LB540 WOULD ADOPT THE 2012 VERSIONS OF THE IBC, IRC AND IEBC WITH TWO EXCEPTIONS. FIRST, THE BILL WOULD NOT ADOPT THE ENERGY EFFICIENT CHAPTERS OF THE 2012 IBC AND IRC, WHICH CORRESPOND TO THE 2012 INTERNATIONAL ENERGY CONSERVATION CODE. CURRENTLY, OUR STATE ENERGY CODE IS THE 2009 IECC. AND THAT CODE IN OUR STATE IS FOUND IN ANOTHER AREA OF STATUTES. THE URBAN AFFAIRS COMMITTEE WILL BE CONDUCTING AN INTERIM STUDY THIS FALL ON THE STATE ENERGY CODE AND SO A DISCUSSION ABOUT UPDATING THE ENERGY CODE WILL OCCUR NEXT SESSION. SECOND, LB540 WOULD NOT ADOPT SECTION R313 OF THE IRC, WHICH WOULD REQUIRE THAT NEW ONE- AND TWO-FAMILY DWELLINGS AND TOWN HOUSES WOULD REQUIRE A FIRE SPRINKLER SYSTEM. WHILE I WAS NOT A MEMBER OF THE LEGISLATURE AT THE TIME, THE RESIDENTIAL FIRE SPRINKLER MANDATE FACED SIGNIFICANT OPPOSITION WHEN THE ISSUE WAS DEBATED IN 2010 AND 2011. AT THAT TIME, THE DECISION OF THE LEGISLATURE WAS TO EXCLUDE THE FIRE SPRINKLER MANDATE BUT TO ALLOW POLITICAL SUBDIVISIONS TO OPT IN SHOULD THEY CHOOSE TO DO SO. LB540 WOULD MAINTAIN THAT STATUS QUO IN REGARD TO FIRE SPRINKLERS. AND I WOULD NOTE THAT TO DATE ONLY CALIFORNIA, MARYLAND, AND DISTRICT OF COLUMBIA HAVE ELECTED TO ADOPT THE IRC FIRE SPRINKLER MANDATE. UNDER CURRENT LAW, POLITICAL SUBDIVISIONS THAT CHOOSE TO ADOPT A LOCAL BUILDING CODE MUST ADOPT THE STATE BUILDING CODE BUT THEY HAVE THE OPTION TO MODIFY THEIR LOCAL CODE AS LONG AS IT CONFORMS GENERALLY TO THE STATE BUILDING CODE. AMONG THE ALLOWABLE MODIFICATIONS IS THE OPTION TO ADOPT NEWER EDITIONS OF THE CODE THAT



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MAKE UP THE BUILDING CODE. THE CITY OF LINCOLN AS WELL AS CITIES AND COUNTIES IN THE OMAHA AREA ARE CURRENTLY IN THE PROCESS OF ADOPTING THE 2012 EDITIONS OF SEVERAL OF THE CODES. LB540 WOULD BRING THE STATE IN LINE WITH WHAT IS ALREADY HAPPENING AT THE LOCAL LEVEL IN METRO OMAHA AND LINCOLN. IN FACT, THE FACT THAT OUR MAJOR METROPOLITAN AREAS ARE ALREADY REVIEWING AND ADOPTING THESE CODES MEANS THAT LOCAL GOVERNMENT OFFICIALS, HOMEBUILDERS' ORGANIZATIONS, AND OTHER STAKEHOLDERS HAVE ALREADY COMBED THROUGH THE MANY DETAILS OF THE 2012 CODES. LB540 RECEIVED NO OPPOSITION TESTIMONY AT THE HEARING AND WAS ADVANCED BY URBAN AFFAIRS COMMITTEE ON A 7-0 VOTE. IN ADDITION TO THOSE GROUPS LISTED ON THE COMMITTEE STATEMENT, LB540 HAS THE SUPPORT OF HOME BUILDERS ASSOCIATION OF LINCOLN, METRO OMAHA BUILDERS ASSOCIATION, AND THE AMERICAN INSTITUTE OF ARCHITECTS, NEBRASKA CHAPTER. I WOULD ASK FOR YOUR GREEN VOTE TO ADVANCE LB540 TO SELECT FILE. THANK YOU, MR. PRESIDENT. [LB540]

SENATOR KRIST: THANK YOU, SENATOR CRAWFORD. MR. CLERK. [LB540]

ASSISTANT CLERK: MR. PRESIDENT, I HAVE AN AMENDMENT FROM SENATOR KRIST, AM1529, BUT I UNDERSTAND YOU WISH TO WITHDRAW THAT? [LB540]

SENATOR KRIST: THAT'S CORRECT. [LB540]

ASSISTANT CLERK: IN THAT CASE, MR. PRESIDENT, I HAVE NOTHING PENDING ON THE BILL. [LB540]

SENATOR KRIST: OKAY. THANK YOU. YOU'VE HEARD THE OPENING FOR LB540. THOSE WISHING TO SPEAK...SENATOR McCOY, YOU ARE RECOGNIZED. [LB540]

SENATOR McCOY: THANK YOU, MR. PRESIDENT AND MEMBERS. AND I DID HAVE A COUPLE OF AMENDMENTS TOO, PARTICULAR AMENDMENTS AND SPECIFIC TO THE UNDERLYING AMENDMENT THAT WAS JUST WITHDRAWN. I WASN'T AWARE THAT THAT WAS GOING TO TAKE PLACE, SO THAT TAKES CARE OF THAT ISSUE. BUT I STILL HAVE A COUPLE OF QUICK QUESTIONS--ALTHOUGH I DO SUPPORT LB540--FOR SENATOR CRAWFORD, IF SHE WOULD YIELD, PLEASE. [LB540]

SENATOR KRIST: SENATOR CRAWFORD, WILL YOU YIELD? [LB540]

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SENATOR CRAWFORD: YES. [LB540]

SENATOR McCOY: THANK YOU, SENATOR. I APPRECIATE YOUR WORK ON THIS ISSUE. AS YOU'VE ARTICULATED APPROPRIATELY, MATTERS OF BUILDING CODES ARE COMPLEX. THEY'RE COMPLICATED AND, AS ONE WHO HAS SPENT THE LAST 17, GOING ON 18 YEARS IN THE CONSTRUCTION INDUSTRY, I'VE LIVED IT EVERY DAY. IT'S A DIFFICULT SUBJECT FOR HOMEBUILDERS AND FOR CONTRACTORS AND FOR LOCAL GOVERNMENTAL OFFICIALS BECAUSE THERE IS A NEED OFTENTIMES TO BALANCE PUBLIC SAFETY AND GOOD CONSTRUCTION PRACTICES WITH THE COST OF DOING BUSINESS, THE COST OF BUILDING. AND ESPECIALLY IN A STATE SUCH AS OURS WHERE WE HAVE, TO SOME DEGREE, RELATIVELY LAX GUIDELINES FOR WHAT CONSTITUTES A CONTRACTOR AND WHAT DOESN'T IF A HOMEOWNER IS GOING TO DO WORK ON THEIR OWN ON A PIECE OF PROPERTY AND WHATNOT. BUT AS IT RELATES TO OTHER ORGANIZATIONS THAT SUPPORT THIS EFFORT--I DON'T SEE ANY ON THE COMMITTEE STATEMENT--BUT DO YOU KNOW IF THE NEBRASKA STATE HOME BUILDERS ASSOCIATION SUPPORTED THIS EFFORT OR NOT? [LB540]

SENATOR CRAWFORD: I BELIEVE THAT'S WHAT I JUST SAID IN MY OPENING. PARDON? THEY DID NOT TESTIFY. [LB540]

SENATOR McCOY: HAVE THEY ALERTED YOUR OFFICE AT ALL TO WHETHER OR NOT THEY SUPPORT LB540, DO YOU KNOW? [LB540]

SENATOR CRAWFORD: THEY CAME TO TALK TO US ABOUT THE CODE. THEY DID NOT INDICATE AN OVERALL POSITION OF SUPPORT OR OPPOSITION. THEY CAME TO TALK TO US ABOUT THE CODE. [LB540]

SENATOR McCOY: THE REASON I ASK THAT QUESTION IS BECAUSE HBAL, AS IT'S REFERRED TO, THE HOME BUILDERS ASSOCIATION OF LINCOLN AND MOBA, THE METRO OMAHA BUILDERS ASSOCIATION, ARE TWO OF THE LARGE ANCILLARY AND LOCAL ORGANIZATIONS BUT THE NEBRASKA STATE HOME BUILDERS OBVIOUSLY REPRESENTS MANY OF OUR OTHER BUILDING CHAPTERS IN KEARNEY AND GRAND ISLAND, COLUMBUS, NORFOLK, NORTH PLATTE AND OTHER AREAS OF THE STATE WHERE WE HAVE A GOOD NUMBER OF HOMEBUILDERS WHO MAY NOT BUILD ON THE SCALE OF NEW HOMES OR MULTIFAMILY CONSTRUCTION BUT CERTAINLY DO A LOT OF NEW CONSTRUCTION. THAT'S THE REASON I ASKED THAT QUESTION, BECAUSE THIS

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WILL AFFECT THEM CLEARLY AS MUCH AS IT WILL AFFECT THOSE BUILDERS AND CONTRACTORS IN LINCOLN OR OMAHA. [LB540]

SENATOR CRAWFORD: SO THEY CONTACTED OUR OFFICE AND THEY TALKED TO US AND AGAIN CONTACTED US LATER. BUT THEY HAVE NOT SAID, WE OPPOSE THIS BILL. [LB540]

SENATOR McCOY: DID THEY HAVE QUESTIONS ABOUT IT? I'M JUST CURIOUS. I'LL BE HONEST, I HAVE NOT HAD THE OPPORTUNITY TO ASK THEM ABOUT THIS LEGISLATION SO I'M JUST ASKING AN HONEST QUESTION. I APOLOGIZE WITH EVERYTHING ELSE GOING ON, I DIDN'T HAVE THE OPPORTUNITY TO BE QUITE AS PREPARED FOR A CONVERSATION ON THIS LEGISLATION BY ASKING A QUESTION PRIOR TO THIS TO THEM. SO, I'M JUST CURIOUS IF THEY HAD RESERVATIONS, IF THEY JUST HAD QUESTIONS, WHAT THAT WAS. [LB540]

SENATOR CRAWFORD: SURE. SO THE QUESTION THEY ASKED WAS ABOUT A NEW PROVISION IN THE CODE THAT REQUIRES REINFORCEMENT OF THE FLOORS FOR SAFETY. AGAIN, ONE OF THE ISSUES, THE MOST CONTROVERSIAL ISSUE LAST TIME WAS FIRE SPRINKLERS AND SO ONE OF THE CHANGES IN THE CODE, I THINK IN PART BECAUSE THERE WAS A CONCERN TO MAKE SURE TO STILL MAKE THE BUILDINGS AS SAFE AS POSSIBLE. IN THE SITUATION OF A FIRE, THERE WAS AN ADDITION OF EXTRA FLOOR SUPPORT AND SO THEY ASKED ABOUT THAT. AND I SAID, IT'S MY UNDERSTANDING THAT'S WHY THAT'S ADDED. AND I ASKED THEM, WOULD THEY RATHER HAVE FIRE SPRINKLERS? [LB540]

SENATOR KRIST: ONE MINUTE. [LB540]

SENATOR CRAWFORD: AND THEY SAID, NO. [LB540]

SENATOR McCOY: WELL, I...CLEARLY, THAT'S THE CASE FOR THOSE OF US THAT WERE HERE FOR THE FIRE SPRINKLER DISCUSSION. IT WAS...WELL, TO SAY IT WAS ACRIMONIOUS WOULD BE PUTTING IT PRETTY MILDLY. I DO SHARE THAT RESERVATION ON THE REINFORCED FLOOR ISSUE. THE REASON BEING, YOU HAVE A GOOD NUMBER OF HOMES, ESPECIALLY TODAY BECAUSE OF THE LOW UNEMPLOYMENT RATE THAT WE HAVE IN NEBRASKA AND THE BLESSING OF A GOOD ECONOMY THROUGHOUT A GOOD PORTION OF OUR STATE, AS WE ALL KNOW, YOU HAVE A LOT OF NEW CONSTRUCTION GOING ON RIGHT NOW, SENATOR CRAWFORD, AND IT'S IN EVERY CORNER OF THE STATE. I KNOW...

[LB540]

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SENATOR KRIST: TIME, SENATORS. THANK YOU, SENATOR McCOY AND SENATOR CRAWFORD. THOSE WISHING TO SPEAK: SENATOR JOHNSON, KINTNER, AND McCOY. SENATOR JOHNSON, YOU ARE RECOGNIZED. [LB540]

SENATOR JOHNSON: THANK YOU, MR. PRESIDENT. I SUPPORT LB540. I DO HAVE A COUPLE OF QUESTIONS. AND I APOLOGIZE, I DIDN'T LOOK AT IT CLOSE ON MY RADAR SCREEN, BUT I'VE HAD A COUPLE OF CALLS AND I WOULD ASK...AND SENATOR CRAWFORD MIGHT BE ABLE TO ANSWER THIS AND MAYBE NOT. IF NOT, I'LL DO SOME WORK ON IT MYSELF. [LB540]

SENATOR KRIST: SENATOR CRAWFORD, WILL YOU YIELD? [LB540]

SENATOR CRAWFORD: YES. [LB540]

SENATOR JOHNSON: THANK YOU. WHERE A MUNICIPALITY MAY ADOPT AS THEY MOVE FORWARD, I'VE HAD SOME CONTACT, SOME OF THEM ARE BACK AT THE 2006, SOME ARE 2009, I THINK MOST OF THEM ARE CONSIDERING MOVING UP. BUT IF SOMEBODY IS BACK AT THE 2006 CODE--AND I KNOW IT AFFECTS MAYBE INSURANCE RATINGS AND THINGS LIKE THAT--IS THERE ANY OTHER LIABILITY TO A CITY OR TO A BUILDER IF THERE ARE SOME CHANGES MADE AND THERE'S A FIRE, LOSS OF LIFE OR SOMETHING THAT THINGS WERE NOT BROUGHT UP TO CODE BASED ON 2012 OR NEWER CODES? [LB540]

SENATOR CRAWFORD: I THINK THAT'S A VERY GOOD QUESTION AND IT'S A QUESTION THAT...THEY ALSO CALLED OUR OFFICE AND ASKED THAT QUESTION. AND LEGAL COUNSEL WILL BE EXAMINING WHAT ALL THAT MEANS IF A CITY DOES NOT COME UP TO CODE. NOW, WE'RE ALREADY AT 2009, SO A MUNICIPALITY THAT'S BACK AT 2006 OR 2003, IS OUT OF COMPLIANCE ALREADY AND ADOPTING THIS BILL DOES NOT MAKE THEM ANY MORE OUT OF COMPLIANCE; THEY'D BE OUT OF COMPLIANCE ALREADY. AND THAT IS AN ISSUE WE'LL DISCUSS OVER THE INTERIM AND TRY TO FIGURE OUT WHAT ALL THE IMPLICATIONS ARE IF A CITY IS NOT IN COMPLIANCE. BUT EACH CITY, IF YOU HAVE A CODE, YOU'RE SUPPOSED TO ADOPT A CODE THAT'S GENERALLY COMPLIANT WITH THE EXISTING CODE. BUT YOU DO HAVE THE ABILITY TO OPT OUT OF CERTAIN PARTS. SO, AGAIN, IF THE FLOOR COMPONENT IS A COMPONENT THAT A LOCAL JURISDICTION DECIDES TO OPT OUT OF, GIVEN SOME OF THE CONCERNS SENATOR McCOY RAISED, THEY WOULD BE ABLE TO DO THAT SHOULD THEY CHOOSE TO DO SO. [LB540]

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SENATOR JOHNSON: THANK YOU. I GUESS THE ADVICE--I APPRECIATE THAT, LOOKING INTO IT THIS SUMMER--BUT THE ADVICE RIGHT NOW FOR CITIES AND MUNICIPALITIES, VILLAGES, TO LOOK AT THEIR CODE AND MAKE SURE THEY'RE WITHIN RANGE, GET AS CLOSE TO 2012 AS POSSIBLE. THANK YOU, MR. PRESIDENT. [LB540]

SENATOR KRIST: THANK YOU, SENATOR JOHNSON AND SENATOR CRAWFORD. SENATOR KINTNER, YOU'RE RECOGNIZED. [LB540]

SENATOR KINTNER: THANK YOU, MR. PRESIDENT. SENATOR CRAWFORD, WOULD YOU YIELD TO A QUESTION OR TWO? [LB540]

SENATOR KRIST: SENATOR CRAWFORD, WILL YOU YIELD? [LB540]

SENATOR CRAWFORD: YES. [LB540]

SENATOR KINTNER: SINCE WE DO SO WELL ON THE MIKE TOGETHER...FIRST QUESTION IS, WHO BROUGHT YOU THIS BILL? [LB540]

SENATOR CRAWFORD: THIS BILL WAS AN ISSUE THAT THE LEGAL COUNSEL OF THE COMMITTEE CONSIDERED AN IMPORTANT ISSUE FOR US TO ADDRESS THIS YEAR. [LB540]

SENATOR KINTNER: IS THE CODE THAT WE'RE ABOUT TO ADOPT, IS THAT THE CURRENT CODE WE'RE USING? WHAT CURRENT CODE ARE WE USING THAT THIS IS GOING TO REPLACE? [LB540]

SENATOR CRAWFORD: TWO THOUSAND NINE IS THE CURRENT CODE. THIS IS TO ADOPT 2012. [LB540]

SENATOR KINTNER: SO IT'S THIS CODE WITH THE 2009 VERSION OF IT? [LB540]

SENATOR CRAWFORD: CURRENTLY, WE HAVE 2009 AS THE STATE CODE. [LB540]

SENATOR KINTNER: I SEE TREVOR OVER THERE. HE'S NODDING TO ME, HE'S BACKING YOU UP. OKAY. I GUESS THE ONLY QUESTION I HAVE HERE WAS, THERE WERE TWO NEUTRAL TESTIFIERS. [LB540]

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SENATOR CRAWFORD: YES. [LB540]

SENATOR KINTNER: SO IS IT SAFE TO SAY, THIS IS PRETTY...THERE'S NO CONTROVERSY HERE? LET ME TELL YOU, TOO, THE REASON I ASK YOU BECAUSE I... [LB540]

SENATOR CRAWFORD: I THINK THAT IS SAFE TO SAY. I THINK THAT IT'S SAFE TO SAY...YOU LOOK AT THE COMMITTEE STATEMENT AND SEE ALL THE HOMEBUILDERS AND PEOPLE ENGAGED. AND AGAIN...YOU KNOW, IN MY STATEMENT I ALSO MENTIONED THE OTHER HOMEBUILDERS THAT ARE IN SUPPORT. THAT I THINK IT'S SAFE...AND THAT THERE WAS A 7-0 VOTE, I THINK IT'S SAFE TO SAY THIS IS WELL-ESTABLISHED, EXPECTED PRACTICE. [LB540]

SENATOR KINTNER: WELL, THE REASON I ASK THAT IS, I USED TO WORK FOR THE HOMEBUILDERS AND THEY WERE PRETTY TOUCHY ABOUT MESSING WITH THEIR CODES. OKAY. VERY GOOD, I'M GOING TO YIELD REMAINDER OF MY TIME TO SENATOR McCOY. [LB540]

SENATOR KRIST: SENATOR McCOY, 3:30. [LB540]

SENATOR McCOY: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR KINTNER. IF SENATOR CRAWFORD WOULD YIELD, PLEASE. [LB540]

SENATOR KRIST: SENATOR CRAWFORD, WILL YOU YIELD? [LB540]

SENATOR CRAWFORD: YES. [LB540]

SENATOR McCOY: THANK YOU, SENATOR. I WANT TO CONTINUE WITH WHERE WE WERE GOING AND I APOLOGIZE, I'M TRYING TO REMEMBER EXACTLY WHERE WE LEFT OFF. BUT I THINK WE WERE TALKING ABOUT, I DO SHARE A LITTLE BIT OF A CONCERN HERE WITH THE FACT THAT... AND AGAIN, ANYONE HAS ANY ABILITY TO COME IN AND TESTIFY ON ANY PIECE OF LEGISLATION. AND I CERTAINLY DON'T THINK THE ADOPTION OF NEW CODES WITH THE PROCESS THAT YOU'VE OUTLINED OF STRIPPING OUT THE ENERGY COMPONENT OF IT, WHICH IS THE MOST CONTROVERSIAL COMPONENT OF IT, AND ALSO, IN ADDITION, TO NOT TALKING ABOUT THE FIRE SPRINKLER ISSUE OF IT--PIECE OF IT--CERTAINLY MITIGATES A LOT OF THE ANGST THAT'S OCCURRED IN THE PAST. BUT I GUESS MY QUESTION WOULD BE, WALK ME THROUGH HOW THIS IS GOING

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TO WORK IN PRACTICE, WHEN AND HOW IT HAS WORKED IN THE PAST, WHEN YOU HAVE A GOOD PORTION OF THE STATE, AS I SAID, WHERE A LOT OF NEW CONSTRUCTION TAKES PLACE THAT DON'T OPERATE BY ANY BUILDING CODES. IN OTHER WORDS, PERMITS AREN'T PULLED. YOU HAVE AREAS LIKE OUT WHERE SENATOR HUGHES REPRESENTS AND AN AREA THAT I'M...NEARBY WHERE I'M FROM, WHERE A LOT OF HOMES ARE BUILT AND THEY'RE BUILT AS BEST AS A CONTRACTOR CAN TO CODE BUT THERE'S NO PERMITS THAT NECESSARILY ARE PULLED. [LB540]

SENATOR CRAWFORD: ABSOLUTELY. THANK YOU. LB540 ONLY AFFECTS THOSE POLITICAL SUBDIVISIONS THAT CHOOSE TO HAVE A BUILDING CODE. SO IT'S CONSIDERED STATEWIDE CODE BUT IT ONLY APPLIES TO THOSE JURISDICTIONS THAT CHOOSE TO HAVE A BUILDING CODE. IF YOU'RE IN A COUNTY THAT DOES NOT HAVE A BUILDING CODE IT DOESN'T AFFECT YOU. [LB540]

SENATOR McCOY: THAT'S TRUE, EXCEPT IN THE FACT OF WHEN YOU'RE TALKING ABOUT INSURANCE, HOMEOWNERS INSURANCE AND OTHERWISE, IT IS APPLICABLE. SO THAT'S THE REASON THAT I ASK THE QUESTION, BECAUSE YOU HAVE MANY CASES TODAY--AND I KNOW THIS NOT AS AN INSURANCE AGENT BUT AS ONE IN THE CONTRACTING BUSINESS WHERE I'VE DEALT A LOT WITH THE INSURANCE INDUSTRY--AND I DON'T SEE SENATOR KOLTERMAN ON THE FLOOR, I DON'T BELIEVE, OR ELSE I'D MAYBE ASK HIM THIS QUESTION--BUT YOU DO HAVE A SITUATION, SENATOR CRAWFORD, WHERE INSURANCE COMPANIES ARE MOVING TOWARDS PUTTING RIDERS ON HOMEOWNERS IN PARTICULAR,... [LB540]

SENATOR KRIST: ONE MINUTE. [LB540]

SENATOR McCOY: ...HOMEOWNERS INSURANCE POLICIES, IF THE MOST RECENT BUILDING CODES HAVE NOT BEEN ADOPTED. AND WE ARE LAGGING BEHIND. WE'RE TALKING ABOUT THAT IT'S NOW, MAY 20, 2015, AS WE ALL KNOW, WE'RE TALKING ABOUT THE ADOPTION OF THE 2012 CODE, WHEREAS YOU'VE ARTICULATED, THERE'S ALREADY BEEN SOME STATES THAT HAVE ADOPTED THE 2015 CODE. [LB540]

SENATOR CRAWFORD: JUST ONE, JUST MARYLAND. [LB540]

SENATOR McCOY: RIGHT. ARE WE GOING TO BE IN THE PROCESS WHERE WE CAN CATCH UP? [LB540]

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SENATOR CRAWFORD: ABSOLUTELY. PASSING LB540 CATCHES US UP WITH WHAT'S HAPPENED IN OTHER STATES AND THAT HAS BEEN OUR PRACTICE BECAUSE IT'S BEST TO ALLOW SOME OTHER STATES TO KIND OF WORK OUT THE KINKS. SO...BUT I THINK... [LB540]

SENATOR KRIST: TIME, SENATORS. AND SENATOR McCOY, YOU'RE NEXT IN THE QUEUE IF YOU'D LIKE TO CONTINUE THAT CONVERSATION. [LB540]

SENATOR McCOY: THANK YOU, MR. PRESIDENT. AND IF SENATOR CRAWFORD WOULD YIELD, I'D LOVE TO HAVE HER FINISH RIGHT WHERE SHE WAS AT WHEN WE ENDED OUR TIME, SENATOR. [LB540]

SENATOR KRIST: SENATOR CRAWFORD, WILL YOU CONTINUE TO YIELD? [LB540]

SENATOR CRAWFORD: YES. [LB540]

SENATOR McCOY: GO AHEAD, SENATOR, I WANT TO LET YOU FINISH WHAT YOU WERE SAYING IF YOU WOULD, PLEASE. [LB540]

SENATOR CRAWFORD: I'M TRYING TO REMEMBER WHAT I WAS SAYING. I'M CONCERNED ABOUT THE TIME OF THE PEOPLE WHO HAVE BILLS BEHIND ME AS WELL. I'M COGNIZANT OF THEIR TIME. I SAID, I THINK IF YOU LOOK AT THE MAP YOU'RE GOING TO SEE THIS CATCHES US UP WITH SEVERAL OTHER STATES. THERE ARE STILL SOME STATES BEHIND US WHO HAVEN'T ADOPTED '12 YET EITHER. SO I THINK PASSING LB540, YOU WOULD SAY OUR STATE IS IN THE PACK IN TERMS OF HAVING AN UP-TO-DATE BUILDING CODE IF WE PASS LB540. IF WE DID NOT, THEN THERE IS MORE OF AN ARGUMENT THAT WE ARE A STATE THAT IS BEHIND. [LB540]

SENATOR McCOY: WELL, AND I WANT TO BE CLEAR, I FULLY SUPPORT LB540. THE REASON I ASK THIS QUESTION, SENATOR CRAWFORD, AND IT IS AN IMPORTANT POINT BECAUSE IN THE DISCUSSIONS WE'VE HAD ON THE FIRE SPRINKLER ISSUE AND OTHER TIMES WE'VE PASSED BUILDING CODE REVISIONS IN MY TIME HERE IN THE LEGISLATURE, THERE HAS ALWAYS BEEN A DISCUSSION OF, WELL, MAYBE NEXT TIME WE'RE GOING TO FINALLY GET CAUGHT UP, FULLY CAUGHT UP, CURRENT. BUT YET WE NEVER QUITE SEEM TO GET THERE. AND WHERE WE HAVE A SITUATION WHERE BECAUSE OF THE FAIRLY WIDE OPEN PROCESS WE HAVE IN NEBRASKA WITH BUILDING CODES AND ADOPTION THEREOF BY LOCAL



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MUNICIPALITIES, IT DOESN'T SEEM UNREASONABLE TO ME TO...AS TO WHY WE COULDN'T GET CAUGHT UP, ESPECIALLY IF WE'RE GOING TO EXEMPT OUT THE MORE OBJECTIONABLE PIECES OF THE MORE RECENT CODES THAT CAUSE A HIGHER BUILDING COST AND SOME ANGST FROM BUILDERS AND HOMEOWNERS ALIKE WHEN WE'RE TALKING ABOUT THE COST OF NEW HOUSING. SO THAT'S MY QUESTION. I FULLY SUPPORT LB540. I JUST WOULD LIKE TO KNOW, WHAT PROCESS ARE WE UNDERTAKING TO ATTEMPT TO GET FULLY CAUGHT UP?  
[LB540]

SENATOR CRAWFORD: THANK YOU, SENATOR McCOY. THAT'S A VERY GOOD QUESTION. AND ACTUALLY ONE OF THE INTERESTING THINGS ABOUT MUNICIPAL CODES AND SOME OF THE MUNICIPAL BILLS SUCH AS THIS IS, WE DO NOT HAVE A STATE AGENCY OF MUNICIPAL ENFORCEMENT SO WE DO NOT HAVE A STATE AGENCY THAT REALLY GOES AROUND TO MUNICIPALITIES TO SEE WHETHER THEIR BUILDING CODES ARE UP-TO-DATE. INSTEAD, WE PASS THESE BILLS LIKE LB540 AND THEN IT'S GENERALLY A PRACTICE OF TRYING TO EDUCATE AND HELP THE MUNICIPALITIES UPDATE THEIR CODES. AND WE'VE HAD SOME DISCUSSIONS WITH LEAGUE OF MUNICIPALITIES ABOUT THIS QUESTION THAT WAS RAISED ABOUT CITIES BEING BEHIND CODE. AND THEY WOULD BE A VALUABLE PRIVATE PARTNER WHO WOULD START TALKING TO MUNICIPALITIES ABOUT HOW TO UPDATE THEIR CODES AND WHY IT'S SO IMPORTANT TO UPDATE THEIR CODES. SO WE'D EXPECT TO HAVE THOSE DISCUSSION WITH THEM AND REALLY TACKLE THIS ISSUE IN THE INTERIM TO HELP MUNICIPALITIES CATCH UP. [LB540]

SENATOR McCOY: WELL, THANK YOU, SENATOR, AND I APPRECIATE THAT. AND THANK YOU FOR YOUR HARD WORK ON THIS EFFORT. AND IT WILL PROBABLY OUTLIVE, I'M SURE, MY TIME HERE IN THE LEGISLATURE. BUT I WOULD REALLY HOPE, AS ONE WHO SPENT THE MAJORITY OF MY LIFETIME SO FAR IN THIS CONSTRUCTION INDUSTRY, THAT BECAUSE OF WHERE WE'RE AT AND THE ABILITY THAT WE HAVE, BEING A NONLICENSE HOLDING STATE FOR CONTRACTORS, THERE'S NO GOOD REASON WE CAN'T BE ON THE CUTTING EDGE OF BUILDING CODES. I WILL TELL YOU, AS ONE WHO'S SPENT A LIFETIME IN THIS BUSINESS, WE HAVE SOME OF THE HARSHEST WEATHER FOR HOMES AND STRUCTURES OF ANYWHERE IN THE UNITED STATES BETWEEN THE HOT AND COLD OF SUMMER AND WINTER. THERE'S NO REASON WE SHOULDN'T ADOPT THE MOST RECENT CODES BECAUSE THEY'RE MORE ENERGY EFFICIENT, THEY'RE SAFER, THEY'RE BETTER LONG-RANGE FOR LONG-LASTING STRUCTURES. THERE'S NO REASON WE CAN'T COMPLETELY CATCH UP. AND I KNOW WE CAN'T DO THAT WITH THIS BILL... [LB540]

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SENATOR KRIST: ONE MINUTE. [LB540]

SENATOR McCOY: ...BUT IN THE NEXT COUPLE OF YEARS IT WOULD BE MY HOPE THAT THE LEGISLATURE WOULD WORK TO MOVE TOWARDS THAT END. WE REALLY COULDN'T DO THAT THE LAST THREE OR FOUR YEARS BECAUSE WE HAD THE FIRE SPRINKLER ISSUE HANGING OVER AS THE PROBLEM WITH A LOT OF THESE CODE UPDATES. WE'RE WILLING NOW, WHICH I THINK IS GOOD, TO EXEMPT THAT OUT ALONG WITH SOME OF THE OTHER OBJECTIONABLE SECTIONS. WITH THAT IN MIND, WE OUGHT TO BE ABLE TO CATCH UP TO THE MORE RECENT CODES. WE SHOULD. LONG RANGE IT'S BETTER FOR BUILDING OWNERS WITH THEIR INSURANCE RATES AND EVERY OTHER WAY. THAT WOULD BE MY HOPE THAT WE CAN DO. I KNOW WE CAN'T DO IT UNDER THIS BILL. BUT THANK YOU FOR YOUR EFFORT, SENATOR CRAWFORD, AND I DO SUPPORT LB540. THANK YOU, MR. PRESIDENT. []

SENATOR KRIST: THANK YOU, SENATOR McCOY AND SENATOR CRAWFORD. SENATOR SCHNOOR, YOU ARE RECOGNIZED. [LB540]

SENATOR SCHNOOR: THANK YOU, MR. PRESIDENT. WILL SENATOR CRAWFORD YIELD TO A QUESTION, PLEASE? [LB540]

SENATOR KRIST: SENATOR CRAWFORD, WILL YOU YIELD? [LB540]

SENATOR CRAWFORD: YES. [LB540]

SENATOR SCHNOOR: SENATOR CRAWFORD, YOU TALKED...WHEN YOU WERE GOING THROUGH YOUR EXPLANATION OF THE BILL, YOU WERE RAPID-FIRING A LOT OF INFORMATION. [LB540]

SENATOR CRAWFORD: SURE. [LB540]

SENATOR SCHNOOR: BUT, WHAT I...ONE THING I DID PICK UP, ABOUT FIRE SPRINKLER MANDATE, COULD YOU PLEASE EXPAND ON THAT A LITTLE BIT, PLEASE? [LB540]

SENATOR CRAWFORD: ABSOLUTELY. THE UPDATE...WE ARE NOT INCLUDING THE FIRE SPRINKLER MANDATE IN THIS CODE UPDATE. SO THAT WAS CONTROVERSIAL LAST TIME WHEN WE UPDATED THE CODE. AND THERE WAS A

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DECISION AT THAT POINT TO NOT INCLUDE THE FIRE SPRINKLER MANDATE WHEN WE UPDATED TO THE 2009 CODE. WE ARE REMAINING CONSISTENT WITH THAT PRINCIPLE AND WE ARE NOT INCLUDING THE FIRE SPRINKLERS AS WE UPDATE IN LB540 FOR A RESIDENTIAL...ONE- AND TWO-PERSON RESIDENTIAL FACILITIES...BUILDINGS. [LB540]

SENATOR SCHNOOR: OKAY. SO, IN ESSENCE, EVERYTHING THAT'S WITHIN THE-- I'LL JUST SAY THE CODE--EVERYTHING EXCEPT THE FIRE SPRINKLER MANDATE FOR RESIDENTIAL, EVERYTHING ELSE IS GOING FORWARD? [LB540]

SENATOR CRAWFORD: THE OTHER EXCEPTION THAT I DISCUSSED IS, WE ARE NOT UPDATING THE ENERGY PORTIONS BECAUSE WE'RE GOING...IN OUR STATUTE THE ENERGY CODES ARE IN A SEPARATE PART OF STATUTE. AND WE'LL HAVE THAT DISCUSSION NEXT YEAR ABOUT THE UPDATES IN THE ENERGY PORTION OF THE CODES. [LB540]

SENATOR SCHNOOR: OKAY. ALL RIGHT. THANK YOU, SENATOR CRAWFORD. THAT WAS ALL THE QUESTIONS I HAVE. SO THANK YOU, MR. PRESIDENT. [LB540]

SENATOR KRIST: THANK YOU, SENATOR SCHNOOR AND SENATOR CRAWFORD. SEEING NO ONE ELSE IN THE QUEUE, SENATOR CRAWFORD, YOU ARE RECOGNIZED TO CLOSE ON YOUR BILL. [LB540]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT. IN CLOSING, I'D JUST LIKE TO THANK SENATOR KRIST FOR WITHDRAWING HIS AMENDMENT GIVEN THE SHORT TIME LINE FOR THESE BILLS AND LOOK FORWARD TO HAVING THAT DISCUSSION NEXT YEAR. THANK YOU. [LB540]

SENATOR KRIST: THANK YOU, SENATOR CRAWFORD. YOU HEARD THE CLOSING TO LB540. THE QUESTION IS, THE ADVANCEMENT OF LB540 TO E&R INITIAL. ALL THOSE IN FAVOR VOTE AYE; OPPOSED, NAY. HAVE ALL THOSE VOTED THAT WISH TO? PLEASE RECORD, MR. CLERK. [LB540]

CLERK: 33 AYES, 0 NAYS ON THE MOTION TO ADVANCE LB540, MR. PRESIDENT. [LB540]

SENATOR KRIST: LB540 ADVANCES. NEXT ITEM. OKAY, WE ARE GOING TO...ON THE SCHEDULE TO THE 1:15 PORTION OF THE SCHEDULE WHICH MEANS,

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TECHNICALLY, WE'RE COMING TO FINAL READING AGAIN. SO, MEMBERS, PLEASE FIND YOUR SEAT. ITEMS FOR THE RECORD, MR. CLERK. [LB540]

ASSISTANT CLERK: MR. PRESIDENT, A COUPLE OF ITEMS. NEW RESOLUTIONS: LR351 BY SENATOR MELLO. AND LR352, ALSO BY SENATOR MELLO. THOSE WILL BE LAID OVER. AND, FINALLY, THE BILLS THAT WERE READ ON FINAL READING THIS MORNING HAVE BEEN PRESENTED TO THE GOVERNOR AT 12:29 P.M. (RE LB268, LB55, LB104, LB123, LB138, LB195, LB206, LB246, LB257, LB277, LB283E, LB287, LB291E, LB296E, AND LB310.) (LEGISLATIVE JOURNAL PAGES 1752-1753.) [LR351 LR352 LB268 LB55 LB104 LB123 LB138 LB195 LB206 LB246 LB257 LB277 LB283 LB287 LB291 LB296 LB310]

SENATOR KRIST: THANK YOU, MR. CLERK. FINAL READING, FIRST ITEM, LB173. [LB173]

ASSISTANT CLERK: MR. PRESIDENT, LB173 IS ON FINAL READING. THERE ARE MOTIONS PENDING TO LB173, THE FIRST FROM SENATOR BURKE HARR. SENATOR BURKE HARR WOULD MOVE TO RETURN THE BILL TO SELECT FILE FOR A SPECIFIC AMENDMENT, THAT BEING AM1641. (LEGISLATIVE JOURNAL PAGE 1694.) [LB173]

SENATOR KRIST: SENATOR HARR, YOU'RE RECOGNIZED TO OPEN ON YOUR MOTION TO RETURN. [LB173]

SENATOR HARR: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE BODY. I'M BRINGING BACK AN AMENDMENT THAT I HAD BROUGHT ON SELECT FILE. LB173 REALLY CONSISTS OF TWO BILLS, LB172 AND LB173. AND LB173 WAS ORIGINALLY BANNING THE HABITUAL CRIMINAL STATUTE OR I SHOULDN'T SAY THAT, WELL, IT WAS ELIMINATION. THEN WE HAD AN AMENDMENT FROM SENATOR COASH WHICH WAS AN ATTEMPT, AND A GOOD ATTEMPT, AT COMPROMISE. I JUST...I STILL HAD A PROBLEM WITH IT. I WORKED WITH SENATOR CHAMBERS AND I'LL GIVE HIM A LOT OF CREDIT, HE SAID THAT HE WOULD LET ME REINTRODUCE AM1641. SO THAT'S WHAT I'M DOING TODAY, WHICH WOULD KEEP OUR HABITUAL CRIMINAL STATUTE THE WAY IT IS CURRENTLY TODAY AND I'M MORE THAN WILLING TO TALK ON THAT. AND THEN IT WOULD CONTINUE WITH THE ELIMINATION OF CERTAIN MANDATORY MINIMUMS. AND IT'S A FUNNY GAME WE PLAY HERE SOMETIMES, NOT IN A GOOD WAY BUT IN A BAD WAY. SO WHAT I'VE HEARD...FIRST OF ALL, I WILL SUPPORT THE BILL IF THIS AMENDMENT DOES GO THROUGH. AND WE HAD

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OFFICERS DOWN HERE, OMAHA POLICE OFFICERS LAST WEEK SAYING, HEY, WE WANT TO KEEP MANDATORY MINIMUM. WE THINK IT IS VERY IMPORTANT, ESPECIALLY BECAUSE OF FELON IN POSSESSION OF FIREARMS AND I UNDERSTOOD THAT ARGUMENT. BUT WHAT I'LL TELL YOU AS A FORMER PROSECUTOR AND WHAT I'LL TELL YOU BASED ON MY EXPERIENCE IS THAT FELON IN POSSESSION OF A FIREARM IS ALSO A FEDERAL OFFENSE. AND IT USED TO BE BACK IN THE DAY--I'M TELLING WAR STORIES NOW--BUT BACK IN THE DAY THAT YOU HAD AN INDIVIDUAL, IF THEY'RE A FELON IN POSSESSION OF A FIREARM, THE FEDS WOULD TAKE IT. AND THE PENALTY UNDER THE FEDERAL SYSTEM IS NEARLY IDENTICAL TO THE STATE SYSTEM OR, EXCUSE ME, WAS HIGHER THAN THE STATE SYSTEM. WE PASSED MANDATORY MINIMUMS AND SINCE WE'VE DONE THAT, WE'VE GONE FROM AVERAGE ADMITS INTO THE STATE PEN FOR POSSESSION OF DEADLY WEAPON FROM 54 TO 122 PER YEAR. SO WE'RE CREATING APPROXIMATELY 58 NEW INMATES A YEAR AT A COST TO THE STATE THAT BEFORE, THE FEDS WOULD PICK UP. AND TO PROVE THAT, I CALLED CORRECTIONS AND THEY SAID DOUGLAS COUNTY HAS TRIPLED ITS NUMBER OF CONVICTIONS SINCE 2009. HALL AND LANCASTER HAD DOUBLED. SO WHAT THAT TELLS YOU IS THAT THERE ARE...WHAT USED TO GO TO FEDERAL COURT WE ARE NOW PROSECUTING ON THE STATE LEVEL. SO IT'S NOT AS THOUGH THESE PEOPLE ARE GOING FREE, THEY WERE PROSECUTED BEFORE. AND FELON IN POSSESSION OF A FIREARM IS A VERY DANGEROUS AND REAL PROBLEM. APPROXIMATELY 20 MINUTES AGO IN OMAHA THERE WAS AN OFFICER SHOT. AND THAT OFFICER WAS SHOT BY...THE OFFICER SHOT WAS ON THE FUGITIVE TASK FORCE, WHICH MEANS THEY WERE PROBABLY TRYING TO...WELL, THEY WERE TRYING TO PICK SOMEONE UP THAT HAD A WARRANT. I DON'T KNOW IF IT WAS A FELONY WARRANT. I DON'T KNOW IF THE PERSON HAD A PRIOR FELONY. THE WORK THAT OUR LAW ENFORCEMENT DOES IS VERY DANGEROUS. FOR THAT I THANK THEM. I UNDERSTAND THEIR CONCERNS, BUT THIS BILL WILL NOT HAVE THE CHANGES THAT I THINK THEY FEAR BECAUSE WE STILL HAVE THE BACKSTOP OF THE FEDERAL GOVERNMENT TO PROSECUTE THESE INDIVIDUALS AND THEY STILL GO AWAY FOR A LONG TIME. WHAT WE'RE DOING IS WE'RE ALLOWING OUR JUDGES TO MAKE THE DECISION SO THAT THEY AREN'T PIGEONHOLED TO MAKE A DECISION WHERE THE PUNISHMENT DOES NOT FIT THE CRIME. THAT'S WHAT THIS DOES. WE'RE NOT LOWERING THE AMOUNT OF TIME A JUDGE CAN GIVE. WHAT WE'RE SAYING IS, WE TRUST YOU, JUDGES, TO MAKE THE RIGHT DECISION GIVEN THE FACTS. AND I'LL TELL YOU, AFTER THIS YEAR AND ALL THE SCRUTINY THAT'S OCCURRED, I THINK JUDGES ARE VERY COGNIZANT THAT WE ARE WATCHING THEM, THAT WE HAVE A GREAT...WE HAVE A ROLE OF OVERSIGHT TO MAKE SURE THAT THEY ARE DOING WHAT THEY SHOULD DO. AND IF THERE IS AN ABUSE AND IF PEOPLE AREN'T

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GETTING THE SENTENCES THAT THEY SHOULD BE, I'M MORE THAN WILLING TO BE THE FIRST ONE TO COME BACK HERE AND SAY, WE'VE GOT TO DO SOMETHING, WE HAVE A PROBLEM. BUT I'VE TALKED TO PROSECUTORS, I'VE TALKED TO JUDGES AND I'LL TELL YOU WHAT, THEY'RE OKAY WITH LB173 IF IT HAS TO DO WITH JUST ELIMINATION OF MANDATORY MINIMUMS. BUT THE HABITUAL IS A DIFFERENT STORY BECAUSE WE HAVE A SITUATION NOW WITH LB605 WHERE WE'VE ELIMINATED A LOT OF TOP END CRIMES...SENTENCES FOR CRIMES, SO WE HAVE TO HAVE A HAMMER FOR THOSE INDIVIDUALS WHO CONTINUE TO AVAIL THEMSELVES TO THE SYSTEM, WHO HAVE BEEN SENT AWAY NOT ONCE, NOT TWICE--FOR A SENTENCE OF OVER A YEAR--BUT NOW THEY'RE FACING A THIRD TIME. THESE ARE PEOPLE WHO HAVE DECIDED THAT THEY WANT TO MAKE THEIR CAREER BY BREAKING THE LAW. THESE AREN'T CRIMES OF PASSION, SO WE'VE GOT TO DO SOMETHING. WE ALSO HAVE TO KEEP THE SUPER-HABITUAL, WHICH IS NOT THE FIRST, BUT THE SECOND TIME YOU COMMIT A SEXUAL OFFENSE OF SOME SORT. AND IF YOU LOOK AT THE CLASSIFICATIONS--AND I'LL PROBABLY SEND IT AROUND A LITTLE BIT--OF ONE Cs AND Ds--THEY'RE FOR DRUGS, THEY'RE FOR SEXUAL ASSAULT SECOND OFFENSES, WHICH WE HAVE AGAIN, REMEMBER, THE SUPER-HABITUAL; AND THEN THEY'RE FOR THESE GUN CRIMES, WHICH WE HAVE THE BACKUP OF THE FEDERAL SYSTEM IF IT'S FELT THAT THAT'S WARRANTED. SO I WANT TO THANK SENATOR CHAMBERS FOR WORKING WITH ME TO FIND AN AMICABLE SOLUTION THAT I THINK ADDRESSES A SITUATION AND A HARM WHERE WE HAVE PEOPLE GOING TO PRISON FOR LONGER PERIODS THAN PROBABLY THE CRIME JUSTIFIES. THANK YOU. [LB172 LB173 LB605]

SENATOR KRIST: THANK YOU, SENATOR HARR. YOU HAVE HEARD THE OPENING AND THE QUESTION IS, THE RETURN OF LB173 TO SELECT FILE IN ORDER TO BE AMENDED. ALL THOSE IN FAVOR IN RETURNING LB173...SORRY. SENATOR GROENE, YOU'RE RECOGNIZED. [LB173]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. I PUSHED THAT BUTTON RIGHT AWAY BECAUSE OF WHAT HAPPENED THIS MORNING. MAYBE I DID IT TOO SOON BUT I'LL TAKE MY FIVE MINUTES, I MIGHT NOT EVER GET IT AGAIN. I'M GOING TO STAND HERE AGAINST THE AMENDMENT AND LB173. YOU'VE SEEN WHAT HAPPENED IN TECUMSEH. I'M STILL TRYING TO FIND OUT HOW MANY OF THOSE FOLKS WERE HABITUAL CRIMINALS THAT TOOK PLACE IN THAT RIOT. THAT'S WHAT I BELIEVE MOST OF THEM WOULD HAVE BEEN SENTENCED TO. ARE WE GOING TO LET THEM OUT ON THE STREET, THEM SAME FOLKS? THEY THINK IF THEY'D HAVE BEEN OUT ON THE STREET THEIR CHARACTER WOULD HAVE CHANGED, THAT THE BEHAVIOR THEY DID WASN'T PART OF THEIR BEING? THAT'S

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WHY THEY'RE HABITUAL CRIMINALS, THAT'S WHY THEY'RE IN THERE BECAUSE THAT'S WHO THEY ARE, THAT'S THEIR CHARACTER. WE NEED TO KEEP THEM IN JAIL. AND I GO BACK TO, WHAT'S THE PURPOSE OF THIS BILL? JAIL OVERCROWDING. NOT A PRACTICAL, PRACTICAL REASON, BECAUSE ALL OF A SUDDEN THEY'VE BEEN REHABILITATED AND LIFE HAS CHANGED. VIOLENT CRIME ON OUR STREETS IS A LOT LESS SINCE HABITUAL CRIME LAWS HAVE BEEN ENACTED. THINGS ARE WORKING OUT. BUT WE'RE GOING TO LET WHAT, 185 WAS IT, 184, WE'RE GOING TO LET 20 PERCENT OF THOSE OUT OR SO BECAUSE OUR JAILS ARE CROWDED. THAT'S ONE A BILL I'M THINKING I'D VOTE FOR IS TO EXPAND OUR PRISONS. AND I'LL TELL YOU WHAT, APPROPRIATIONS COMMITTEE, WHEN IT COMES NEXT YEAR TO GIVING THE UNIVERSITY AND ALL THOSE \$100,000 PAYCHECKS OVER THERE, PROFESSIONAL STUDENTS A RAISE AND 3.8 PERCENT INCREASES, CAN WE DIVERT SOME OF THAT MONEY TO PAY FOR THE CORRECTIONS OFFICERS, THE MIDDLE-CLASS PEOPLE THAT WORK FOR THE STATE? YOU THINK THEY COULD GO WITHOUT A RAISE, THE SIX-FIGURE PEOPLE, PROFESSIONAL STUDENTS IN OUR COLLEGE SYSTEM AND MAYBE MAKE SURE THAT WE CAN GET SOME PEOPLE TO STAY ON AT OUR CORRECTIONS FACILITIES SO THAT WE GET SOME LONGTIME EMPLOYEES, PEOPLE PROUD OF WHAT THEY DO BECAUSE THEY CAN FEED THEIR FAMILIES? BUT THAT'S SOMETHING I HOPE YOU'LL CONSIDER IN THE FUTURE. BUT WE'VE GOT TO KEEP THESE FOLKS BEHIND THE WALLS BECAUSE THAT'S WHERE THEY BELONG. THAT'S WHERE THEY WANT TO BE, BY THEIR ACTIONS, AND WE NEED TO KEEP DOING IT. SO, FOLKS, LET'S JUST SEND THIS THING WHERE IT BELONGS. WHATEVER COMPROMISE WAS MADE IN COMMITTEE TO GET THIS ON THE FLOOR, TO GET OTHER THINGS OUT, WE'RE ON THE FLOOR NOW. WE'VE SEEN WHAT HAPPENED IN TECUMSEH. WE KNOW WHY HABITUAL CRIMINALS ARE BEHIND THE WALLS AND WHY THEY NEED TO STAY THERE. SO THERE'S NO NEED TO AMEND A BAD LAW. IT NEEDS TO BE...DISAPPEAR. SEND ME OUT SOME PICTURES OF THESE FELLOWS THAT YOU WANT ON THE STREETS, I'D LIKE TO SEE THEM. I'VE GOTTEN THE PICTURES OF THE 11 ON DEATH ROW AND I NEVER GOT A CHANCE TO TELL YOU FOLKS, THEIR VICTIMS WEREN'T THE WEALTHY, THEY WERE THE LOWER MIDDLE-CLASS FOLKS THAT TRY AND SURVIVE. AND THAT'S WHO THEIR VICTIMS WERE AND THAT'S WHY THEY'RE IN JAIL. THEY'RE NOT THE LOWER MIDDLE-CLASS, JUST HARD WORKING PEOPLE WERE SLAUGHTERED BY THOSE INDIVIDUALS THAT NOW WE'RE GOING TO CODDLE. BUT I WOULD LIKE TO SEE THE PICTURES AND THE CRIMES OF THESE 185 BEFORE I MAKE A DECISION THAT I WANT TO LET SOME OF THEM OUT ON THE STREET BECAUSE WE NEED MORE BEDS OPEN IN THE JAIL, BECAUSE THESE POOR INDIVIDUALS HAD A BAD LIFE AND MAYBE GOT... [LB173]

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SENATOR KRIST: ONE MINUTE. [LB173]

SENATOR GROENE: ...AND MAYBE GOT A "C" IN SCHOOL OR THEY WERE JUST SIMPLE, AS ONE PERSON SAID, AND THAT'S AN EXCUSE FOR COMMITTING VICIOUS CRIMES AND REPEATEDLY DO IT. BUT ANYWAY, LET'S GET RID OF THIS THING AND LET'S KEEP THOSE 185 PRISONERS OR THE 20 THAT YOU WANT TO LET OUT ON THE STREETS, LET'S JUST KEEP THEM WHERE THEY BELONG. YOU KNOW THEY WILL GET OUT EVENTUALLY. INSTEAD OF FIVE YEARS MAYBE THEY'LL BE OUT IN THREE. I MEAN, FIVE YEARS IS WHAT MANDATORY MINIMUM...OF TEN-YEAR MANDATORY MINIMUM. YOU WANTED TO LET THEM OUT IN FIVE. EVENTUALLY, THEY'LL GET BACK OUT. MAYBE THEY'LL BE A LITTLE OLDER AND LESS...WEAKER SO WHEN THEY DO TRY TO HARM SOMEBODY THE PEOPLE CAN DEFEND THEMSELVES. SO I THANK YOU FOR YOUR TIME. [LB173]

SENATOR KRIST: THANK YOU, SENATOR GROENE. JUST A REMINDER, WE ARE ON THE MOTION TO RETURN TO SELECT FILE. AND THOSE THAT WISH TO SPEAK, SENATOR McCOY, CHAMBERS, PANSING BROOKS, SCHNOOR, BRASCH, AND WILLIAMS. SENATOR McCOY, YOU'RE RECOGNIZED. [LB173]

SENATOR McCOY: THANK YOU, MR. PRESIDENT. AND FOR BENEFIT OF MYSELF BUT FOR THE BODY I WANT TO GET A CLARIFICATION IF WE COULD AS TO WHERE WE ARE, MR. PRESIDENT. THIS IS A MOTION TO RETURN TO SELECT FILE. IF THIS AMENDMENT WERE TO BE ADOPTED, WE WOULD NOT CONCLUDE FINAL READING ON THIS BILL TODAY. CORRECT? IT WOULD COME BACK TO US THROUGH E&R AND WE WOULD TAKE THIS UP ON FINAL READING AGAIN AT A LATER DAY YET THIS SESSION. IS THAT CORRECT, MR. PRESIDENT? [LB173]

SENATOR KRIST: IF THE AMENDMENTS ARE ADOPTED, WE CANNOT READ IT TODAY. YOU'RE CORRECT. [LB173]

SENATOR McCOY: THANK YOU, MR. PRESIDENT. I APPRECIATE THAT CLARIFICATION. THANK YOU, MR. CLERK. I MERELY BRING THAT UP, MEMBERS, BECAUSE I KNOW SOMETIMES THAT GETS A LITTLE BIT LOST IN THE SHUFFLE HERE WHEN WE'RE TALKING ABOUT BILLS ON FINAL READING THAT ARE BEING BROUGHT BACK FOR AMENDMENTS AND WHAT HAPPENS FROM THAT POINT ON. I KNOW THAT WAS INSTRUCTIVE FOR ME THE FIRST TIME THAT I REALIZED THAT WAS THE CASE IN MY FIRST AND SECOND SESSION, AS IT DOESN'T HAPPEN ALL THAT OFTEN, ESPECIALLY ON SOMETHING OF THIS MAGNITUDE. I STAND IN



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OPPOSITION...STRONG OPPOSITION TO THIS BILL. AND I FIND IT INTERESTING THAT WE HAVE THIS AMENDMENT COMING TO US AT THIS LATE HOUR. I WOULD PRESUME ONLY, MORE OR LESS, THAT THIS IS PROBABLY BECAUSE THOSE WHO FAVOR THIS LEGISLATION REALIZE THAT THERE WERE NOT QUITE THE VOTES THAT THEY THOUGHT THERE WOULD BE MAYBE ON PREVIOUS ROUNDS OF DEBATE AND THAT THIS HELPS BRING A FEW MORE PEOPLE INTO THE FOLD. THAT'S MY SPECULATION, MY OPINION. I'M NOT PUTTING WORDS IN ANYBODY ELSE'S MOUTH. CERTAINLY, I'M NOT GOING TO PUT THOUGHTS IN ANYONE ELSE'S HEADS. I DON'T SUPPORT THIS BILL BECAUSE OF A LOT OF REASONS. ONE, MANDATORY MINIMUMS ENSURE EQUAL JUSTICE ACROSS THE STATE. IT'S NOT FAIR IF SOMEONE IN NORTH OMAHA, SOUTH OMAHA, OR ANYWHERE IN NEBRASKA GETS THE MAXIMUM SENTENCE AND SOMEONE WITH THE SAME CRIME IN SOME OTHER PART OF THE STATE GETS PROBATION. MANDATORY MINIMUMS ENSURE, MEMBERS, THAT IT'S EQUAL JUSTICE. IT'S BEEN SAID--AND I FULLY AGREE TO IT--JUSTICE SHOULD BE COLOR-BLIND. SO LET'S BE VERY CAREFUL WHEN WE TALK ABOUT WHY WE HAVE MANDATORY MINIMUMS THAT WE UNDERSTAND WHEN AND WHY THEY WERE PUT INTO STATUTE. SENATOR BRAD ASHFORD SERVED AS CHAIR OF THE JUDICIARY COMMITTEE FOR MY FIRST SIX YEARS HERE IN THE LEGISLATURE. AND THE DISCUSSION ON MANDATORY MINIMUMS WAS A LONG ONE. IT FIRST STARTED IN 2009, CONTINUED IN 2011 WITH A BILL FROM SENATOR LAUTENBAUGH. IT WAS A BIPARTISAN EFFORT AND IT WAS AN EFFORT IN WHICH WE MADE A DETERMINATION--WE, MEANING A PAST LEGISLATURE--MADE A DETERMINATION, ESPECIALLY WHEN IT COMES TO GUN CRIMES, IF YOU DO THE CRIME YOU'RE GOING TO DO THE TIME. THAT WAS THE MANTRA AND IT'S HELD TRUE. IT WORKS. NOW, THE HABITUAL CRIMINAL PIECE OF THIS, I ALSO HAVE GREAT RESERVATIONS. I'M GLAD SENATOR HARR IS BRINGING THIS UP. I JUST FIND IT INTERESTING IT TAKES ALL THE WAY UNTIL FINAL READING FOR THOSE OF US THAT WERE TOILING AWAY IN THE WILDERNESS SAYING THE HABITUAL CRIMINAL PIECE OF THIS WAS PROBLEMATIC. THAT DISCUSSION FELL ON DEAF EARS IN PREVIOUS ROUNDS OF DEBATE, IT APPEARED. MAYBE IT DIDN'T, BUT HERE WE ARE. I WILL TELL YOU THIS, THE COUNTY ATTORNEYS ASSOCIATION STILL, EVEN WITH SENATOR HARR'S AMENDMENT, STANDS IN ABSOLUTE, ADAMANT OPPOSITION TO THIS BILL--THAT SHOULD TELL YOU SOMETHING RIGHT THERE--OUR PROSECUTORS, OUR COUNTY ATTORNEYS THAT WE TRUST TO PROTECT US AND OUR COMMUNITIES ACROSS THIS GREAT STATE. THIS BILL SHOULD NOT ADVANCE, IN MY OPINION. THAT'S MY OPINION. I MAY BE OVERRULED. WE'VE HEARD FROM MAYOR STOTHERT, WE'VE HEARD FROM GOVERNOR RICKETTS JUST THIS MORNING ON THIS BILL. WE'VE HEARD FROM PROSECUTORS, COUNTY ATTORNEYS, LAW ENFORCEMENT OFFICERS AND AS

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SENATOR HARR SAID, WE ARE IN A SITUATION WITH AN OFFICER DOWN AS WE SPEAK IN OMAHA. WE DON'T KNOW ANY OF THE SPECIFICS OF THE CASE. MR. PRESIDENT? [LB173]

SENATOR KRIST: SENATOR McCOY, YOUR TIME IS UP. I APOLOGIZE. I MISSED YOUR ONE-MINUTE CALL. [LB173]

SENATOR McCOY: THANK YOU. [LB173]

SENATOR KRIST: THANK YOU, SENATOR McCOY. I JUST WANT TO CLARIFY THE CONVERSATION AT THE BEGINNING OF SENATOR McCOY'S TIME ON THE MIKE, WHICH I CREDITED YOU IN TIME AS WELL. WHAT'S BEFORE US RIGHT NOW IS THE RETURN OF THIS BILL FROM...TO...FOR AN AMENDMENT. IF AN AMENDMENT IS PUT ON, THEN IT CAN'T BE READ TODAY. IF AN AMENDMENT IS NOT PUT ON THIS BILL, IT CAN BE READ TODAY. JUST TO CLARIFY, I WANT TO MAKE SURE EVERYBODY UNDERSTANDS THAT. OKAY. THOSE STILL WISHING TO SPEAK: SENATOR CHAMBERS, PANSING BROOKS, SCHNOOR, BRASCH, WILLIAMS, AND MURANTE. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB173]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, THE LAST FEW DAYS WE ALL KNOW WHAT HAPPENS. YOU'VE WATCHED AND LISTENED AD NAUSEAM TO THE SAME FOUR OR FIVE WHO JUMP UP ON EVERY BILL, GIVE THE SAME KIND OF TALK, THE SAME KIND OF GENERALIZATIONS, NO FACTS WHATSOEVER, TRY TO FRIGHTEN YOU AND TELL YOU THAT IF THIS HAPPENS OR THAT HAPPENS IN THE...SENATOR GROENE DOESN'T EVEN KNOW WHAT HE'S TALKING ABOUT. IF WE KEPT, IF WE KEPT THE PROVISION ON HABITUAL CRIMINALS AND PASSED THE BILL, IT WOULDN'T LET PEOPLE OUT OF JAIL WHO'S IN PRISON RIGHT NOW. HE TALKS ABOUT 185 PEOPLE WHO ARE THERE AS HABITUAL CRIMINALS. WE PASS A BILL, THEY DON'T GET OUT FROM THAT BILL. WHEN YOU HAVE TO DEAL WITH PEOPLE WHO DON'T KNOW WHAT THEY'RE TALKING ABOUT, IT'S FRUSTRATING AND THAT'S WHY YOU ALL DIDN'T SEE ME UP HERE THE OTHER DAY. I KNEW SENATOR McCOY WOULD BE UP, SENATOR GROENE, SENATOR KINTNER, SENATOR BRASCH AND THEN MAYBE ONE OR TWO...SENATOR SCHNOOR. I'D HAVE WRITTEN THE LIST OUT AND GIVEN IT TO PEOPLE AT THE BEGINNING. WHAT SENATOR HARR IS SUGGESTING IS WHAT I AGREE WITH. INITIALLY, TWO BILLS WERE INTRODUCED. ONE DEALT STRICTLY WITH REMOVING THE MANDATORY MINIMUMS FROM TWO CATEGORIES OF FELONY. SENATOR HARR AND OTHERS SIGNED ONTO THAT BILL. LB173 DEALT ONLY WITH THE WORK THAT WOULD DEAL WITH THE HABITUAL

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CRIMINAL AND THE WAY THAT WE DEALT WITH IT. SENATOR HARR WOULD NOT SIGN ONTO THAT BILL BECAUSE HE HAD HIS FEELINGS ABOUT THE HABITUAL CRIMINAL PROVISION. I HOPE YOU ALL DON'T THINK THAT SENATOR McCOY HAS DISCOVERED THE FOUNTAIN OF YOUTH BY SAYING THAT I REALIZE THAT THERE ARE PEOPLE WHO WON'T VOTE FOR THE BILL WITH THE HABITUAL CRIMINAL PROVISION IN IT. WOULD I HAVE TO BE A GENIUS TO KNOW THAT? HOW MANY TIMES HAVE PEOPLE BROUGHT A BILL BACK TO CHANGE IT TO TRY TO GET VOTES AND ELIMINATE SOME OF THE OPPOSITION? IT'S NEW TO HIM. HE'S EXCITED. THEY REALIZE THEY MAY NOT HAVE THE VOTES, SO NOW THEY WANT TO BRING IT BACK. WELL, I WANT TO TELL HIM HE'S RIGHT. HE'S RIGHT. SO HE'S HAD A MONUMENTAL SUCCESS TODAY. BUT WATCH AS OTHER BILLS COME UP FOR THE REST OF THE SESSION, THE SAME CAST, THE SAME KIND OF, I'M GOING TO WARN YOU ABOUT THIS, AN OFFICER IS DOWN IN OMAHA. HE DOESN'T KNOW ANYTHING ABOUT WHAT IS ENTAILED IN THAT SITUATION. HE WOULDN'T EVEN KNOW PROBABLY IF SENATOR HARR HADN'T MENTIONED IT. BUT ON THIS, I AGREE WITH WHAT SENATOR HARR IS TRYING TO DO. IF WE BRING THE BILL BACK, WE'LL ELIMINATE ALL REFERENCE TO THE HABITUAL CRIMINAL LAW. IF SENATOR GROENE COULD UNDERSTAND WHAT IS IN THE BILL, IF HE'D HAVE READ IT BEFORE HE HOPPED UP, HE WOULDN'T HAVE SAID, WELL, YOU'RE LETTING ALL THESE HABITUAL CRIMINALS OUT AND I THINK THEY OUGHT TO STAY IN JAIL. WELL, THE AMENDMENT LEAVES THE HABITUAL CRIMINAL LAW AS IT IS NOW. LEAVES IT THE WAY HE SAYS IT SHOULD BE AND THAT'S WHY HE'S AGAINST THIS BILL. I SAID AT THE BEGINNING, MY NAME IS ON THIS BILL BUT IT'S NOT MINE. SO IF SENATOR McCOY, SENATOR GROENE, SENATOR SCHNOOR, SENATOR BRASCH THINK THAT SOMEHOW THEY'RE HURTING ME, THAT'S A MISTAKE. I HAD SAID THAT MY NAME... [LB173]

SENATOR KRIST: ONE MINUTE. [LB173]

SENATOR CHAMBERS: ...IS ON THE BILL, BUT IT'S A PART OF THE OVERALL APPROACH THAT WE'RE TAKING. AND BECAUSE IT IS NOT MY BILL, EVEN THOUGH MY NAME IS ON IT, I WILL WORK WITH ANYBODY WHO WANTS TO TRY TO DO SOMETHING TO MODIFY THIS BILL. IF THESE PEOPLE, SOME OF THEM, PAID ATTENTION, THEY WOULD HAVE HEARD ME SAY THAT. SO IF THEY DO SOMETHING BAD TO THIS BILL, THEY'RE NOT HURTING ME. AND THIS BILL IS A PART OF THE OVERALL REFORMS WE'RE MAKING. AND IF THEY WANT TO TRY TO CONVINCING YOU THAT OVERCROWDING IS OF NO CONSEQUENCE, THEN THEY'RE BETTER SALESPERSONS THAN I THOUGHT EXISTED. BUT AT ANY RATE, I SUPPORT SENATOR HARR'S MOTION TO RETURN THIS BILL AND I WILL SUPPORT

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HIS AMENDMENT TO STRIP OUT EVERYTHING FROM IT THAT DEALS WITH HABITUAL CRIMINAL STATUTES. THANK YOU, MR. PRESIDENT. [LB173]

SENATOR KRIST: THANK YOU, SENATOR CHAMBERS. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED. [LB173]

SENATOR PANSING BROOKS: THANK YOU, MR. PRESIDENT. I RISE IN SUPPORT OF LB173 AND UNDERLYING AMENDMENT AM1641. COLLEAGUES, PART OF THE ISSUE WITH WHICH WE NEED TO DEAL IS THE FACT THAT WE HAVE OVERCROWDING IN PRISONS. DOES THAT MEAN WE NEED TO RELEASE PEOPLE WHO ARE UNSAFE FOR OUR COMMUNITIES? ABSOLUTELY NOT. THAT'S NOT THE GOAL. THAT'S NOT THE PLAN. THAT'S NOT WHAT THIS BILL DOES. IN ALABAMA TODAY, THERE ARE CONSERVATIVE REPUBLICANS IN ALABAMA THAT HAVE BROUGHT FORWARD A BILL, AND THE LEGISLATION REFLECTS A CONSENSUS, A BIPARTISAN CONSENSUS, THAT A GENERATION OF TOUGH-ON-CRIME LEGISLATION AND ATTITUDES HAVE DRAMATICALLY INCREASED PRISON POPULATION AND HAS PLACED A HUGE FISCAL STRAIN ON THE BUDGETS IN THE STATE OF ALABAMA WITHOUT ACHIEVING ANY HOPE OF THE GOAL OF REHABILITATING INMATES AND PRISONERS. WE HAVE THE SAME THING GOING ON RIGHT HERE, I WOULD ARGUE. FURTHER, SENATOR CAM WARD, A REPUBLICAN FROM ALABAMA, SAID THAT WE'RE FINALLY SEEING SOME RECOGNITION THAT MENTAL HEALTH AND DRUG ABUSE ARE A BIG PART OF THE PROBLEM, AND LOCKING SOMEONE UP AND THROWING AWAY THE KEY DOES NOT SOLVE THAT PROBLEM. WE HAVE HIGH LABOR COSTS, JUST AS THEY DO IN ALABAMA, FOR PRISON STAFF, PENSIONS, AND HEALTHCARE. THOSE MAKE UP THE VAST MAJORITY OF THE COSTS. THE COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER, WHICH SENATOR McCOY HAS QUOTED OFTEN AS A LEADER, AND I ADMIRE HIS LEADERSHIP IN THAT GROUP, HAS SAID THAT POLICYMAKERS ARE NOT ONLY CONCERNED WITH THE HIGH CURRENT COST, THEY'RE ALSO CONCERNED ABOUT THE BILL THAT COULD COME DUE. LABOR COSTS ARE EXPANDING. SO BASICALLY, ALABAMA'S OVERCROWDING PRISON DROVE LEGISLATORS TO ACT. THE FEDERAL GOVERNMENT HAD THREATENED TO TAKE OVER THE STATE'S PRISON SYSTEM UNLESS THE LEGISLATORS ACTED TO REDUCE OVERCROWDING. DOES THAT SOUND FAMILIAR? IT SHOULD. SUPPORTERS OF THAT BILL IN ALABAMA SAY THAT THE POLICY BENEFITS, BOTH BUDGETARY AND IN REDUCING RECIDIVISM, FAR OUTWEIGH THE RISKS. THIS BILL, COLLEAGUES, CAME OUT OF THE JUDICIARY COMMITTEE UNANIMOUSLY. THIS IS NOT BECAUSE WE'RE TRYING TO BE SOFT ON CRIME, AS SOME OF THE COUNTY ATTORNEYS WOULD LIKE TO ARGUE. WE WERE TOLD BY JUDGES AND PAROLE BOARD PEOPLE TO GIVE THEM SOME DISCRETION. MANDATORY

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MINIMUMS DO NOT GIVE DISCRETION. DO YOU KNOW WHO IS ON OUR PAROLE BOARD RIGHT NOW? THE MEMBERS INCLUDE A FORMER GANG SPECIALIST WITH THE OMAHA POLICE DEPARTMENT, A FORMER JUDGE, AND SEVERAL RETIRED CORRECTIONS OFFICERS AND PAROLE OFFICERS. SO DO YOU THINK THEY'RE GOING TO BE SOFT ON CRIME? AT THE END OF THE DAY, WE HAVE THREE OPTIONS: LET MORE PEOPLE OUT OF PRISON, SEND FEWER PEOPLE TO PRISON, OR BUILD A NEW PRISON. SO I WOULD ASK WHO IS CALLING YOU FROM YOUR DISTRICT TO SAY LET'S PAY FOR A NEW PRISON? IS ANYONE CALLING YOU ALSO TO SAY THAT THEY WANT TO WORK IN THE PRISON? A NUMBER OF US HAVE VISITED THE PRISONS IN THE PAST COUPLE OF DAYS. I WALKED AWAY NOT FEELING THAT THEY WERE AT A SAFE AND SECURE LEVEL OF STAFFING, AND I TALKED TO MANY OF YOU WITH THE EXACT SAME OPINION. SO I WOULD ARGUE THAT WE'RE PUTTING THE PUBLIC AT RISK BY OVERCROWDING. YES, NONE OF THE PEOPLE AT TECUMSEH GOT OUT AND THAT WAS FORTUNATE. [LB173]

SENATOR KRIST: ONE MINUTE. [LB173]

SENATOR PANSING BROOKS: BUT AGAIN, MANDATORY MINIMUMS RESULT IN STACKING OF LENGTHY PRISON SENTENCES AND THAT CONTRIBUTES TO OVERCROWDING. AND THAT IS PART OF WHAT WE NEED TO DEAL WITH HERE. AND THIS MANDATORY MINIMUM THAT TIES JUDGES' HANDS, WHO ARE WE TO KNOW IN EACH SPECIFIC CASE? MAYBE THEY DO NEED TO THROW THEM AWAY FOR A LONG TIME, BUT WE'RE NOT THE ONES TO DECIDE THAT; THE JUDGES ARE. AND I TRUST OUR JUDGES IN THIS STATE. WE HAVE EXCELLENT JUDGES IN THIS STATE. AND I TRUST OUR PAROLE BOARD, ESPECIALLY WHEN THE GOVERNOR ISN'T TYING THEIR HANDS AND TELLING THEM WHAT TO DO. OUR PAROLE BOARD CAN ACT INDEPENDENTLY AND WISELY, AND HAS IN THE PAST. SO PLEASE, VOTE FOR LB173 AND UNDERLYING AMENDMENT AM1641. THANK YOU, MR. PRESIDENT. [LB173]

SENATOR KRIST: THANK YOU, SENATOR PANSING BROOKS. SENATOR SCHNOOR, YOU'RE RECOGNIZED. [LB173]

SENATOR SCHNOOR: THANK YOU, MR. PRESIDENT. AS I BELIEVE IT WAS SENATOR MORFELD MIGHT HAVE SAID THIS MORNING WHEN WE WERE TALKING ABOUT THE DEATH PENALTY, WE'RE TASKED AS REPRESENTATIVES OF THE STATE TO MAKE DECISIONS SOMETIMES THAT WE DON'T WANT TO MAKE. AND THIS IS ANOTHER ONE OF THOSE. AND WE'RE TASKED TO MAKE DECISIONS ON AREAS THAT ARE WAY BEYOND OUR AREAS OF EXPERTISE, AND FOR ME, THIS IS ONE OF

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THEM. AS...I GUESS, SENATOR HARR, WOULD YOU YIELD TO A QUESTION, PLEASE? [LB173]

SENATOR KRIST: SENATOR HARR, WILL YOU YIELD? [LB173]

SENATOR HARR: YES, I WILL. [LB173]

SENATOR SCHNOOR: THANK YOU, SIR. IF I'M UNDERSTANDING EVERYTHING CORRECTLY, PRIOR TO THE LB173, OR I GUESS CURRENTLY AS WE HAVE NOW, THERE ARE APPROXIMATELY 284 FELONIES THAT COULD BE COUNTED AS HABITUAL CRIMES. AM I CORRECT OR IN THE BALLPARK? [LB173]

SENATOR HARR: YOU KNOW, THAT'S WHAT I'VE HEARD ON THE FLOOR. I HAVEN'T CHECKED IT INDEPENDENTLY, BUT YOU ARE CORRECT. [LB173]

SENATOR SCHNOOR: I THINK I REMEMBER SENATOR CHAMBERS SAYING THAT. BUT IT'S SOMEWHERE IN THERE. WE KNOW IT'S A LOT OF THEM. [LB173]

SENATOR HARR: YEAH. [LB173]

SENATOR SCHNOOR: THEN LB173, IF I'M NOW CORRECT, IT REDUCES THAT TO APPROXIMATELY NINE, NINE FELONIES THAT CAN BE USED FOR HABITUAL CRIMES. AND NOW SENATOR COASH ADDED AMENDMENT AM1607, WHICH WAS ADOPTED ON SELECT FILE, AND THAT INCREASES IT BY QUITE A FEW, ALTHOUGH I DON'T KNOW WHAT THE NUMBER IS. BUT I GUESS IF YOU COULD HELP ME, SIR, UNDER OUR CURRENT LAW, WHEN WE'RE TALKING...YOU HAD MENTIONED MANDATORY MINIMUMS. [LB173]

SENATOR HARR: YEP. [LB173]

SENATOR SCHNOOR: I GUESS COULD YOU PLEASE EXPLAIN? YOU ARE A PROSECUTING ATTORNEY. [LB173]

SENATOR HARR: I WAS. [LB173]

SENATOR SCHNOOR: YOU HAVE SAID IN THE PAST THAT YOU HAVE LIVED THIS FOR MANY YEARS. [LB173]

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SENATOR HARR: YEP. [LB173]

SENATOR SCHNOOR: SO CAN YOU EXPLAIN IN A VERY SHORT VERSION OF WHAT A MANDATORY MINIMUM IS AND WHAT OUR CURRENT LAW IS AS FAR AS WHEN THOSE CAN BE GIVEN? [LB173]

SENATOR HARR: OKAY. WELL, THERE ARE A LOT OF QUESTIONS THERE. I'LL TRY TO BE AS BRIEF AS I CAN. [LB173]

SENATOR SCHNOOR: THANK YOU. [LB173]

SENATOR HARR: CURRENT STATUTE, MANDATORY MINIMUM ON HABITUAL IS IF IT'S A REGULAR HABITUAL, MEANING YOU HAVE TWO PRIOR CONVICTIONS FOR FELONIES AND SERVED OVER A YEAR, YOU PICK UP A THIRD CHARGE AND THE SENTENCE IS...THE TOP SENTENCE IS MORE THAN A YEAR. YOU ARE ELIGIBLE FOR THE HABITUAL IF YOU ARE CONVICTED AND THEN FOUND TO HAVE THE TWO PRIOR CONVICTIONS ARE VALID, YOU WOULD DO A MANDATORY MINIMUM OF TEN YEARS. THAT MEANS NO GOOD TIME. THERE IS ALSO WHAT'S CALLED THE SUPER HABITUAL AND WHAT THAT IS, IF YOU HAVE A PRIOR CONVICTION FOR A SEXUAL ASSAULT AND YOU PICK UP A NEW CHARGE FOR A SEXUAL ASSAULT, AND IN THAT CASE IT'S A SUPER HABITUAL AND IT'S 25 YEARS HARD, MEANING NO GOOD TIME. THIS WOULD KEEP THAT...MY AMENDMENT WOULD KEEP THAT IN PLACE. THEN THERE ARE MANDATORY MINIMUMS AND THERE ARE AVAILABLE FOR DIFFERENT STATUTES: Cs, Ds, B, IB, C, D, AND THEN THERE ARE OTHERS OUTSIDE OF THAT THAT SPECIFICALLY, FOR INSTANCE, CHILD ABUSE LEADING TO DEATH IS OUTSIDE OF THAT FORM, THAT WOULD BE UNAFFECTED BY THIS AMENDMENT. WHAT THIS AMENDMENT DOES...OR, EXCUSE ME, WHAT THIS BILL DOES, WHAT IT WOULD KEEP IN PLACE ARE ICs AND Ds, WHICH ARE A MAJORITY MANDATORY MINIMUMS FOR DRUG CRIMES, LIMITED GUN CRIMES, AND LIMITED SECOND-OFFENSE SEX OFFENSES-- OVERBROAD, BUT THAT'S BASICALLY WHAT THEY ARE. [LB173]

SENATOR SCHNOOR: OKAY. WELL, OBVIOUSLY, I CAN TELL THAT YOU HAVE HAD TO DEAL WITH THIS OVER MANY YEARS OF YOUR LIFE. [LB173]

SENATOR HARR: YES. [LB173]

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SENATOR SCHNOOR: AND IT'S OBVIOUS THAT YOU KNOW A LOT ABOUT IT AND YOU UNDERSTAND IT FAR BETTER THAN ANY OF US. [LB173]

SENATOR KRIST: ONE MINUTE. [LB173]

SENATOR SCHNOOR: THANK YOU, SIR,...MYSELF INCLUDED OR MYSELF ESPECIALLY. KNOW THIS IS A TOUGH DECISION FOR ME BECAUSE THIS IS AN AREA THAT IS...I GUESS WHEN YOU COME DOWN HERE, YOU DON'T REALIZE THE THINGS THAT YOU'RE GOING TO HAVE TO MAKE DECISIONS ON, AND THIS IS ONE. SO THANK YOU, SENATOR HARR, FOR HELPING TO EXPLAIN THAT. I WILL CONTINUE TO LISTEN AND STUDY AND TAKE NOTES ON THIS AND HOPEFULLY MAKE...AND I'LL MAKE THE BEST DECISION I CAN. I AM AGAINST LB173 IN ITS INITIAL PROPOSAL, ALTHOUGH THE AMENDMENT THAT SENATOR COASH HAD MAKES IT BETTER, AND I'LL LISTEN MORE ON THIS CURRENT AMENDMENT. SO THANK YOU, SIR. [LB173]

SENATOR KRIST: THANK YOU, SENATOR SCHNOOR AND SENATOR HARR. SENATOR BRASCH, YOU'RE RECOGNIZED. [LB173]

SENATOR BRASCH: THANK YOU, MR. PRESIDENT. AND GOOD AFTERNOON, COLLEAGUES. I'LL STAND AND ADMIT, I DO NOT UNDERSTAND MEDICINE, WHAT DOCTORS UNDERSTAND. I DO NOT UNDERSTAND CRIMINAL LAW, BUT I DO UNDERSTAND PUBLIC SAFETY. AND AS I'VE BEEN TRYING TO READ THROUGH INFORMATION, THROUGH THIS BILL, THROUGH THE AMENDMENT, I WAS WONDERING IF SENATOR HARR, BURKE HARR, WOULD YIELD TO A QUESTION, PLEASE. [LB173]

SENATOR KRIST: SENATOR BURKE HARR, WOULD YOU YIELD? [LB173]

SENATOR HARR: YES, I WILL. THANK YOU. [LB173]

SENATOR BRASCH: UNDER YOUR AMENDMENT, CAN YOU TELL ME HOW MANDATORY MINIMUM SENTENCES WILL BE AFFECTED? SOME EXAMPLES ARE FIRST-DEGREE SEXUAL ASSAULT, THE MANDATORY SENTENCES THAT APPLY FOR CLASS IC, ID, THE FELONIES; DRIVE-BY SHOOTINGS; POSSESSION OF FIREARMS. WILL THEY BE...DOES YOUR AMENDMENT KEEP THOSE CRIMINALS OR DOES THAT GIVE THE JUDGE DISCRETION? [LB173]



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SENATOR HARR: AND THE ANSWER IS, YES, IT DOES KEEP IT CRIMINAL. BUT WHAT IT DOES DO IS WHAT YOU SAY, IT GIVES JUDGES DISCRETION. SO IF YOU HAVE AN 18-YEAR-OLD KID WHO IS PLAYING AROUND AND HE SHOOTS AT A BUILDING, AS OPPOSED TO A GANGBANGER, WHO IS 27 YEARS OLD SHOOTING AT A BUILDING, THINKING IT'S OCCUPIED, THEY AREN'T TREATED THE SAME WAY... [LB173]

SENATOR BRASCH: THANK YOU. [LB173]

SENATOR HARR: ...WHICH THEY ARE UNDER THE CURRENT STATUTE. [LB173]

SENATOR BRASCH: VERY GOOD. I'M CONCERNED THAT JUSTICE, TO BE EQUAL, EQUALITY BEFORE THE LAW, WHAT IS TO KEEP THE SENTENCE CONSISTENT IN LET'S SAY OGALLALA OR OMAHA OR BANCROFT, YOU KNOW, THOSE AREAS? WHAT IS THE CONSISTENCY IN SENTENCING? WILL THAT BE REMOVED THAT ONE COULD BE SENTENCED MUCH LIGHTER IN ANOTHER REGION OF THE STATE, SENATOR HARR? [LB173]

SENATOR HARR: WELL, I MEAN, SURE, AND THAT'S POSSIBLE NOW. I THINK WE HAVE TO BE CAREFUL, AND I DON'T WANT TO TAKE TOO MUCH OF YOUR TIME, BUT WE HAVE TO BE CAREFUL NOT TO CONFUSE FAIRNESS WITH EQUALITY. AND SO YOU HAVE TO LOOK AT THE FACTS SPECIFIC TO EACH CASE FOR WHAT'S FAIR FOR WHAT THAT PERSON DID, AS OPPOSED TO SAYING, WELL, BECAUSE YOU DID THIS CRIME, THIS IS THE... YOU KNOW, HERE IS THE CRIME, HERE IS THE PENALTY ON A TABLE. YOU HAVE TO LOOK AT THE FACTORS: WHAT ARE BEHIND IT, WHY DID THE PERSON DO IT, HOW OLD THEY ARE, A NUMBER OF FACTORS. [LB173]

SENATOR BRASCH: THANK YOU, SENATOR HARR. I UNDERSTAND THE ISSUE WE HAVE OF PRISONS OVERCROWDING AND THE CRISIS WE HAVE THERE. BUT AS I RECALL, THE COUNCIL OF STATE GOVERNMENTS DID NOT RECOMMEND LB173 TO ADDRESS OVERCROWDING. MY BELIEF IS THAT DID COME THROUGH LB605, AND THAT IS TO REFORM LOWER LEVEL OFFENSES. AND THAT DID NOT ELIMINATE THE MANDATORY MINIMUM OF CLASS IC AND ID. IS THAT CORRECT, SENATOR HARR? [LB173 LB605]

SENATOR HARR: THAT IS CORRECT. CSG IS A MULTISTEP. BUT AT THIS POINT, LB605 I CALL SENTENCING REFORM AND, YOU'RE RIGHT, IT DOES NOT ADDRESS THOSE. [LB173 LB605]

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SENATOR BRASCH: VERY GOOD. SO I AM CONCERNED WHEN WE ARE LOOKING AT A GREATER POSSIBILITY OF INCONSISTENT SENTENCING AND ALSO LOOKING AT A RELATIVELY LOWER POPULATION OF THOSE IN OUR PRISONS. I BELIEVE THAT THE HABITUAL CRIMINALS ARE LESS THAN 5 PERCENT, IS THAT CORRECT, 1 PERCENT, 2 PERCENT, SENATOR HARR? [LB173]

SENATOR HARR: WELL, YEAH, I MEAN WITH THE NUMBERS THAT WERE CITED EARLIER, IT WOULD PROBABLY BE LESS THAN 2 PERCENT NOW OR 1 PERCENT MAYBE. [LB173]

SENATOR BRASCH: LESS THAN 2 PERCENT. SO IT REALLY DOESN'T ALLEVIATE MUCH OVERCROWDING,... [LB173]

SENATOR KRIST: ONE MINUTE. [LB173]

SENATOR BRASCH: ...CORRECT, LESS THAN TEN INDIVIDUALS PERHAPS? [LB173]

SENATOR HARR: WELL, AND SO...BUT I'M GOING TO KEEP HABITUAL. [LB173]

SENATOR BRASCH: OKAY. [LB173]

SENATOR HARR: I AM GETTING RID OF THE... [LB173]

SENATOR BRASCH: YOU, OKAY, YOU ARE KEEPING IT. [LB173]

SENATOR HARR: YES. [LB173]

SENATOR BRASCH: OKAY. VERY GOOD. ALL RIGHT. I HAVE NO OTHER QUESTIONS. THANK YOU FOR YOUR ASSISTANCE, SENATOR HARR. [LB173]

SENATOR HARR: THANK YOU. [LB173]

SENATOR BRASCH: THANK YOU, MR. PRESIDENT AND COLLEAGUES. [LB173]

SENATOR KRIST THANK YOU, SENATOR BRASCH AND SENATOR HARR. SENATOR WILLIAMS, YOU'RE RECOGNIZED. [LB173]

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SENATOR WILLIAMS: THANK YOU, MR. PRESIDENT. AND I WILL CERTAINLY BE BRIEF THIS AFTERNOON. ONE OF THE THINGS THAT WE WERE CHARGED WITH WHEN WE STARTED THIS SESSION OF THE LEGISLATURE WAS DEALING WITH THE PRISON REFORM ISSUE. AND PRISON REFORM OR PRISON OVERCROWDING COMPARED WITH WHAT IS PUBLIC SAFETY AND PRISONER RIGHTS CAN BE BLURRED, FINDING THE PROPER LINE BETWEEN THOSE TWO. AND I WILL TELL YOU, I WAS CONCERNED WITH LB173 IN THE FORM THAT IT CAME OUT OF THE COMMITTEE. I DID VOTE IT OUT OF THE COMMITTEE. AS WAS STATED, IT WAS VOTED OUT UNANIMOUSLY. I WAS VERY PLEASED TO SEE THE COASH AMENDMENT COME ONTO IT BECAUSE I BELIEVE IT CORRECTED SOME OF THE ISSUES, BUT I WOULD REALLY NOW CONGRATULATE SENATOR BURKE HARR FOR BRINGING AM1641 TO THE TABLE THAT REMOVES THE PORTION CHANGING THE CURRENT HABITUAL CRIMINAL STATUTES AND TAKES IT BACK TO THE PORTION OF LB173 THAT, IN MY MIND, ALWAYS DEALT AND WAS ALWAYS DESIGNED TO DEAL WITH PRISON REFORM AND NOT IN ANY WAY CHALLENGING PUBLIC SAFETY WITH THAT DECISION TO MAKE THAT CHANGE. SO WITH THAT SAID, I WOULD ENCOURAGE MY COLLEAGUES TO RETURN LB173 TO SELECT FILE, ADOPT AM1641, AND THEN MOVE FORWARD, AS WE HAVE THE OPPORTUNITY, WITH LB173. THANK YOU, MR. PRESIDENT. [LB173]

SENATOR KRIST: THANK YOU, SENATOR WILLIAMS. (VISITORS INTRODUCED.) THOSE STILL WISHING TO SPEAK: SENATOR MURANTE, SCHUMACHER, McCOY, KINTNER, AND OTHERS. SENATOR MURANTE, YOU'RE RECOGNIZED. [LB173]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT. MEMBERS, GOOD AFTERNOON. WE IN SARPY COUNTY ARE REALLY BLESSED TO HAVE VERY STRONG LEADERSHIP IN OUR CRIMINAL JUSTICE SYSTEM. AND THROUGHOUT THE PROGRESS OF LB173 AND INCLUDING LB605, I HAVE BEEN IN CONTACT WITH MY COUNTY ATTORNEY, LEE POLIKOV, WHO HAS BEEN A LEADER IN THIS BODY ON CREATING...CRAFTING THESE BILLS IN A WAY THAT ACHIEVES THE END OF ADDRESSING OUR PRISON OVERCROWDING SYSTEM WITHOUT PUTTING PUBLIC SAFETY AT RISK. AND IN MY CONVERSATIONS WITH MY COUNTY ATTORNEY, I HAVE NEVER SEEN HIM AS ADAMANTLY OPPOSED TO A PIECE OF LEGISLATION AS HE IS TO LB173. AND IN MY DISTRICT I HAVE A LOT OF LAW ENFORCEMENT, A LOT OF OMAHA POLICE OFFICERS WHO HAVE CHOSEN NOT TO LIVE WITHIN THE CITY OF OMAHA, BUT A LOT OF MILITARY AND A LOT OF POLICE OFFICERS. OF THE PEOPLE WHO HAVE CONTACTED ME, I HAVE RECEIVED UNANIMOUS OPPOSITION TO LB173. AND WHEN I SOUGHT FURTHER GUIDANCE ON THESE ISSUES, I WENT TO THE ATTORNEY GENERAL'S OFFICE AND SAT DOWN WITH HIM AND HE LAID OUT EXACTLY WHAT LB173 DOES AND BEGAN TO EXPRESS TO ME

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HIS CONCERNS. AND THE ATTORNEY GENERAL WAS ALSO VEHEMENTLY OPPOSED TO LB173. AND THEN I SAT DOWN WITH THE GOVERNOR AND HAD A CONVERSATION WITH THE GOVERNOR ABOUT THE CRIMINAL JUSTICE REFORM PACKAGES AND THE BILLS THAT WE HAVE BEFORE US. AND THE GOVERNOR IS ADAMANTLY OPPOSED TO LB173. NOW YOU'LL RECALL A COUPLE OF WEEKS AGO WE TALKED ABOUT A PROVISION OF A BILL THAT CAME OUT OF THE GOVERNMENT COMMITTEE AND HOW, WITH RESPECT TO ELECTION LAWS, IF WE'RE GOING TO CHANGE THE SYSTEM, HISTORICALLY THIS LEGISLATURE, AND PARTICULARLY THE GOVERNMENT, MILITARY AND VETERANS AFFAIRS COMMITTEE, HAS SAT DOWN WITH THE COUNTY OFFICIALS, SAT DOWN WITH THE SECRETARY OF STATE'S OFFICE AND MADE CHANGES ON A CONSENSUS BASIS. AND WHEN THERE WAS EXTREME CONFLICT BETWEEN THE TWO, USUALLY DECISIONS WERE DELAYED UNTIL CONSENSUS COULD BE REACHED. AND THAT'S THE MIND-SET THAT I APPROACH LB173, BECAUSE THE OPPOSITION TO THE CRIMINAL JUSTICE REFORM PACKAGE, SPECIFICALLY TO LB173, IS VEHEMENTLY OPPOSED BY ALMOST EVERYONE IN THE CRIMINAL JUSTICE SYSTEM. AND I HEAR THAT THIS IS AN ATTEMPT TO ADDRESS THE PRISON OVERCROWDING SYSTEM...THE PRISON OVERCROWDING PROBLEM THAT WE HAVE RIGHT NOW, BUT IT IMPACTS SO FEW PEOPLE THAT I DON'T FULLY UNDER HOW, IF WE ADOPT LB173, WE'RE GOING TO COME BACK NEXT YEAR AND THE PROBLEMS ARE GOING TO BE ANY DIFFERENT. [LB173 LB605]

SENATOR KRIST: ONE MINUTE. [LB173]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT. SO WE'LL BE BACK HERE NEXT YEAR WITH OVERCROWDED PRISONS AND A DISCUSSION OF WHAT TO DO ABOUT IT. SO IF I COULD GET TO THE POINT WHERE I BELIEVED LB173 SOLVED THE PROBLEM, I MIGHT BE ABLE TO VOTE FOR IT. BUT IT DOESN'T BEGIN TO ADDRESS THE AMOUNT OF OVERPOPULATION WE HAVE. AND WHEN YOU COUPLE THAT WITH THE FACT THAT THE LAW ENFORCEMENT OFFICIALS IN THIS STATE ARE ADAMANTLY AGAINST IT, IT'S NOT A PROPOSAL WHICH I CAN SUPPORT, PROBABLY EVEN WITH THE ADDITION OF AM1641, SO I WILL BE OPPOSING LB173 AND OPPOSING OR NOT VOTING ON AM1641. BUT I THANK SENATOR HARR FOR BRINGING THE PROPOSAL. HE'S DONE A LOT OF GREAT WORK AS WELL. I KNOW HE'S WORKED WITH THE SARPY COUNTY ATTORNEY ON THESE ISSUES FOR SEVERAL MONTHS NOW. SO THANK YOU, MR. PRESIDENT. [LB173]

SENATOR KRIST: THANK YOU, SENATOR MURANTE. SENATOR SCHUMACHER, YOU ARE RECOGNIZED. [LB173]

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SENATOR SCHUMACHER: THANK YOU, MR. PRESIDENT, MEMBERS OF THE BODY. SOMETIMES REALITY IS A BEAR, BECAUSE SENATOR PANSING BROOKS SAID IT RIGHT: WE HAVE THREE OPTIONS. THAT WAS VERY CLEAR I THINK TO JUDICIARY COMMITTEE AND THE LR424 COMMITTEE. AND AMONG THOSE THREE OPTIONS IS NOT DELAY OR COMPROMISE OR DRAGGING IT OUT AND DRAGGING IT OUT. WE MAYBE DRUG IT OUT ALREADY TOO MUCH. THOSE THREE OPTIONS: LET THEM OUT. WE HEARD THE PRISON OFFICIALS SAY, LOOK, BRING IN SO MANY PEOPLE IN THE FRONT DOOR, I GOT TO LET SO MANY OUT THE BACK DOOR. I DON'T HAVE THE LUXURY OF STATUTORY COMPLIANCE. OKAY? DON'T PUT THEM IN, IN THE FIRST PLACE, OR PUT THEM IN FOR SHORTER PERIODS OF TIME. IT'S AN OPTION. SOME OF THAT STRUGGLE WAS REFLECTED IN LB605. SOME MORE OF THAT STRUGGLE IS REFLECTED HERE IN LB173. LB605 TRIED TO DEAL WITH APPROPRIATE TERMS OF SENTENCES FOR ORDINARY SITUATIONS. LB173 ATTEMPTED TO SAY, LOOK, LET US NOT IMPOSE OUR SENTENCING JUDGMENT ON THE JUDGES, BECAUSE WITH MANDATORY MINIMUMS AND THE HABITUAL CRIMINAL, WE ESSENTIALLY ARE SAYING, JUDGE, THIS PERSON, REGARDLESS OF THE CIRCUMSTANCES, IS GOING AWAY FOR SO MUCH TIME PROVIDED THE COUNTY ATTORNEY CHARGES THEM IN A CERTAIN WAY. THAT'S WHY THE COUNTY ATTORNEYS ARE SO OPPOSED. THEY LIKE THAT POWER. YOU GO; YOU DON'T. YOU PLEAD OR ELSE. THAT'S WHY, NOTHING DIFFERENT THAN THAT. THAT'S WHY EVEN THOUGH THERE ARE ONLY A COUPLE HUNDRED PEOPLE IN THE PEN ON HABITUAL CRIMINAL, THERE WERE MANY, MANY, MANY, MANY MORE THAN THAT, THAT ROLLED OVER. SO DON'T PUT THEM IN. WE HAVE SOME CONTROL OVER THAT. WE ALSO KNOW THAT THERE ARE 20 (PERCENT) TO 40 PERCENT OF THE PEOPLE IN THERE, DEPENDING ON WHOSE NUMBERS YOU LISTEN TO, THAT ARE SUFFERING FROM MENTAL DISEASE OR DON'T BELONG THERE. BUT THERE WAS NO PLACE ELSE TO PUT THEM. THAT'S A HIGH, HIGH PRICE TAG ITEM, I GUESS WELL OVER \$100 MILLION, TO APPROPRIATELY TREAT COMMUNITY MENTAL HEALTH AND TRY TO DEVELOP AN ALTERNATIVE OUTSIDE SYSTEM. WE HAVEN'T EVEN BEGUN TO BITE INTO THAT APPLE. WE'RE TALKING ABOUT TAX RELIEF. THAT'S AN APPROPRIATE THING TO TALK ABOUT, BUT THAT'S ONE OF OUR OPTIONS HERE IN ORDER TO MAKE THINGS WORK. OR BUILD A NEW PENITENTIARY. AND I HAVE YET TO HAVE ANYBODY COME UP AND SAY, YOU KNOW, I'M ANXIOUS TO SPEND A COUPLE, \$300 MILLION AND STAFF THE THING, BECAUSE EVERYBODY IS SMART ENOUGH TO KNOW THAT IF WE BUILD IT, THEY WILL FILL IT. AT THE SAME TIME, IF WE DO NOT TAKE RESPONSIBLE ACTION, ONE FEDERAL LAWSUIT WILL SAY SIMPLY, BOYS, LET THEM OUT, AND THIS IS HOW...THE FORMULA YOU'RE GOING TO FOLLOW IN LETTING THEM OUT. WE DON'T HAVE A LOT OF OPTIONS HERE. I'M GOING TO SUPPORT SENATOR HARR'S AMENDMENT TO TAKE THE HABITUAL CRIMINAL PROVISIONS OUT EVEN

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THOUGH THIS DISCUSSION WILL NOT GO AWAY WITH REGARD TO HABITUAL CRIMINAL. IT TAKES...IT FORCES JUDGES TO SEND PEOPLE AWAY FOR A LONG PERIOD OF TIME WHICH THE JUDGE MAY VERY WELL DISAGREE WITH. AND I THINK THERE'S A SOLUTION TO THAT WE'LL BE WORKING ON HOPEFULLY OVER THE SUMMER AS TO HOW TO GIVE THE JUDGES AN ESCAPE CLAUSE FROM THAT PREDICAMENT IF THEY FIND THEMSELVES IN IT WITH A PARTICULAR DEFENDANT. BUT IT'S SO MUCH FUN TO WRAP OURSELVES IN LADY JUSTICE AND SWORDS AND THINGS LIKE THAT AND SPOUT OFF HANG 'EM HIGH, THROW AWAY THE KEY RHETORIC BECAUSE IT'S GREAT POLITICAL RHETORIC. IT'S GREAT POLITICAL FUN. BUT IT'S LED US TO A BAD CONCLUSION AND STATES ACROSS THE UNITED STATES ARE BEGINNING TO REALIZE THAT WE HAVE GOT TO BE MORE SELECTIVE IN WHO WE PUT AWAY FOR LONG PERIODS OF TIME. [LB173 LB605]

SENATOR KRIST: ONE MINUTE. [LB173]

SENATOR SCHUMACHER: THANK YOU, MR. PRESIDENT,...AND HOW WE MAKE A DETERMINATION OF WHO REALLY BELONGS THERE, AND THAT WE NEED TO SPEND THE MONEY ON ALTERNATIVE MECHANISMS SO PEOPLE DON'T GET PLUGGED INTO THE SYSTEM TO BEGIN WITH. WE GOT ALL THE OTHER ISSUES THAT WE HAVE TO DEAL WITH, THE JAMMING OUT ISSUE WHERE PEOPLE DON'T GET ANY TREATMENT AND THEY JUST SIT OUT THEIR TIME AND LEAVE--HUGE AMOUNT OF WORK THAT NEEDS TO BE DONE IN THIS PARTICULAR AREA. SO THIS IS A MUCH SMALLER STEP THAT WE'RE GOING TO HAVE TO TAKE, BUT IT IS A STEP AND WE'RE NEAR THE END OF THE SESSION. I'D ENCOURAGE YOUR SUPPORT FOR AM1641 AND THEN FOR LB173. THANK YOU. [LB173]

SENATOR KRIST: THANK YOU, SENATOR SCHUMACHER. SENATOR McCOY, YOU'RE RECOGNIZED. [LB173]

SENATOR McCOY: THANK YOU, MR. PRESIDENT. YOU KNOW, I THINK WHAT WE'RE ASKING LAW ENFORCEMENT OFFICERS TO DO UNDER THIS BILL, IF IT WERE TO ADVANCE, IS TO FIGHT CRIME WITH ONE HAND TIED BEHIND THEIR BACK. THIS LEGISLATURE, AND LET ME REMIND YOU AGAIN, SIX SHORT YEARS AGO, THERE ARE STILL 11 MEMBERS OF THE 49 OF US THAT VOTED FOR THESE TWO BILLS BACK IN 2009, CREATED MANDATORY MINIMUMS. NOW WE HAD PREVIOUSLY HAD A FEW CRIMES THAT MANDATORY MINIMUMS WERE ALREADY IN EXISTENCE FOR: MANUFACTURING OF METH, DISTRIBUTION OF COCAINE, I BELIEVE, AND A FEW OTHERS. BUT TWO BILLS, LB63 AND LB97 IN 2009,

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INSTITUTED MANDATORY MINIMUMS. IT WASN'T...AND I DON'T EVER EVEN REALLY RECALL, UNLESS I'M MISTAKEN, I'D HAVE TO PULL UP THE TRANSCRIPTS TO MAKE CERTAIN SURE SO I'LL SAY, IN MY RECOLLECTION, I DON'T REALLY RECALL AT THE TIME EVEN THERE BEING A DISCUSSION ABOUT THAT WE DIDN'T TRUST JUDGES IN SENTENCING. THE DISCUSSION WAS WE WANTED TO MAKE SURE IT WAS ABUNDANTLY CLEAR TO THOSE WHO WOULD COMMIT CRIMES THAT YOU'RE GOING TO SERVE A MINIMUM AMOUNT OF TIME IN PRISON FOR CERTAIN OFFENSES AND GOOD TIME WILL NOT ACCRUE DURING THAT TIME PERIOD. SEEMED TO BE, BOTH OF THOSE BILLS, UNLESS I'M MISTAKEN, WERE EITHER UNANIMOUS OR VERY CLOSE TO UNANIMOUS. I'D HAVE TO CHECK THE RECORD FOR CERTAINTY ON THAT. IF THEY WEREN'T, IT WAS VERY, VERY CLOSE. YOU KNOW, THIS TO ME IS JUST AN ISSUE THAT THIS LEGISLATION HAS GOTTEN WRAPPED UP...AND HE'S IN THE CHAIR AND SO I WANT TO BE FAIR, BUT I KNOW SENATOR KRIST HAS REMINDED THE BODY A NUMBER OF TIMES THAT NOT ALL PIECES OF LEGISLATION HAVING TO DO WITH CORRECTIONS AND CRIME THIS SESSION EMANATED OUT OF THE CSG, COUNCIL OF STATE GOVERNMENTS', RECOMMENDATIONS. SO I WANT TO BE FAIR TO SENATOR KRIST. HE'S NOT WHERE HE CAN RESPOND TO THAT, NOR DO I EXPECT HIM TO. HE'S CORRECT. BUT I ALSO WANT TO BE VERY CLEAR AND MAKE SURE THE BODY REMEMBERS AND RECALLS, GETTING RID OF MANDATORY MINIMUMS WAS NOT A RECOMMENDATION OF THE COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER. THE BEST OF THE BEST, THE HIGHEST AUTHORITY IN THE LAND TODAY ON REDUCING THE RATE OF RECIDIVISM AND JUDICIAL REFORM HAS BEEN HERE IN NEBRASKA FOR MONTHS, AS WE ALL KNOW. THIS BILL, WHICH OBVIOUSLY IS LB172 ALSO, OR WAS PRIOR TO SENATOR HARR'S AMENDMENT, THE HABITUAL CRIMINAL COMPONENT AND THE MANDATORY MINIMUM COMPONENT WERE NOT RECOMMENDATIONS OF THE JUSTICE CENTER ON HOW TO REDUCE OUR OVERCROWDING SITUATION AND HOW TO IMPROVE OUR JUDICIAL SYSTEM. THEY OUTLINED A BLUEPRINT, A ROAD MAP, MEMBERS, OF HOW TO REDUCE OUR OVERCROWDING SITUATION, OUR NUMBERS IN PRISON, HOW TO IMPROVE THE JAM-OUT SITUATION BY ADDRESSING PROGRAMMING IN PRISON BY THE SUPERVISED RELEASE COMPONENTS OF THIS, THE WHOLE HOST, THE WHOLE GAMUT OF RECOMMENDATIONS. THE TWO COMPONENTS OF THIS BILL WERE NOT PART OF THOSE RECOMMENDATIONS. [LB173 LB172]

SENATOR KRIST: ONE MINUTE. [LB173]

SENATOR McCOY: SO I WOULD ASK YOU, MEMBERS, WHAT ARE WE DOING HERE? WE ASKED, ON THEIR DIME, I MIGHT ADD, THE COUNCIL OF STATE GOVERNMENTS--AND THEY'RE WILLING TO DO IT, THEY'VE DONE IT FOR 21

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OTHER STATES--TO COME TO NEBRASKA TO HELP US. WE ASKED FOR THEIR EXPERTISE. WE TRUST THEM WITH THEIR EXPERTISE IN LB605. BUT IN LB173, WE SAY, AH, WE THINK WE KNOW BEST. WE LIKE YOUR RECOMMENDATIONS IN LB605, BUT YOU KNOW WHAT, WHEN IT COMES TO MANDATORY MINIMUMS AND HABITUAL CRIMINALS, WE THINK WE KNOW BETTER. THEY'RE THE EXPERTS, PEOPLE. WE TRUSTED THEM AND SAID THEY'RE THE EXPERTS. LET'S GO WITH THEIR RECOMMENDATIONS AND NOT ADVANCE LB173. THANK YOU, MR. PRESIDENT. [LB173 LB605]

SENATOR KRIST: THANK YOU, SENATOR McCOY. SENATOR KINTNER, YOU'RE RECOGNIZED. [LB173]

SENATOR KINTNER: THANK YOU, MR. PRESIDENT. SENATOR BURKE, WILL YOU YIELD TO A QUESTION OR TWO? [LB173]

SENATOR KRIST: SENATOR BURKE HARR, WILL YOU YIELD? [LB173]

SENATOR HARR: YES. [LB173]

SENATOR KINTNER: I ALWAYS CALL YOU "SENATOR BURKE" BECAUSE THERE'S TWO HARRS, SO. I WAS DOWN AT MY OFFICE IN A MEETING. YOU CAME ON TV, SO I KNEW I HAD TO COME UP HERE BECAUSE YOU WERE PROBABLY SAYING IMPORTANT STUFF. WHO ASKED YOU TO INTRODUCE THIS AMENDMENT? [LB173]

SENATOR HARR: WHO INTRODUCED THE AMENDMENT? [LB173]

SENATOR KINTNER: WHO ASKED YOU TO INTRODUCE IT? WHO GAVE IT TO YOU? [LB173]

SENATOR HARR: ME. [LB173]

SENATOR KINTNER: YOU CAME UP WITH THIS ALL BY YOURSELF? [LB173]

SENATOR HARR: YEAH. [LB173]

SENATOR KINTNER: ON BEHALF OF NOBODY. [LB173]



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SENATOR HARR: ON BEHALF OF NOBODY. I'M AN ARMY OF ONE ON THIS ONE. YEAH. [LB173]

SENATOR KINTNER: OKAY. [LB173]

SENATOR HARR: IF YOU RECALL, I BROUGHT THIS ON SELECT ORIGINALLY. [LB173]

SENATOR KINTNER: OKAY. AND I THINK IT'S BEEN BROUGHT UP, I BELIEVE, THAT THIS IS NOT A CSG RECOMMENDATION AT ALL. SO NOTHING IN HERE IS CSG-RELATED. CORRECT? [LB173]

SENATOR HARR: WE ARE THE POLICYMAKERS, YES. [LB173]

SENATOR KINTNER: OKAY. AND THIS WILL ADDRESS OVERCROWDING, CORRECT, IN SOME WAY? RIGHT? THIS IS TO ADDRESS OVERCROWDING? [LB173]

SENATOR HARR: THAT COULD POSSIBLY HAPPEN, YES. THAT WOULD BE ONE OF THE FACTORS, YES. [LB173]

SENATOR KINTNER: OKAY. THE ORIGINAL BILL DEALING WITH IC AND ID FELONIES, WHICH YOU KNOW A LOT MORE ABOUT THAN I DO SO IF I MISS ANYTHING, YOU TELL ME. [LB173]

SENATOR HARR: YEAH. [LB173]

SENATOR KINTNER: YOU KNOW, THAT ONLY ACCOUNTS FOR A SMALL NUMBER, RIGHT? IT'S ONLY A SMALL NUMBER OF TOTAL FELONIES. [LB173]

SENATOR HARR: THAT I DON'T KNOW. WELL,... [LB173]

SENATOR KINTNER: SO IF WE TOTALLY REVAMPED IT, WE'RE ONLY TALKING ABOUT 2, 3, 4 PERCENT IF WE CUT IT IN HALF OR WHATEVER. IS THAT RIGHT? [LB173]

SENATOR HARR: THAT I DON'T KNOW WHAT PERCENT OF CRIMES ARE ICs AND IDs. I THINK A LOT OF THEM WOULD BE DRUG CRIMES, THOUGH, IF YOU LOOK AT

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IT OF WHAT THOSE ARE. I HAVE A LIST I CAN GIVE YOU WHEN WE'RE OFF MIKE TOO. [LB173]

SENATOR KINTNER: OKAY. WELL, THE INFORMATION I HAVE FROM COUNTY ATTORNEYS TELLING ME THAT IC AND ID FELONIES ACCOUNT FOR LESS THAN 5 PERCENT OF NEW PRISON ADMISSIONS. SO IF WE WERE ABLE TO CUT THOSE IN HALF, WE'VE ONLY IMPROVED PRISON ADMISSIONS BY 2 PERCENT. SO THIS IS NOT GOING TO MAKE SOME BIG DENT IN OVERCROWDING. IS THAT CORRECT? [LB173]

SENATOR HARR: WELL, I CAN ONLY SPEAK FOR MYSELF ON THIS. AND AGAIN, I'M AN ARMY OF ONE. MY INTENT ON THIS IS NOT TO NECESSARILY...AND THIS IS ME. I'M NOT SPEAKING FOR ANYONE ELSE. IT'S NOT NECESSARILY TO LOWER PRISON POPULATION. BUT MORE IMPORTANTLY, IT IS TO ALLOW JUDGES TO HAVE THE ABILITY TO SENTENCE FOR THE CRIME AS THEY SEE FIT, NOT AS WE SEE FIT FOR A CRIME THAT MAY HAPPEN TEN YEARS FROM NOW THAT WE HAVE NO IDEA WHAT THE CIRCUMSTANCES ARE. [LB173]

SENATOR KINTNER: WELL, SINCE YOU'RE NOT INTRODUCING THIS FOR ANYONE, YOU'RE THE ONLY ONE WE CARE ABOUT. [LB173]

SENATOR HARR: WELL, THANK YOU. [LB173]

SENATOR KINTNER: SO, YES, YOU ARE THE IMPORTANT PERSON HERE. OTHER NUMBERS I HAVE IS THE HABITUAL CRIMINAL ADMISSIONS ACCOUNT FOR LESS THAN 1 PERCENT. SO YOU WANT TO GIVE JUDGES MORE FLEXIBILITY, BUT THE END RESULT IS NOT LESS PEOPLE IN PRISON? THE END RESULT IS GOING TO BE MORE FLEXIBILITY? [LB173]

SENATOR HARR: WELL, SO LET ME EXPLAIN. AND THANK YOU. AND I'LL TRY TO GIVE YOU SOME TIME LATER IF YOU WANT. WHAT I'M DOING IS HABITUAL CRIMINALS, WE'RE LOWERING THE SENTENCES ON A LOT OF THESE CRIMES THROUGH LB605 AND THAT'S GREAT, AND THAT'S FINE, THAT'S WELL. BUT WHAT WE NEED TO DO IS HAVE A HAMMER OVER THESE INDIVIDUALS WHO CONTINUE TO AVAIL THEMSELVES TO THE CRIMINAL JUSTICE SYSTEM, WHO CONTINUE TO COMMIT CRIMES. AND APPARENTLY THE MESSAGE ISN'T BEING BROUGHT ACROSS BECAUSE THEY COMMIT A CRIME NOT ONCE, BUT TWICE AND NOW A THIRD TIME, SO WE COME IN WITH A LITTLE HEAVIER HAMMER. AND THAT'S WHY I PERSONALLY AM A FAN OF THE HABITUAL CRIMINAL. [LB173 LB605]

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SENATOR KINTNER: OKAY. THE PRIMARY REASON FOR THE MANDATORY SENTENCE IS WHAT, IN YOUR OPINION? YOU'RE A FORMER PROSECUTOR. YOU'VE BEEN AROUND THE BLOCK A FEW TIMES. [LB173]

SENATOR HARR: ORIGINALLY? [LB173]

SENATOR KINTNER: YES. [LB173]

SENATOR HARR: I THINK IT WOULD BE BETTER TO ASK SENATOR McCOY, WHO WAS IN THE BODY WHEN IT WAS PASSED, NOT MYSELF. [LB173]

SENATOR KINTNER: OKAY. [LB173]

SENATOR KRIST: ONE MINUTE. [LB173]

SENATOR KINTNER: WELL, LET ME GIVE THE REMAINDER OF MY TIME TO SENATOR McCOY AND SEE IF HE HAS ANYTHING HE'D LIKE TO ADD TO THAT. SENATOR HARR, THANK YOU VERY MUCH. [LB173]

SENATOR KRIST: SENATOR McCOY, YOU'RE YIELDED 1 MINUTE. [LB173]

SENATOR McCOY: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR KINTNER. WELL, I THINK, WITHOUT REALIZING IT, SENATOR HARR JUST MADE THE CASE FOR WHY WE SHOULD KEEP MANDATORY MINIMUMS. HE SAID FOR THOSE WHO ARE HABITUAL AND SUPER HABITUAL, WE NEED THE ABILITY TO CONVICT THEM, SENTENCE THEM ON A HABITUAL STATUS FOR A MANDATORY SENTENCE IN PRISON. WE NEED THAT AS A HAMMER. IS THAT OR IS THAT NOT LESS FLEXIBILITY TO A JUDGE WHERE WE'RE DICTATING TO A JUDGE, OKAY, IF WE'RE...IF A PROSECUTOR IS GOING TO CALL OUT AND SAY, WE'RE GOING TO PRESS FOR HABITUAL OR SUPER HABITUAL ON THIS PARTICULAR CASE, WE'VE TAKEN THAT DISCRETION AWAY FROM THE JUDGE. SO SENATOR HARR IS ARGUING LESS FLEXIBILITY FOR A JUDGE ON HABITUAL, MORE FLEXIBILITY FOR A JUDGE ON MANDATORY MINIMUMS. [LB173]

SENATOR KRIST: TIME, SENATOR. THANK YOU, SENATOR McCOY. SENATOR PANSING BROOKS. [LB173]

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SENATOR PANSING BROOKS: QUESTION. [LB173]

SENATOR KRIST: THE QUESTION HAS BEEN CALLED. DO I SEE FIVE HANDS? I DO SEE FIVE HANDS. THE QUESTION BEFORE THE BODY IS, SHALL DEBATE CEASE ON THE MOTION TO RETURN LB173 FOR AMENDMENT? ALL THOSE IN FAVOR VOTE AYE; OPPOSED, NAY. SENATOR HARR. [LB173]

SENATOR HARR: THANK YOU, MR. PRESIDENT. I WOULD REQUEST A CALL OF THE HOUSE. IN...WELL, LET ME THINK ABOUT THAT. NEVERMIND. [LB173]

SENATOR KRIST: PLEASE RECORD, MR. CLERK. [LB173]

ASSISTANT CLERK: 26 AYES, 7 NAYS TO CEASE DEBATE, MR. PRESIDENT. [LB173]

SENATOR KRIST: DEBATE DOES CEASE. SENATOR HARR, YOU'RE RECOGNIZED TO CLOSE ON YOUR MOTION. [LB173]

SENATOR HARR: THANK YOU, MR. PRESIDENT. FOLKS, WE'VE ALREADY HAD A GREAT DEAL OF DEBATE ABOUT AM1641. THIS IS NOT TO DEBATE AM1641, BUT THIS IS TO CARRY ON THE CONVERSATION REGARDING AM1641. IN MY OPENING, I WILL REFUTE A LOT OF THE ARGUMENTS THAT HAVE ALREADY BEEN MADE, BUT WHAT I WILL TELL YOU IS THAT THERE IS A DIFFERENCE BETWEEN A MANDATORY MINIMUM ON A HABITUAL THAN THERE IS ON THESE OTHER CRIMES. IT'S A BIG DIFFERENCE. A LOT OF THESE PEOPLE MAY BE ELIGIBLE FOR A SUPER HABITUAL OR THEY'VE REPEATEDLY AVAILED THEMSELVES, AS I LIKE TO SAY, TO THE SYSTEM, AS OPPOSED TO INDIVIDUALS WHO MAY BE A ONE-TIME CRIME AND THERE MAY BE CIRCUMSTANCES THAT DO NOT WARRANT SUCH A STRONG SENTENCE. AND I WILL GO INTO GREATER DETAIL. BUT WHAT I'D LIKE IS TO ASK YOU TO PLEASE RETURN THIS TO SELECT FILE SO WE MAY HAVE THIS DEBATE, WHICH I THINK IS IMPORTANT. THANK YOU. [LB173]

SENATOR KRIST: THANK YOU, SENATOR HARR. JUST TO REMIND YOU, WE ARE VOTING ON THE MOTION TO RETURN LB173 TO SELECT FILE FOR AN AMENDMENT, AM1641. ALL THOSE IN FAVOR VOTE AYE; OPPOSED, NAY. HAVE ALL THOSE VOTED THAT WISH TO? PLEASE RECORD, MR. CLERK. [LB173]

ASSISTANT CLERK: 28 AYES, 6 NAYS ON THE MOTION TO RETURN THE BILL, MR. PRESIDENT. [LB173]

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SENATOR KRIST: BILL IS RETURNED. SENATOR HARR, YOU'RE RECOGNIZED TO OPEN ON AM1641. [LB173]

SENATOR HARR: THANK YOU, MR. PRESIDENT. AND I'LL PROBABLY KEEP THIS BRIEF BECAUSE WE'VE ALREADY HAD A LOT OF DEBATE AND I TALKED A LOT ABOUT THIS ON MY INTRODUCTION ON THE MOTION TO RETURN TO SELECT FOR AMENDMENT. BUT I THINK, FOLKS, WHAT WE HAVE TO BE CAREFUL AND COGNITIVE OF IS THERE IS A DIFFERENCE BETWEEN FAIRNESS AND EQUALITY. AND ANYONE WHO IS A PARENT IN THIS ROOM UNDERSTANDS THAT DIFFERENCE. YOU TREAT DIFFERENT CHILDREN DIFFERENTLY TO GET THE OUTCOME THAT YOU DESIRE. THINK ABOUT THAT. YOU HAVE TWO CHILDREN. DO YOU ALWAYS GIVE THE EXACT SAME PUNISHMENT IN THE EXACT SAME WAY TO THE EXACT SAME PERSON...OR TO TWO DIFFERENT PEOPLE? AND THE ANSWER IS NO. YOU TAKE INTO ACCOUNT THE SITUATION AND CIRCUMSTANCES THAT SURROUND. I ALWAYS SAY THERE ARE TWO PORTIONS OF A CRIMINAL TRIAL OR PROCEEDING AGAINST AN INDIVIDUAL. THERE IS THE GUILT STAGE AND THERE IS THE SENTENCING STAGE. WE'RE NOT TALKING HERE ABOUT THE GUILT STAGE. THESE ARE PEOPLE WHO HAVE BEEN CONVICTED OR WHO HAVE PLED OR BEEN FOUND GUILTY. OKAY? WE'RE TALKING ABOUT THE SENTENCING STAGE HERE AND THAT IS WHAT IS THE PROPER SENTENCE FOR AN INDIVIDUAL? AND YOU HAVE TO LOOK AT THE TOTALITY OF THE CIRCUMSTANCES. YOU...I WOULD ENCOURAGE ANYONE TO GO HOME AND TALK TO THEIR JUDGES IN THEIR AREA. IN DOUGLAS COUNTY, I THINK WE HAVE 16 DISTRICT COURT JUDGES AND I'VE SPOKEN TO I THINK ALMOST EVERY ONE OF THEM ABOUT THIS ISSUE. AND RESOUNDINGLY, WHETHER THEY'RE FORMER PROSECUTORS OR FORMER PUBLIC DEFENDERS OR IF THEY COME FROM THE PRIVATE SECTOR, THEY DO NOT LIKE MANDATORY MINIMUMS. IT FEELS AS THOUGH IT TIES ONE ARM BEHIND THEIR BACK AND THEY HAVE TO DO...TO SENTENCE INDIVIDUALS TO SOMETHING THEY PERSONALLY DO NOT FEEL IS FAIR SO THAT WE CAN WORSHIP AT THE ALTAR OF EQUALITY. A COMMENT WAS MADE EARLIER THAT YOU COULD HAVE A SITUATION WHERE ONE PERSON GETS PROBATION AND THE OTHER PERSON GETS A MAXIMUM. WELL, ICs AND IDs, YOU CAN'T GET PROBATION, SO THAT KIND OF IS OUT THE WINDOW. BUT EVEN...THERE'S NOTHING IN THIS BILL THAT FORCES A JUDGE OR PREVENTS A JUDGE FROM GIVING ONE PERSON A MANDATORY MINIMUM AND THE OTHER A MAXIMUM. AND THERE'S INEQUALITY THERE. THERE IS ALWAYS GOING TO BE SOME INEQUALITY. THAT'S JUST THE NATURE OF THE BUSINESS. AND BY THAT INEQUALITY, I MEAN YOU ARE GOING TO HAVE TWO PEOPLE WHO GET TWO DIFFERENT SENTENCES AND THAT'S BECAUSE PROBABLY THE SITUATION SURROUNDING THEM ARE JUST THAT--DIFFERENT. DOES THIS AFFECT PUBLIC

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SAFETY? WELL, IF YOU DON'T HAVE FAITH IN THE JUDGES THAT OUR GOVERNOR APPOINTS, WHO GO THROUGH A RIGOROUS PROCESS BEFORE THE GOVERNOR GETS THEM TO SAY, HEY, MEMBERS OF THE BAR, MEANING LAWYERS, AND CITIZENS, LOOK AT PEOPLE WHO APPLY TO BE JUDGE AND SAY YOU ARE QUALIFIED OR NOT QUALIFIED. THEN THOSE WHO ARE QUALIFIED, THEIR NAME IS ADVANCED TO THE GOVERNOR AND THE GOVERNOR THEN SELECTS THAT PERSON. IF YOU'RE SAYING THAT PROCESS IS BROKEN, THEN LET'S ADDRESS THAT PROCESS THAT WE CAN'T TRUST OUR JUDGES. MAYBE THE PROCESS OF SELECTING OUR JUDGES IS A PROBLEM, NOT THE SENTENCES THEY GIVE. THIS IS NOT FOR ME A SITUATION OF MORE OR LESS PEOPLE BEHIND BARS, FOR ME. THIS IS ABOUT LETTING JUDGES DO WHAT THEY THINK IS FAIR AND RIGHT IN ANY GIVEN SITUATION WITH ANY GIVEN CRIMINAL WHO DOES ICs AND IDs. AND REMEMBER, I HAVE A LIST HERE, IF ANYONE WANTS IT, WHAT THOSE CRIMES ARE. THERE'S NOTHING THAT PREVENTS A JUDGE FROM GIVING THAT SENTENCE OF WHAT THE MANDATORY MINIMUM IS TODAY, OR GIVING MORE, NOTHING. THEY CAN STILL DO THAT AND THEY WILL STILL DO THAT. AS I SAID EARLIER, THEY ARE COGNITIVE OF THE FACT THAT WE ARE WATCHING THEM AND WE'RE WATCHING THEM CAREFULLY. NOW, THERE WAS AN ARGUMENT MADE THAT I, BY SAYING I LIKE THE HABITUAL PORTION OF THIS BILL, THAT I'M SAYING MANDATORY MINIMUMS ARE GOOD. NO. WHAT I'M SAYING IS WE HAVE LB605. UNDER LB605 YOU HAVE CRIMES WHERE THERE IS PRESUMPTION OF PROBATION, CLASS IV FELONIES, WHERE YOU COULD GET A YEAR. BUT THE MAX ON THOSE IS TWO YEARS, WHICH WITH GOOD TIME WOULD BE ONE YEAR, ASSUMING NO LOSS OF GOOD TIME. IN ADDITION, YOU HAVE CLASS IIIs, WHICH CURRENTLY ARE 1 TO 20, WILL GO TO 0 TO 4. OKAY? SO YOU HAVE INDIVIDUALS WHO ARE GIVEN THE MAX FOR WHAT THEY DO, FOUR YEARS. AND WHAT HAPPENS THEN? THEY SERVE TWO, ASSUMING NO LOSS OF GOOD TIME, AND THEY GO OUT AND COMMIT ANOTHER CRIME. WELL, OBVIOUSLY THAT MAX DIDN'T GET THEM. AND SO FOR THOSE INDIVIDUALS...AND THEY'RE RARE. I'VE HEARD LESS THAN 1 PERCENT, BUT THEY DO EXIST. WHAT I WANT IS TO SAY, LET'S PUT A HAMMER ON THEM, TEN YEARS. THAT'S WHY I LIKE THE HABITUAL, BECAUSE IT INCITES...IT PROMOTES GOOD LAW ENFORCEMENT, GOOD FOLLOWING ADHERENCE TO THE LAW. SENATOR CHAMBERS AND I DISAGREE ON THAT. HE DOES NOT LIKE HABITUAL. SOME PEOPLE THINK THERE'S ABUSE OF THE HABITUAL. WHAT I WILL TELL YOU IS I THINK IT'S A GOOD TOOL. BUT SENATOR CHAMBERS AND I CAME TO AGREEMENT THAT HE WOULD PULL THAT PORTION OF IT, AND I THANK HIM FOR THAT. I FULLY SUPPORT LB173 WITH AM1641 BECAUSE I DO SEE A NEED TO GIVE OUR JUDGES THE FLEXIBILITY TO DO WHAT THEY THINK IS RIGHT AND NOT BE HAMSTRUNG BY SOMETHING WHERE WE IN THE LEGISLATURE, THE POLICYMAKERS, HAVE NO IDEA WHAT THE FACTS OF

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THE CASE ARE, WHY THE INDIVIDUAL DID...MADE THE POOR CHOICE THAT THEY DID. BUT THIS IS AN IMPORTANT DECISION. AND WE CAN'T JUST ABDICATE OUR POWER TO A THIRD PARTY, UNELECTED, WHO ARE SELF-PROCLAIMED BEST OF THE BEST. WE'RE THE POLICYMAKERS, NOT SOME THIRD PARTY. WE ARE THE POLICYMAKERS. WE'RE THE ONES WHO LIVE IN NEBRASKA. WE'RE THE ONES WHO DEAL WITH OUR CONSTITUENTS. WE'RE THE ONES WHO WERE SENT HERE BY OUR CONSTITUENTS TO BE THE POLICYMAKERS. WE WERE NOT BROUGHT DOWN HERE TO HAVE THIRD PARTIES, NO MATTER HOW GOOD THEY ARE, TELL US HOW TO DO THINGS AND JUST TO PUSH OUR BUTTONS. OKAY? WE'RE BROUGHT DOWN HERE TO THINK AND THAT'S WHAT I'M ASKING YOU TO DO. AND I WOULD ASK FOR YOUR SUPPORT ON AM1641 AND WOULD BE MORE THAN WILLING TO ENTERTAIN ANY QUESTIONS ANYONE HAS. AND WITH THAT, I THANK YOU. [LB173 LB605]

SENATOR KRIST: THANK YOU, SENATOR HARR. MR. SPEAKER, YOU ARE RECOGNIZED FOR AN ANNOUNCEMENT. [LB173]

SPEAKER HADLEY: YES. JUST A QUICK NOTICE THAT THERE WILL BE NO SUPPER TONIGHT. WE'LL BE DONE BY 7:00. THERE WILL BE NO LUNCH TOMORROW. WE'LL WORK THROUGH LUNCH, QUIT IN MIDAFTERNOON. THANK YOU.

SENATOR KRIST: THANK YOU, MR. SPEAKER. YOU HAVE HEARD THE OPENING ON AM1641. THOSE WISHING TO SPEAK: SENATOR CHAMBERS, JOHNSON, BRASCH, GROENE, AND OTHERS. SENATOR CHAMBERS, YOU ARE RECOGNIZED. [LB173]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, NOW THAT WE'RE ON THE AMENDMENT THAT SENATOR HARR IS OFFERING, I'M GOING TO SEE IF I CAN MAKE IT CLEAR WHAT IS BEING OFFERED BY HIS AMENDMENT. ON THE LAW BOOKS RIGHT NOW IS WHAT WE CALL THE HABITUAL CRIMINAL STATUTES. IF YOU COMMIT ANY TWO FELONIES, THEY HAVE TO HAVE A YEAR...BUT LET ME NOT GET INTO THOSE FINE POINTS, KEEP IT SIMPLE. IF YOU COMMIT TWO FELONIES, THOSE TWO CONVICTIONS PROVIDE THE BASIS SO THAT IF YOU COMMIT A THIRD FELONY, THAT THIRD FELONY IS WHAT IS ENHANCED. YOU FORGET WHAT THE SENTENCE IS FOR THAT FELONY STANDING ALONE. AND IF THE PROSECUTOR DECIDES HE'S GOING TO USE THE PRIOR TWO CONVICTIONS, HE CAN THEN CHARGE YOU WITH BEING AN HABITUAL CRIMINAL AND THE SENTENCE FOR THAT THIRD FELONY IS OUT THE WINDOW. IN A SENSE, YOU HAVE CREATED AN ENTIRELY NEW CRIME. AND UNDER THAT NEW CREATION, BECAUSE OF THAT THIRD FELONY, YOU CAN GET

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THAT MANDATORY MINIMUM OF EITHER 10 OR 25. THAT'S AS SIMPLE AS I CAN MAKE IT. NOW, THE PROSECUTOR DOES NOT HAVE TO CHARGE A PERSON WITH BEING A HABITUAL CRIMINAL. IF THE TWO PRIORS ARE VIOLENT AND THE THIRD IS VIOLENT, THE PROSECUTOR HAS TOTAL DISCRETION TO IGNORE THAT. YOU HAVE SO FEW SERVING TIME IN PRISON AS HABITUAL CRIMINALS, NOT BECAUSE THEY DIDN'T COMMIT THREE FELONIES. THAT'S THE ONLY WAY YOU COULD QUALIFY. IT'S BECAUSE OF PLEA BARGAINS WITH THE COUNTY ATTORNEY. SO SENATOR GROENE AND SENATOR McCOY AND SENATOR BRASCH AND SENATOR SCHNOOR THINK THAT SOMEBODY IS BEING SOFT ON CRIME. IT'S THE PROSECUTOR WHO LETS THESE PLEA BARGAINS BE MADE WITH PEOPLE WHO HAVE COMMITTED THREE FELONIES. RIGHT NOW THE MAJORITY OF PEOPLE WHO COMMIT THREE FELONIES ARE NOT CHARGED AS HABITUAL CRIMINALS. THE PROSECUTORS TELL YOU THAT. THEY TELL YOU THAT CHARGE IS RARELY USED. BUT IF THERE ARE MANY, MANY PEOPLE WHO COULD QUALIFY FOR THAT CHARGE BECAUSE THEY'VE COMMITTED THREE FELONIES, WHO IS SOFT ON CRIME BY LETTING THEM ESCAPE THE HABITUAL CRIMINAL CHARGE? THE PROSECUTOR. YOU ALL FOR SOME REASON REFUSE TO UNDERSTAND THE REALITY. THAT'S WHAT MAKES THESE DISCUSSIONS DIFFICULT BECAUSE THE PEOPLE DOING THE MOST TALKING DON'T UNDERSTAND. THEY UNDERSTAND THE LEAST. HERE'S WHAT SENATOR HARR'S AMENDMENT WILL DO. IT WILL STRIP FROM LB173 EVERY REFERENCE TO HABITUAL CRIMINAL ACTIVITY. THE EXISTING HABITUAL CRIMINAL STATUTES ON THE BOOKS WILL REMAIN EXACTLY THAT, TOTALLY UNTOUCHED BY LB173. WHAT SENATOR HARR IS SAYING, THAT IF YOU ADOPT HIS AMENDMENT, LB173 TAKES HIS HANDS OFF THE HABITUAL CRIMINAL STATUTES, LEAVES THEM ALONE. IF YOU ADOPT HIS AMENDMENT, LB173 DOES NOT TOUCH THE HABITUAL CRIMINAL STATUTES AT ALL. I DON'T KNOW HOW I CAN MAKE IT PLAINER. SO IF YOU THINK... [LB173]

SENATOR KRIST: ONE MINUTE, SENATOR. [LB173]

SENATOR CHAMBERS: ...THAT THE WAY THE PROSECUTORS ARE HANDLING THE HABITUAL CRIMINAL STATUTE, VOTE FOR HIS AMENDMENT AND LEAVE THEM WITH THAT TOTAL DISCRETION, WHICH IS WHAT THEY HAVE NOW. LB173 WILL HAVE NO IMPACT ON THE HABITUAL CRIMINAL STATUTES AT ALL IF YOU ACCEPT SENATOR HARR'S AMENDMENT. AND I WILL SUPPORT HIS AMENDMENT, EVEN THOUGH I DON'T LIKE WHAT IT DOES. THANK YOU, MR. PRESIDENT. [LB173]

PRESIDENT FOLEY PRESIDING



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PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. SENATOR JOHNSON, YOU'RE RECOGNIZED. [LB173]

SENATOR JOHNSON: THANK YOU, LIEUTENANT GOVERNOR. COLLEAGUES, THIS IS THE FIRST TIME I'VE SPOKE ON LB173 TODAY, BUT IT'S PROBABLY AT LEAST THE THIRD TIME THAT I WANT TO MAKE A COMMENT FOR THE RECORD AND IT HAS TO DO WITH MINIMUM SENTENCES AND A BILL THAT I INTRODUCED THAT GOT OUT OF COMMITTEE WITH SEVERAL AMENDMENTS, NOT AMENDMENTS THAT I SUPPORT. BUT MY POINT IS I KNOW WE'RE TRYING TO CHANGE SOME REGULATIONS AND LESSEN SOME PENALTIES, IT APPEARS. I DON'T WANT TO BE PART, BECAUSE OF MY BILL OR ACTION THAT I MIGHT TAKE, TO LESSEN SOME OF THE PENALTIES IN OMAHA. WHAT I ASKED FOR WAS RURAL COMMUNITIES BE TREATED THE SAME AS METROPOLITAN COMMUNITIES. THAT'S ALL MY BILL ASKS FOR. PEOPLE THAT I'VE TALKED TO DEALING WITH MY BILL, I'VE TALKED WITH SENATOR CHAMBERS A LITTLE BIT, HE INDICATES THAT THE MINIMUM SENTENCES WOULD NOT PLAY A PART ON MY BILL. BUT JUST FOR THE RECORD, I DON'T WANT TO BE PART OF LESSENING THE PENALTIES IN OMAHA. AND I, AT THIS POINT, WILL NOT SUPPORT LB173. I UNDERSTAND SENATOR HARR'S AMENDMENT AFFECTS HABITUAL CRIMINALS AND MY ISSUE AT THIS POINT DOES NOT DEAL WITH THAT. SO I WANTED TO GET THAT ON THE RECORD. THANK YOU, MR. PRESIDENT. [LB173]

PRESIDENT FOLEY: THANK YOU, SENATOR JOHNSON. SENATOR BRASCH, YOU'RE RECOGNIZED. [LB173]

SENATOR BRASCH: THANK YOU, MR. PRESIDENT. AND THANK YOU ONCE AGAIN, COLLEAGUES. I ALSO CONTINUE TO HAVE GREAT CONCERNS ON LB173. AND WHEN WE TALK ABOUT WHAT DOES A MANDATORY MINIMUM SENTENCE MEAN, IT MEANS THAT THE SENTENCE... THAT THE OFFENDER IS INELIGIBLE TO BE SENTENCED TO PROBATION AND MUST SERVE TIME IN PRISON. GOOD TIME DOES NOT APPLY TO THE MINIMUM PERIOD OF THE SENTENCE. FOR EXAMPLE, IF AN OFFENDER IS CONVICTED OF A CLASS IC FELONY, HE OR SHE WILL NOT RECEIVE ANY GOOD TIME CREDIT FOR THE MANDATORY MINIMUM PERIOD OF FIVE YEARS. I BELIEVE THAT WE ONCE AGAIN MUST LOOK AT WHAT THE UNINTENDED CONSEQUENCES MAY BE. I WOULD LIKE TO YIELD THE REST OF MY TIME TO SENATOR McCOY. [LB173]

PRESIDENT FOLEY: SENATOR McCOY, 3 MINUTES AND 55 SECONDS. [LB173]

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SENATOR McCOY: THANK YOU, MR. PRESIDENT. AND THANK YOU, SENATOR BRASCH. I'M GOING TO MAKE A COUPLE COMMENTS AND THEN I'M GOING TO ASK SENATOR HARR TO YIELD BECAUSE I WANT TO MAKE SURE WE'RE VERY CLEAR FOR THE RECORD ON WHAT'S GOING ON HERE. SENATOR HARR TALKED ABOUT, JUST A FEW MOMENTS AGO, TALKED ABOUT EQUALITY. AND WHAT HE SAID ABOUT EQUALITY IS TRUE UNDER CURRENT LAW, UNDER CURRENT LAW. BUT IT'S NOT TRUE IF LB173 IS ADOPTED WITH HIS AMENDMENT, BECAUSE HIS AMENDMENT GETS RID OF MANDATORY MINIMUMS FOR CLASS IC AND ID FELONIES. SO WITHOUT MANDATORY MINIMUMS, YOU CAN HAVE...AND I MENTIONED THIS WHEN I FIRST STOOD UP ON THE MICROPHONE THIS AFTERNOON. SO WITHOUT MANDATORY MINIMUMS, YOU CAN HAVE ONE OFFENDER GET PROBATION AND ANOTHER PERSON GET A PRISON SENTENCE FOR THE SAME IC OR ID FELONY. SO WHAT SENATOR HARR TALKED ABOUT IS TRUE WITH CURRENT LAW, BUT NOT IF HIS AMENDMENT GOES FORWARD BEING ADDED TO LB173. THAT'S PROBLEMATIC. WE SHOULD HAVE EQUALITY UNDER THE LAW. AND IT HAS NOTHING AT ALL TO DO WITH SAYING WE DON'T TRUST JUDGES. AGAIN, THAT WAS NOT PART OF THE DISCUSSION THAT I RECALL AT ALL BACK IN 2009 WHEN 11 OF US THAT ARE STILL HERE IN THE BODY VOTED TO ADVANCE LB97 AND LB63. I GO BACK TO WHAT I SAID EARLIER ON MY LAST TIME ON THE MICROPHONE. I'M NOT SURE HOW WE CAN SAY, WELL, WE WANT TO TAKE OUT OF THE HANDS OF JUDGES THE ABILITY TO COME UP WITH THEIR SENTENCE WHEN WE'RE TALKING ABOUT A HABITUAL CRIMINAL OR SUPER HABITUAL, UNDER THOSE STATUTES, BUT WE WANT TO SAY WE STILL ARE GOING TO...THEN WE'RE GOING TO GIVE JUDGES THE ABILITY TO COME UP WITH A SENTENCE ON THE CRIMES THAT FALL UNDER THE MANDATORY MINIMUM STATUTES. THOSE ARE TWO DIFFERENT CONCEPTS. IT'S INCONSISTENT TO MAKE THAT CASE. THAT'S WHY I'M OPPOSED TO THIS BILL IN ITS ENTIRETY. YES, I HAVE A PROBLEM WITH REMOVING THE HABITUAL COMPONENT OF THIS. I THINK HABITUAL OFFENDERS SHOULD HAVE HEAVY SENTENCES WHEN THEY HIT THE THIRD OFFENSE, FELONY OFFENSE. AND CONTRARY TO WHAT SENATOR CHAMBERS HAS TALKED ABOUT... [LB173]

PRESIDENT FOLEY: ONE MINUTE. [LB173]

SENATOR McCOY: ...SENATOR SCHEER BROUGHT THIS UP, I BELIEVE, ON GENERAL FILE. FINANCIAL CRIMES AND THE EMBEZZLEMENT AND THE SWINDLING OF HARDWORKING NEBRASKANS IS A SERIOUS CRIME, TOO, AND THE HABITUAL STATUTES SHOULD COME INTO PLAY FOR THAT. THAT'S A SERIOUS CRIME. YOU CAN'T SAY WE TRUST JUDGES TO COME UP WITH A SENTENCE FOR MANDATORY MINIMUMS AND SAY, WELL, BUT WE WANT TO STILL SAY, JUDGE, YOUR HONOR,

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FOR THESE INDIVIDUALS THAT ARE HABITUAL CRIMINALS, WE'RE GOING TO GO AHEAD AS A PROSECUTOR AND PRESS FOR THIS THREE STRIKES LAW, BASICALLY, AND THEY'RE GOING TO GET THIS HEAVY SENTENCE IF THEY'RE CONVICTED AND SENTENCED. DO YOU SEE THE INCONSISTENCIES HERE? THIS IS SERIOUS STUFF. LET'S MAKE SURE WE DO THIS RIGHT. THANK YOU, MR. PRESIDENT. [LB173]

PRESIDENT FOLEY: THANK YOU, SENATOR McCOY. SENATOR GROENE, YOU'RE RECOGNIZED. [LB173]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. I DID READ THE LAW, SENATOR CHAMBERS, AND WHEN I WAS DISCUSSING IT, IT WAS ON FINAL READING AND IT WAS NO. THERE WAS A PROPOSAL FOR AN AMENDMENT, BUT UNTIL WE SENT IT BACK TO SELECT THAT AMENDMENT DIDN'T EXIST YET. SO WHEN I WAS DISCUSSING IT, I WAS TALKING ABOUT THE FINAL READING VERSION WHERE WE WERE AT. I'VE GOT A QUESTION FOR YOU, SENATOR CHAMBERS. WOULD YOU ANSWER IT? [LB173]

PRESIDENT FOLEY: SENATOR CHAMBERS, WOULD YOU YIELD, PLEASE? [LB173]

SENATOR CHAMBERS: YES. [LB173]

SENATOR GROENE: ON YOUR BILL, YOU'RE AGAINST THE DEATH PENALTY AND WE TOOK A VOTE EARLIER THAT WE WOULD REPEAL IT, RIGHT? ON LINE 7 OF YOUR BILL, LB173, IT SAYS PENALTY FOR CLASS I FELONY, DEATH. HOW DID YOU EVER SIGN ON TO A BILL UNDER YOUR NAME THAT RECOMMENDED DEATH FOR A CLASS I FELONY? [LB173]

SENATOR CHAMBERS: BECAUSE THAT WAS NOT DEALING WITH THE DEATH PENALTY SINCE I HAD A DEATH PENALTY BILL THERE. AND WHEN THE DEATH PENALTY BILL PASSED AS IT DID TODAY, ANY CORRELATION OR MODIFICATION WOULD BE TAKEN CARE OF. THAT LB173 WAS NOT DESIGNED TO ABOLISH THE DEATH PENALTY. [LB173]

SENATOR GROENE: THANK YOU. BUT IF WE PASS THIS AND WE PASS LB268, AND WE DO LB268 FIRST AND WE DO THIS ONE SECOND, DOES THE SECOND ONE OVERRULE THE FIRST ONE? I ALWAYS HEARD, JUST HEARSAY, THAT THE LAST ONE PASSED SUPERSEDES THE ONE BEFORE IT. SO ANYWAY, I'M CONFUSED. I'M

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SURE THAT WILL BE STRAIGHTENED OUT AND SENATOR CHAMBERS WILL REMOVE DEATH FOR CLASS I FELONY. BUT I DID READ THE BILL. I'M STILL AGAINST THIS. SENATOR HARR, WOULD YOU TAKE A QUESTION? [LB173 LB268]

PRESIDENT FOLEY: SENATOR HARR, WILL YOU YIELD, PLEASE? [LB173]

SENATOR HARR: YES, I WILL. [LB173]

SENATOR GROENE: ALL RIGHT. SO TELL ME IF I'M WRONG. [LB173]

SENATOR HARR: YES. (LAUGHTER) [LB173]

SENATOR GROENE: CLASS ID--PLEASE DO THAT (LAUGHTER)--CLASS ID FELONY WOULD DROP TO MANDATORY...A MINIMUM OF THREE YEARS IMPRISONMENT. [LB173]

SENATOR HARR: INSTEAD OF MANDATORY MINIMUM, YES. [LB173]

SENATOR GROENE: YEAH. AND I'VE GOT THE CLASS I...I'LL JUST READ THE FIRST ONE: KIDNAPPING, CERTAIN SITUATIONS COMMITTED AGAINST A PERSON BECAUSE OF HIS OR HER RACE, COLOR, RELIGION, ANCESTRY, NATIONAL ORIGIN, GENDER, SEXUAL ORIENTATION, AGE, OR DISABILITY, OR BECAUSE OF HIS OR HER ASSOCIATION WITH SUCH A PERSON. THAT'S THE FIRST ONE. THEY COULD GET... [LB173]

SENATOR HARR: YEAH. WE CALL THOSE HATE CRIMES. [LB173]

SENATOR GROENE: ALL RIGHT. THEY COULD GET THAT MINIMUM THREE-YEAR IMPRISONMENT. ALL RIGHT? [LB173]

SENATOR HARR: MAXIMUM 50, THAT IS CORRECT. [LB173]

SENATOR GROENE: YEAH. SO A JUDGE COULD GIVE THEM A MINIMUM; IN THREE YEARS THEY COULD GET OUT. THEN THEY COULD DO IT AGAIN AND THEY COULD DO IT AGAIN AND THEY COULD DO IT AGAIN AND DO IT AGAIN AND THEY COULD ALL GET A THREE-YEAR SENTENCE BECAUSE...UNLESS THE JUDGE

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ON...AFTER THE THIRD TIME SAID IT WAS HABITUAL, RIGHT? AND THEY COULD ALL GET PROBATION AFTER, BECAUSE NOW IT ISN'T MANDATORY. [LB173]

SENATOR HARR: WELL, THEY COULDN'T GET PROBATION BECAUSE THERE'S STILL THE MANDATORY MINIMUM ON THERE...OR THE MINIMUM ON THERE OF THREE YEARS. SO, YEAH, THE ANSWER IS YOU COULD KIDNAP TWICE. THE THIRD TIME YOU WOULD BE ELIGIBLE TO THE HABITUAL, WHICH WOULD BE... [LB173]

SENATOR GROENE: BUT THAT WOULD BE DISCRETIONARY OF THE COUNTY ATTORNEY. [LB173]

SENATOR HARR: PROSECUTOR, THAT IS CORRECT. BUT THERE IS ALSO THE ABILITY, IF THERE IS ANYTHING TO DO WITH ACROSS STATE LINES, THEN THE FEDS CAN STEP IN AS WELL. [LB173]

SENATOR GROENE: THANK YOU. THANK YOU. ANYWAY, THEY COULD MULTIPLY COMMIT THESE CRIMES AND THEY COULD ALL BE ON PROBATION AFTER THE SECOND OR THIRD TIME IF THE JUDGE WAS LENIENT. I'M CONFUSED ABOUT THE VIEW OF SOME THAT SAYS WE REALLY TRUST OUR JUDGES. I'VE HEARD THAT A COUPLE OF TIMES IN THIS BILL, THE DISCRETION OF OUR JUDGES. BUT A LITTLE BIT AGO ON LB268 WE WERE TOLD WE DON'T TRUST THE THREE-JUDGE PANEL'S DISCRETION... [LB173 LB268]

PRESIDENT FOLEY: ONE MINUTE. [LB173]

SENATOR GROENE: ...TO DO THE RIGHT THING WHEN WE GAVE THEM A CHOICE BETWEEN THE DEATH PENALTY OR LIFE IMPRISONMENT. WHAT'S YOUR DEFINITION OF DISCRETION OF THE JUDICIARY? I GUESS WE'RE WISER. LIKE I SAID, I DID READ THIS BILL. I'M AGAINST IT BECAUSE OF WHAT I JUST SAID. I WAS AGAINST IT BY REMOVING...WELL, IT'S STILL REMOVES, THIS BILL STILL REMOVES, STILL HAS REMOVING AND MAKING HABITUAL CRIMINALS LAW EASIER BECAUSE AM1641 HASN'T BEEN ADOPTED. SO I DID READ THE BILL. IT MAKES THE SENTENCES NOW ONLY MINIMUM ON TWO MAJOR CLASS FELONIES, WHICH I JUST SAID WHY. THE COUNTY ATTORNEYS DON'T LIKE IT. THE TRIAL ATTORNEYS DON'T LIKE IT. THE JUDGES DON'T LIKE IT. AND IT'S GOING TO LET CRIMINALS OUT ON THE STREET. IT'S GOING TO LET THEM OUT THERE A LONGER TIME. [LB173]

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PRESIDENT FOLEY: TIME, SENATOR. [LB173]

SENATOR GROENE: THANK YOU. [LB173]

PRESIDENT FOLEY: THANK YOU, SENATOR GROENE. SENATOR SCHEER, YOU'RE RECOGNIZED. [LB173]

SENATOR SCHEER: THANK YOU, MR. LIEUTENANT GOVERNOR. TOOK A LONG TIME TO GET THROUGH THE QUEUE, WELL OVER AN HOUR. I SORT OF FEEL LIKE WE'RE STILL BACK THIS MORNING WHEN EVERYTHING WAS BLOCKED OUT. I HAVE TO AGREE WITH SENATOR BURKE HARR IN HIS COMMENTS THAT WE ARE THE POLICYMAKERS. WE DO MAKE THE DECISIONS. THAT'S WHAT WE WERE SENT HERE TO DO, NOT THIRD PARTIES. BUT HAVING SAID THAT, THAT ALSO MEANS THAT, REGARDLESS OF WHAT THE FEDERAL GOVERNMENT MAY OR MAY NOT THREATEN TO DO OR ANY OTHER ENTITY OR ORGANIZATION MAY THREATEN TO DO OR NOT TO DO, SHOULDN'T IMPACT THE POLICIES THAT WE BELIEVE ARE CORRECT FOR THE STATE OF NEBRASKA. NOW, I AM NOT AN ATTORNEY. I, FOR THE MOST PART, HAVEN'T ANY KNOWLEDGE WITHIN THE LAW, BUT I DID TAKE THE TIME TO CONTACT THE COUNTY ATTORNEYS AND THEY ARE OPPOSED TO LB173. COUNTERPOINT: SOMEBODY CAN JUMP UP, WELL, OF COURSE THEY ARE; THEY DON'T TRUST THE JUDGES. WELL, OKEY-DOKEY. I CALLED THE COUNTY JUDGE, DISTRICT JUDGE THIS MORNING; SAID I JUST WANT TO DOUBLE-CHECK. WHERE AM I AT? WHAT ARE YOUR THOUGHTS? WE DON'T NEED IT. WE DON'T WANT IT. AND, FOLKS, BOTH OF THESE ARE DULY ELECTED REPRESENTATIVES. THIS ISN'T HOLIER THAN THOU ON THIS FLOOR. WE'RE ELECTED, BUT SO ARE THEY. WE HAVE PEOPLE THAT ARE IN CHARGE OF PROTECTING US, I.E., PROSECUTING THOSE THAT HAVE BROKEN THE LAW OR HAVE BEEN ACCUSED OF BREAKING THE LAW, THOSE THAT PROVIDE A FAIR ATMOSPHERE TO DETERMINE THAT GUILT AND THEN TO DETERMINE THE PENALIZATION. THOSE INVOLVED WITH IT, BOTH THE ATTORNEYS AND THE JUDGES, DO NOT SEE THE NEED FOR THIS BILL. I'VE HEARD OPTIONS THAT WE HAVE. BUT THE ONE OPTION THAT WE HAVE NOT TALKED ABOUT IS THAT WE DON'T HAVE TO DO ANYTHING IN REGARDS TO LB173. WE DON'T HAVE TO VOTE FOR AM1641 OR AGAINST AM1641. WE DON'T NEED TO PASS LB173 IN WHATEVER POSITION IT IS AT WHATEVER POINT IN TIME. I TRUST MY COUNTY ATTORNEY. I TRUST THE JUDGES IN THIS STATE. I THINK THEY DO A GOOD JOB. ARE THEY FLAWLESS? ABSOLUTELY NOT. ARE WE? OBVIOUSLY NOT. NO HUMAN IS. BUT HAVING SAID THAT, THOSE THAT ARE IN CHARGE OF PROTECTING US HAVE REQUESTED THAT THIS NOT BE ENACTED. I FOR ONE AM GOING TO FOLLOW THAT BECAUSE I DO TRUST OUR COUNTY ATTORNEY AND I DO TRUST OUR

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LOCAL JUDGES. I'VE SEEN NOTHING THAT LEADS ME TO BELIEVE THAT I SHOULDN'T. [LB173]

PRESIDENT FOLEY: ONE MINUTE. [LB173]

SENATOR SCHEER: WE'RE BACKED UP WITH A LOT OF BIG DECISIONS IN THE LAST SEVERAL WEEKS, BIG DECISIONS ALL IN A DAY. THIS ONE COMES DOWN TO TRUST TO ME. THIS HAS NOTHING TO DO WITH THE INTRODUCER OF THE BILL. I'M SURE IT'S WELL-INTENDED. HAS NOTHING TO DO WITH THE JUDICIARY COMMITTEE. I'M SURE THEY BELIEVE AND STILL DO BELIEVE THAT THEY DID DO THE CORRECT THING BY BRINGING IT OUT TO THE FLOOR AND BY SUPPORTING IT IF THEY DO. BUT WE ALL HAVE TO VOTE OUR INDIVIDUAL CONSCIENCES. AND IF THIS IS TELLING YOU THAT WE SHOULDN'T BE DOING IT, PLEASE, BY ALL MEANS, LET'S NOT MOVE FORWARD. LET'S STOP IT RIGHT NOW. THANK YOU, MR. LIEUTENANT GOVERNOR. [LB173]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHEER. SENATOR BURKE HARR, YOU'RE RECOGNIZED. [LB173]

SENATOR HARR: THANK YOU, MR. LIEUTENANT GOVERNOR. YOU KNOW, I FIND THIS DEBATE IRONIC BECAUSE WE'VE ALREADY PASSED LB173 WITH MANDATORY MINIMUMS. WE'VE ALREADY SAID, HEY, THAT'S OKAY. WHAT WE'RE DOING IS I'VE ASKED TO PULL BACK TO PULL THE HABITUAL, AND I THINK THE DEBATE SHOULD BE ABOUT, HEY, DO WE WANT TO KEEP THE HABITUAL AS IT IS CURRENTLY OR DO WE WANT TO MAKE IT HOW IT IS WITH COLBY...WITH THE, EXCUSE ME, SENATOR COASH AMENDMENT, WITH THE REASON FOR US. THIS WOULD, MY AMENDMENT WOULD, TAKE IT BACK TO HOW IT IS NOW. THAT'S WHAT WE SHOULD BE DEBATING. WE'VE ALREADY DEBATED MANDATORY MINIMUMS AND WE'VE ALREADY MADE A DECISION ON THAT. NOW, YOU KNOW, YOU LOOK AT WHAT THIS DOES. AGAIN, WHEN WE PASS THIS YOU WILL STILL HAVE MANDATORY MINIMUMS OF 5 YEARS, THAT'S 2.5 ASSUMING NO LOSS OF GOOD TIME; AND 3 YEARS, AGAIN 1.5, ASSUMING NO LOSS OF GOOD TIME. SO THERE IS A CHANGE, THERE IS A VARIATION IN THERE. I WILL CONCEDE THAT. BUT IT'S NOT A GREAT VARIATION. AND IT'S NOT AS THOUGH WE'RE AFFECTING HOW MUCH A JUDGE CAN PUT ON THE TOP. IF A JUDGE WANTS TO GO TOUGH, GUESS WHAT? SHE CAN. NOTHING STOPS HER FROM DOING THAT. IF SHE WANTS TO GIVE 50 YEARS, SHE CAN DO IT. IF HE WANTS TO DO IT, HE CAN DO IT. WHAT WE'RE LOOKING AT IS THE LOW END, THOSE INDIVIDUALS WHO, FOR WHATEVER REASON, MADE A MISTAKE, SCREWED UP, HOPEFULLY TOOK RESPONSIBILITY

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FOR THEIR ACTIONS AND THEY'RE NOW IN FRONT OF THE JUDGE. I CAN TELL YOU, IF YOU'RE NOT GOING TO TAKE RESPONSIBILITY FOR YOUR ACTIONS AND EXPLAIN WHY YOU DID IT AND WHY IT WAS WRONG, A JUDGE IS NOT GOING TO GIVE YOU ANYTHING LESS THAN WHAT'S ALREADY IN THERE NOW. SO THINK ABOUT WHO THESE INDIVIDUALS ARE. PUT YOURSELF IN THE POSITION OF A JUDGE AND WHEN THIS SITUATION MAY OR MAY NOT OCCUR. YOU KNOW, IT WAS INTERESTING, I HEARD ONE OF MY COLLEAGUES TALK ABOUT HOW I TALKED TO THE COUNTY ATTORNEY, I TALKED TO THE AG'S OFFICE, AND I TALKED TO THE GOVERNOR'S OFFICE. WELL, FOLKS, IF YOU WANT TO MAKE PEACE, YOU DON'T TALK TO YOUR FRIENDS. YOU TALK TO YOUR ENEMIES, LEARN WHAT THEIR POINT OF VIEW IS. THAT CAME FROM MOSHE DAYAN, WHO I THINK MANY OF YOU MIGHT REMEMBER, WAS A FOREIGN MINISTER FOR ISRAEL. HE WAS THE ONE WITH THE EYE PATCH, NOT EXACTLY A SOFTY. HE LOST HIS EYE IN BATTLE DEFENDING ISRAEL. BUT HE WAS THE ONE WHO CAME TO THE TABLE DURING THE 13-DAY IN CAMP DAVID AND REALLY LED THE CONVERSATION TO MAKE SURE THAT THERE WAS PEACE. IT WAS HISTORIC PEACE BETWEEN ISRAEL AND EGYPT. SO I ENCOURAGE YOU TO NOT JUST TALK TO YOUR COUNTY ATTORNEYS BUT TO TALK TO YOUR PUBLIC DEFENDERS, TALK TO YOUR PRIVATE LAWYERS WHO PRACTICE IN THIS AREA OF LAW. LET THEM TELL YOU THEIR SIDE OF THE STORY AS WELL. THIS IS A PIECE OF LAW THAT PROVIDES FLEXIBILITY SO THAT WE DON'T SEND PEOPLE AWAY FOR LONGER PERIODS THAN IS WARRANTED DUE TO THE FACTS AND CIRCUMSTANCES. EQUALITY BEFORE THE LAW IS IMPORTANT. FAIRNESS IS IMPORTANT. AND IT'S VERY IMPORTANT THAT WHEN WE LOOK AT WHAT AN INDIVIDUAL HAS DONE, THAT WE LOOK AT THE TOTALITY OF CIRCUMSTANCES AND THAT JUDGES' ARMS AREN'T TIED BEHIND THEIR BACKS. NOW SENATOR McCOY HAS SAID, I DON'T REMEMBER TRUSTING OR NOT TRUSTING JUDGES AS PART OF THE CONVERSATION. I WILL TAKE HIS WORD AT THAT. BUT AS WE ALL KNOW WHEN WE PASS LEGISLATION, WE DON'T ALWAYS THINK OF ALL THE RAMIFICATIONS WHEN WE DEBATE IT UP-FRONT. AND AFTERWARDS, WE LEARN FROM THE BILLS WE PASS, SOMETIMES FOR THE BETTER, SOMETIMES FOR THE WORSE. BUT WE LEARN AND WE PAY ATTENTION. AND IF YOU DON'T LEARN FROM WHAT YOU'VE DONE IN THE PAST, YOU'RE NEVER GOING TO GET ANY BETTER. AND SO TALK TO YOUR JUDGES. THEY'LL TELL YOU... [LB173]

PRESIDENT FOLEY: ONE MINUTE. [LB173]

SENATOR HARR: THANK YOU...THEY WANT MORE FLEXIBILITY. IF YOU DON'T TRUST YOUR JUDGES, THAT'S FINE. BUT THEY WANT MORE FLEXIBILITY. AND TO A CERTAIN DEGREE IF YOU DON'T TRUST YOUR PROSECUTORS TO BE ABLE TO



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MAKE A CASE TO THE JUDGE, THEN BY ALL MEANS, DON'T VOTE FOR THIS. I TRUST MY COUNTY ATTORNEY, DON KLEINE. I'LL BE HONEST, HE'S A MENTOR OF MINE. HE'S A GREAT MAN. I WORKED UNDER HIM. PART OF THE REASON I LEFT THE COUNTY ATTORNEY'S OFFICE IS BECAUSE I WANTED TO SUPPORT HIS CAMPAIGN TO RUN FOR COUNTY ATTORNEY. HE'S A GREAT MAN. I TRUST HIM. I TRUST THE PEOPLE WHO WORK IN THAT OFFICE. IF SOMEONE IS WARRANTED TO HAVE MORE TIME, HE WILL HIRE THE RIGHT PEOPLE TO MAKE SURE THAT THOSE LAWYERS, THOSE PROSECUTORS MAKE THE PROPER ARGUMENTS SO THAT JUDGE KNOWS TO GIVE THAT PERSON THE PROPER AMOUNT OF TIME. THANK YOU, MR. LIEUTENANT GOVERNOR. [LB173]

PRESIDENT FOLEY: THANK YOU, SENATOR HARR. SENATOR McCOY, YOU'RE RECOGNIZED. [LB173]

SENATOR McCOY: THANK YOU, MR. PRESIDENT AND MEMBERS. I RISE AGAIN WITH AN AMENDMENT WAITING IN THE WINGS BEHIND THIS THAT'S FAIRLY COMMON SENSE. I DON'T KNOW THAT WE'RE GOING TO GET A CHANCE TO GET TO IT THIS AFTERNOON, BUT I'LL JUST BRIEFLY FORESHADOW WHAT IT IS. IT MERELY TAKES THE LANGUAGE THAT WE'VE ALREADY ADOPTED IN LB605 IN REFERENCE TO SENTENCING AND MAKES IT CONSISTENT IN LB173. AND LET ME BE CLEAR. AS I'VE SAID SEVERAL TIMES, I DON'T THINK ANYBODY IS HOPEFULLY MISTAKEN ON THIS, I DON'T SUPPORT LB173. BUT, AND I'VE EVEN HEARD SENATOR CHAMBERS DO THIS MANY TIMES IN THE YEARS THAT I'VE SERVED WITH HIM, EVEN ON LEGISLATION THAT HE DOESN'T LIKE, HE, FOR THE GOOD OF THE ORDER, WILL OFTENTIMES OFFER LANGUAGE TO SAY WE SHOULD HAVE STATUTES BE CONSISTENT AND CORRECT AND SUCCINCT. AND I WOULD AGREE WITH THAT. AND I DON'T KNOW WHETHER WE'LL GET A CHANCE TO GET TO IT OR NOT, BUT IT'S NOT A FRIVOLOUS AMENDMENT BY ANY MEANS. IT'S MERELY AN AMENDMENT I THINK IS PROBABLY JUST A COMPLETELY HONEST OVERSIGHT THAT THE LANGUAGE DOESN'T MESH BETWEEN LB605 AND THE SAME AREAS OF STATUTE AND THE STATUTES THAT ARE REFERENCED IN LB173. BUT I DO WANT TO TALK AGAIN ON THIS AMENDMENT AND ON THE BILL. YOU KNOW, AND MAYBE I'M GOING TO BE THE ONLY ONE, AND THAT'S FINE, WHO WAS HERE IN 2009 THAT'S GOING TO STAND UP AND TALK ABOUT MANDATORY MINIMUMS DISCUSSION. AT THE TIME OF THAT DISCUSSION, 2008-2009, THERE WAS A RASH OF GUN VIOLENCE IN OMAHA. AND IT WASN'T JUST NORTH OMAHA. IT WAS IN OTHER AREAS OF THE CITY AS WELL. AND IT WAS GUN VIOLENCE IN OTHER PARTS OF THE STATE, BUT THE DISCUSSION CENTERED MOSTLY AROUND OMAHA. NOW TRAGICALLY, SIX YEARS LATER, THAT SITUATION HASN'T REMEDIED ITSELF. AS SENATOR CHAMBERS HAS TALKED ABOUT MANY TIMES,

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GUN VIOLENCE IS SOMETHING THAT OMAHA, AS MANY CITIES OF OMAHA SIZE AND LARGER, DEAL WITH AND HAVE DEALT WITH FOR DECADES AND DECADES AND DECADES. BUT THE DISCUSSION WAS, IN 2009, WHAT CAN WE DO TO ENSURE THAT THOSE IN GANGS, AND THOSE WHO WANT TO COMMIT GUN CRIMES ESPECIALLY, WHAT CAN WE DO TO ENSURE THAT THEY DON'T RECEIVE PROBATION FOR CERTAIN GUN CRIMES AND THAT THERE IS A DETERRENCE FACTOR AND A FEAR FACTOR, IF YOU WILL, THAT'S PLACED THERE FOR THEM TO KNOW THAT LAW ENFORCEMENT, PROSECUTORS, THE LEGISLATURE, AND THE JUDICIAL BRANCH TAKE SERIOUSLY THESE CRIMES? SO THAT'S WHERE THE MANDATORY MINIMUMS DISCUSSION EMANATED OUT OF, OR I SHOULD SAY THAT'S WHAT...THAT SITUATION IS WHERE MANDATORY MINIMUMS CAME FROM. AGAIN, THE FIRST BILL WAS LB63. IT WAS BROUGHT BY NOW CONGRESSMAN BRAD ASHFORD, THEN BRAND-NEW JUDICIARY CHAIR BRAD ASHFORD AND, AT THE TIME, JUDICIARY COMMITTEE MEMBER SENATOR SCOTT LAUTENBAUGH WITH LB97. AND THE IDEA WAS IN THE DISCUSSION OF GOOD TIME, AND WE'VE ALL TALKED ABOUT GOOD TIME, IT'S BEEN VERY WELL...WIDELY COVERED IN THE MEDIA. THE DISCUSSION WAS YOU WOULD HAVE TO SERVE THE MANDATORY MINIMUM SENTENCE BEFORE YOU WOULD BE ELIGIBLE TO HAVE... [LB173 LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB173]

SENATOR McCOY: ...GOOD TIME START TO ACCRUE...THANK YOU, MR. PRESIDENT,...SO THAT SENTENCE COULDN'T BE CUT IN HALF. SO AGAIN, IT GOES BACK TO IF YOU DO THE GUN CRIME, YOU'RE GOING TO DO THE TIME. AND WHEN YOU LOOK AT THE STATISTICS FROM OUR VERY OWN CRIME COMMISSION, THEY WILL TELL YOU THE GUN CRIMES, WITH THE INSTITUTION OF THESE MANDATORY MINIMUM SENTENCES IN 2009, THE RATE OF GUN CRIMES IN OMAHA HAVE GONE DOWN. IT'S WORKED. THAT'S WHY THEY'RE THERE, MEMBERS. THAT'S WHY THEY SHOULD STAY THERE. THAT'S WHY I'M OPPOSED TO THIS BILL. WE SHOULD THINK LONG AND HARD ABOUT THIS. THIS LEGISLATION SHOULD SIT THIS YEAR. HABITUAL SHOULD BE PART OF THIS DISCUSSION, THE HABITUAL CRIMINAL COMPONENT, AND THIS SHOULD BE TALKED ABOUT IN A FUTURE SESSION. [LB173]

PRESIDENT FOLEY: TIME, SENATOR. THANK YOU, SENATOR McCOY. SENATOR HANSEN, YOU'RE RECOGNIZED. [LB173]

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SENATOR HANSEN: THANK YOU, MR. PRESIDENT. I'LL YIELD MY TIME TO SENATOR MORFELD. [LB173]

PRESIDENT FOLEY: SENATOR MORFELD, 5 MINUTES. [LB173]

SENATOR MORFELD: THANK YOU, SENATOR HANSEN. THANK YOU, LIEUTENANT GOVERNOR. WOULD SENATOR SCHUMACHER YIELD TO A QUESTION, PLEASE? [LB173]

PRESIDENT FOLEY: SENATOR SCHUMACHER, WOULD YOU YIELD, PLEASE? [LB173]

SENATOR SCHUMACHER: YES, I WILL. [LB173]

SENATOR MORFELD: SENATOR SCHUMACHER, IN A TIME LONG, LONG AGO, WERE YOU A COUNTY PROSECUTOR OR...? [LB173]

SENATOR SCHUMACHER: OR WHAT? (LAUGH) [LB173]

SENATOR MORFELD: I DON'T KNOW, SOME KIND OF PROSECUTOR? (LAUGHTER) [LB173]

SENATOR SCHUMACHER: YES. [LB173]

SENATOR MORFELD: ARE YOU IN SUPPORT OF LB173 AS AMENDED? [LB173]

SENATOR SCHUMACHER: I WOULD BE, YES. [LB173]

SENATOR MORFELD: THANK YOU, SENATOR. WOULD SENATOR SEILER YIELD TO A QUESTION? [LB173]

PRESIDENT FOLEY: SENATOR SEILER, WOULD YOU YIELD, PLEASE? [LB173]

SENATOR SEILER: I WILL. [LB173]

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SENATOR MORFELD: SENATOR SEILER, IN A TIME NOT SO LONG AGO PERHAPS, WERE YOU A PROSECUTOR AS WELL? [LB173]

SENATOR SEILER: I WAS IN THE ATTORNEY GENERAL'S OFFICE. [LB173]

SENATOR MORFELD: SO YOU WERE A PROSECUTOR IN THE ATTORNEY GENERAL'S OFFICE. [LB173]

SENATOR SEILER: YES. [LB173]

SENATOR MORFELD: AND I'M ASSUMING, SINCE I BELIEVE YOU PRIORITIZED THIS LEGISLATION, CORRECT,... [LB173]

SENATOR SEILER: THAT IS CORRECT, SO WE COULD JOIN THE REST OF THE CRIMINAL BILLS. [LB173]

SENATOR MORFELD: ...THAT YOU'RE IN SUPPORT OF THIS LEGISLATION AS AMENDED AS WELL. [LB173]

SENATOR SEILER: I AM. [LB173]

SENATOR MORFELD: THANK YOU, SENATOR. AND I'M ASSUMING, SINCE SENATOR HARR INTRODUCED THE AMENDMENT AND HAS ALREADY SAID THAT HE'S TRYING TO MAKE THIS BETTER, AND THE FACT THAT WE ALL KNOW THAT HE ALSO WAS A PROSECUTOR, THAT HE'S ALSO IN SUPPORT OF THIS AMENDMENT. THE POINT THAT I'M TRYING TO MAKE IS THAT SEVERAL SENATORS HAVE BROUGHT UP THE POINT THAT THEY'VE TALKED TO THEIR PROSECUTORS, THEY'VE TALKED TO THESE PEOPLE AND THEY ARE OPPOSED. AND YOU KNOW WHAT, I TALKED TO A FEW PROSECUTORS AND SOME JUDGES TOO AND THEY ARE IN SUPPORT. BUT THE FACT OF THE MATTER IS THAT WE HAVE OUR THREE PROSECUTORS THAT ARE MEMBERS OF THIS BODY THAT ARE IN SUPPORT OF THIS LEGISLATION, THAT HAVE SEEN SOME OF THESE PEOPLE THAT HAVE COMMITTED CRIMES ONE-ON-ONE, HAVE PROSECUTED THEM, AND YET STILL THINK THAT THIS IS A GOOD IDEA, THAT THIS IS SENSIBLE POLICY. I URGE YOU TO ADOPT AM1641 AND LB173. THANK YOU, COLLEAGUES. [LB173]

PRESIDENT FOLEY: THANK YOU, SENATOR MORFELD. SENATOR SEILER, YOU'RE RECOGNIZED. [LB173]

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SENATOR SEILER: I CALL THE QUESTION. [LB173]

PRESIDENT FOLEY: QUESTION HAS BEEN CALLED. DO I SEE FIVE HANDS? I DO. THE QUESTION IS, SHALL DEBATE CEASE? ALL THOSE IN FAVOR OF CEASING DEBATE VOTE AYE; THOSE OPPOSED VOTE NAY. RECORD PLEASE, MR. CLERK. [LB173]

ASSISTANT CLERK: 25 AYES, 0 NAYS TO CEASE DEBATE, MR. PRESIDENT. [LB173]

PRESIDENT FOLEY: DEBATE DOES CEASE. SENATOR HARR, YOU'RE RECOGNIZED TO CLOSE ON AM1641. [LB173]

SENATOR HARR: THANK YOU, MR. LIEUTENANT GOVERNOR. WE'VE HEARD A LOT OF FACTS THROWN AROUND TODAY, THIS AFTERNOON. I WANT TO BE VERY, VERY CLEAR. LB173, AM1641 PASS, YOU STILL CANNOT, NOT GET PROBATION, PERIOD. I KEEP HEARING PROBATION. IT'S NOT AN OPTION. IT IS OFF THE TABLE. WHAT WE'RE DOING IS CHANGING IT FROM A MANDATORY MINIMUM TO A MINIMUM. WHAT DOES THAT DO, SENATOR HARR? IT ALLOWS FOR GOOD TIME. IT INCENTIVIZES THOSE PRISONERS INSIDE OUR PRISONS TO BEHAVE SO WE DO NOT HAVE ANOTHER TECUMSEH. FIVE YEARS, YOU CAN'T GET GOOD TIME, WHERE IS MY INCENTIVE TO BEHAVE? SO I DON'T GET SHOT IN THE LEG? THAT'S THE ONLY INCENTIVE THERE IS. OKAY? PRETTY SIMPLE. I HEARD A STATEMENT THAT GUN CRIMES HAVE GONE DOWN IN OMAHA. I HAVE GOOGLED, USED MY LITTLE GADGET. I COULDN'T FIND A CATEGORY FOR GUN CRIMES, SO I DON'T KNOW. THERE ISN'T ANYTHING FOR FELONY POSSESSION OF A FIREARM, ANY STAT THAT I COULD FIND. I WILL TAKE SENATOR McCOY'S WORD AT THAT. BUT YOU CAN'T PUT IT EXCLUSIVELY AT THE FEET OF MANDATORY MINIMUMS. DURING THAT TIME WE HAD OPERATION PURPLE HAZE. DURING THAT TIME WE HAD OPERATION WIPE IT DOWN. THAT'S WHERE YOU HAD A LOCAL LAW ENFORCEMENT WORKING IN CONJUNCTION WITH FEDERAL AUTHORITIES, WITH FEDERAL GRANTS, TO WORK TO GET GUNS OFF THE STREET. GUNS ARE DANGEROUS, NO IF, ANDS, OR BUTS ABOUT IT. THAT'S WHY I WORRY WHENEVER I SEE MAKING GUNS EASIER, MORE AVAILABLE. IT SCARES ME. I GET THAT. I UNDERSTAND WE DO NOT LIKE GUN CRIMES AND TO HAVE A PLETHORA OF GUNS OUT THERE. SENATOR McCOY IS EXACTLY RIGHT. WE HAVE TO FIND WAYS TO STOP THAT. I'M NOT SURE THAT WE CAN CORRELATE A LOWERING OF GUN CRIMES TO AN ENFORCEMENT OF MANDATORY MINIMUMS, BECAUSE REMEMBER, FOLKS, WHAT I SAID. WE PROSECUTED THESE BEFORE. WE SENT THEM TO FEDERAL PRISON. THE DIFFERENCE WITH MANDATORY MINIMUMS

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VERSUS...BEFORE VERSUS NOW IS LESS THAN A YEAR IN PRISON. NINE MONTHS, THAT'S HOW MUCH IT'S INCREASED, NINE MONTHS. I HAVE THE STATS HERE. THEY'RE FROM DEPARTMENT OF CORRECTIONS. SO THEN YOU HAVE TO ASK YOURSELF, WHAT IS THE NEED FOR THIS BILL? WHY ARE WE DOING THIS, SENATOR HARR? THAT'S A VERY GOOD QUESTION, AND LET ME TELL YOU WHY WE'RE DOING IT. BECAUSE THERE ARE INDIVIDUALS WHO MADE A MISTAKE, WHO DID SOMETHING STUPID, TOOK RESPONSIBILITY FOR THE ACTION. YOU'RE NOT GOING TO BE AFFECTED BY THIS IF YOU'RE NOT TAKING RESPONSIBILITY FOR YOUR ACTION AND EXPLAINING WHY YOU DID WHAT YOU DID. INDIVIDUALS WHO TOOK RESPONSIBILITY FOR THEIR ACTIONS... [LB173]

PRESIDENT FOLEY: ONE MINUTE. [LB173]

SENATOR HARR: THANK YOU...AND ARE NOW AT THE MERCY OF THE COURTS, AND IT'S NOT AS THOUGH THEY AUTOMATICALLY GET THIS NEW MINIMUM SENTENCE. NO, IT'S STILL UP TO THE DISCRETION OF THE JUDGE. WE ARE NOT DOING ANYTHING ON THE TOP END. A JUDGE CAN STILL GIVE 50 YEARS. THIS DOES NOT TOUCH IF A JUDGE WANTS TO WHACK SOMEONE, A JUDGE CAN WHACK SOMEONE WITH A HEAVY SENTENCE. THIS IS ABOUT NOT THROWING THE BABY OUT WITH THE BATHWATER. THIS IS ABOUT FIGURING OUT AND LOOKING AT THAT INDIVIDUAL AS AN INDIVIDUAL AND SAYING, WHAT IS THE PROPER PUNISHMENT FOR YOU, SIR, OR MA'AM? WE VOTED THIS FORWARD BEFORE, BUT THIS IS WHAT THE DEBATE SEEMS TO BE ABOUT. SO, I LIKE THE HABITUAL TO KEEP IT AS AN ENFORCEMENT MECHANISM, AND I WOULD ASK YOU TO PLEASE VOTE FOR AM1641 AND THEN WE CAN ADVANCE LB173. THANK YOU, MR. LIEUTENANT GOVERNOR. [LB173]

PRESIDENT FOLEY: THANK YOU, SENATOR HARR. SENATORS, YOU'VE HEARD THE DEBATE AND CLOSING ON AM1641. THE QUESTION IS THE ADOPTION OF THE AMENDMENT. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD PLEASE, MR. CLERK. [LB173]

ASSISTANT CLERK: 26 AYES, 0 NAYS ON THE ADOPTION OF THE AMENDMENT, MR. PRESIDENT. [LB173]

PRESIDENT FOLEY: AM1641 IS ADOPTED. (VISITORS INTRODUCED.) SENATOR HANSEN FOR A MOTION. [LB173]

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SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADVANCE LB173 TO E&R FOR ENGROSSING. [LB173]

PRESIDENT FOLEY: THERE ARE LIGHTS ON. SENATOR KUEHN, YOU'RE RECOGNIZED. [LB173]

SENATOR KUEHN: I YIELD MY TIME TO SENATOR SEILER. [LB173]

PRESIDENT FOLEY: SENATOR SEILER, 5:00. [LB173]

SENATOR SEILER: YES. COULD I ASK JOHN, SENATOR JOHN MURANTE, A QUESTION? [LB173]

PRESIDENT FOLEY: SENATOR MURANTE, WOULD YOU YIELD, PLEASE? [LB173]

SENATOR MURANTE: YES. [LB173]

SENATOR SEILER: JOHN, WHEN YOU TESTIFIED EARLIER, DID I HEAR YOU CORRECT THAT YOU TALKED TO THE ATTORNEY GENERAL, THE GOVERNOR, AND YOUR COUNTY ATTORNEY? [LB173]

SENATOR MURANTE: I SPOKE TO...ON LB173, I HAVE SPOKEN WITH THE ATTORNEY GENERAL, THE GOVERNOR, AND MY COUNTY ATTORNEY, YES. [LB173]

SENATOR SEILER: YOU DIDN'T TALK TO THE PUBLIC DEFENDER THERE IN SARPY COUNTY? [LB173]

SENATOR MURANTE: THOSE ARE THE THREE KEY PLAYERS THAT I'VE SPOKEN WITH. [LB173]

SENATOR SEILER: OKAY, NOBODY ON THE OTHER SIDE? [LB173]

SENATOR MURANTE: THE OTHER SIDE OF WHAT? [LB173]

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SENATOR SEILER: OF LB173, THE PEOPLE THAT TESTIFIED FOR IT, INCLUDING THE PUBLIC DEFENDERS, THE ACLU, AND A GROUP OF NINE PEOPLE TESTIFIED IN FAVOR OF LB173. [LB173]

SENATOR MURANTE: THE PEOPLE WHO I GO TO FOR GOOD ADVICE WHEN IT COMES TO THE CRIMINAL JUSTICE SYSTEM KIND OF ACROSS THE BOARD, JUST AS WHEN WE'RE TALKING ABOUT EDUCATION POLICY I GO TALK TO MY SUPERINTENDENT, I TALK TO MY COUNTY ATTORNEY, THE SHERIFF IN MY COUNTY, THE ATTORNEY GENERAL, AND THE GOVERNOR'S OFFICE. [LB173]

SENATOR SEILER: THAT'S THE POINT. YOU DIDN'T TALK TO ALL OF THE PEOPLE IN THE JUSTICE SYSTEM. [LB173]

SENATOR MURANTE: I WILL HAVE TO CONCEDE I DID NOT SPEAK TO EVERY KEY PLAYER IN THE STATE OF NEBRASKA, SENATOR SEILER. [LB173]

SENATOR SEILER: OKAY. THAT'S FINE. OH. I HAVE ONE MORE, JOHN, OR SENATOR MURANTE. DID ANY OF THOSE PEOPLE SAY THEY HAD BROUGHT A PROGRAM TO...FORWARD FOR LB173 TO BE AMENDED? [LB173]

SENATOR MURANTE: A PROGRAM FORWARD FOR LB173 TO BE AMENDED,... [LB173]

SENATOR SEILER: RIGHT. [LB173]

SENATOR MURANTE: ...THAT SPECIFIC CONVERSATION ABOUT A PROGRAM OR ANYTHING LIKE THAT DID NOT...THAT DID NOT COME UP IN MY CONVERSATIONS. [LB173]

SENATOR SEILER: THE REASON I ASK IS BECAUSE YOU SAID YOU PULLED PEOPLE TOGETHER IN YOUR COMMITTEE TO WORK OUT SOLUTIONS AND I JUST WONDERED IF YOU HAD PULLED THEM TOGETHER TO WORK OUT A SOLUTION. BUT I NEVER DID SEE ONE AS CHAIRMAN OF THE JUDICIARY. [LB173]

SENATOR MURANTE: WAS THAT A QUESTION, SENATOR SEILER? I DO TRY AND DO THAT ON THE GOVERNMENT COMMITTEE, YES. [LB173]



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SENATOR SEILER: OKAY. THANK YOU. [LB173]

SENATOR MURANTE: YEP. [LB173]

SENATOR SEILER: I GIVE (RECORDER MALFUNCTION)...TO SENATOR CHAMBERS.  
[LB173]

PRESIDENT FOLEY: THAT'S OUT OF ORDER, SENATOR. SENATOR PANSING  
BROOKS, YOU'RE RECOGNIZED. [LB173]

SENATOR PANSING BROOKS: I THINK I WILL YIELD MY TIME TO SENATOR  
CHAMBERS. THANK YOU. [LB173]

PRESIDENT FOLEY: SENATOR CHAMBERS, 5:00. [LB173]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR  
PANSING BROOKS. SENATOR McCOY, WOULD YOU YIELD TO A QUESTION? [LB173]

PRESIDENT FOLEY: SENATOR McCOY, WOULD YOU YIELD, PLEASE? [LB173]

SENATOR McCOY: YES. [LB173]

SENATOR CHAMBERS: SENATOR McCOY, IN ADOPTING SENATOR HARR'S  
AMENDMENT, WE NOW HAVE THE HABITUAL STATUTES ON THE BOOKS  
UNTOUCHED BY LB173. WOULD YOU AGREE WITH THAT? [LB173]

SENATOR McCOY: YES, I WOULD, SENATOR. [LB173]

SENATOR CHAMBERS: NOW WOULD YOU AGREE, IF I WOULD BE THE ONE WHO  
WOULD OFFER THE AMENDMENT, THAT THE PROSECUTOR MUST FILE HABITUAL  
CRIMINAL CHARGES WHENEVER A THIRD FELONY IS COMMITTED? LEAVE THEM  
NO DISCRETION BUT MAKE IT MANDATORY; THEN WE HAVE EQUAL TREATMENT.  
WOULD YOU SUPPORT AN AMENDMENT LIKE THAT IF I OFFER IT? [LB173]

SENATOR McCOY: SENATOR, I GUESS I CAN'T GIVE YOU A DEFINITIVE ANSWER  
ON THAT. I'D HAVE TO PONDER THAT. AT FACE VALUE, I DON'T KNOW WHAT I  
WOULD THINK ABOUT THAT. I TRY TO THINK PRETTY THOROUGHLY THROUGH

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THINGS AND I DON'T KNOW THAT I CAN GIVE YOU AN UNEQUIVOCAL ANSWER TO THAT AT THIS PARTICULAR MOMENT. [LB173]

SENATOR CHAMBERS: THAT'S GOOD ENOUGH. OKAY. THANK YOU. MEMBERS OF THE LEGISLATURE, WELL, LET ME MAKE AN ANALOGY. THE BODY IS COMFORTABLE TAKING AWAY DISCRETION FROM JUDGES WHEN THE OPERATION OF DISCRETION IS AN ESSENTIAL PART OF BEING A JUDGE. BUT WE DON'T WANT TO TAKE AWAY DISCRETION FROM COUNTY ATTORNEYS BECAUSE WE KNOW THEY WANT TO USE THE THREAT OF CHARGING SOMEBODY AS A HABITUAL CRIMINAL TO FORCE A PLEA; AND IN SOME CASES, THEY KNOW THAT IT WOULD BE A FALSE PLEA. THEY KNOW IT BUT EITHER THEY JUST WANT TO GET THE PERSON OR IT'S A HIGH-PROFILE CASE AND THEY WANT TO BE ABLE TO SAY THEY GOT SOMEBODY. SO IT DOESN'T MATTER TO PROSECUTORS IF THE TRUE PERPETRATOR IS STILL OUT THERE PERPETRATING. THEY GOT THEIR CONVICTION AND THAT'S ALL THEY WANT. THESE PROSECUTORS ARE POLITICIANS. THAT'S ALL THAT THEY ARE. THEY'RE LOOKING AT THE NEXT ELECTION. IF YOU WANT TO KEEP, AS YOU'VE DEMONSTRATED BY YOUR VOTE THAT YOU DO, THE HABITUAL CRIMINAL MODEL, WHY SHOULD IT BE SO DIFFICULT FOR ANYBODY TO SAY THAT IF THAT IS GOOD AND WE WANT TO KEEP THESE BAD PEOPLE OFF THE STREET, MAKE IT MANDATORY. I'D LIKE TO ASK SENATOR GROENE A QUESTION IF HE WOULD YIELD. [LB173]

PRESIDENT FOLEY: SENATOR GROENE, WOULD YOU YIELD, PLEASE? [LB173]

SENATOR GROENE: YES, I WOULD. [LB173]

SENATOR CHAMBERS: SENATOR GROENE, I CAN TELL BY THE WAY YOU TALK THAT YOU HAVE GIVEN A WHOLE LOT OF THOUGHT TO KEEPING THESE BAD PEOPLE OFF THE STREET AND IN PRISON. IS THAT TRUE? [LB173]

SENATOR GROENE: YES. I HAVE. [LB173]

SENATOR CHAMBERS: NOW THAT WE HAVE LEFT THE HABITUAL CRIMINAL STATUTES IN PLACE WITHOUT BEING TOUCHED, WOULD YOU SUPPORT AN AMENDMENT THAT WOULD MAKE IT MANDATORY FOR EVERY PROSECUTOR TO FILE A HABITUAL CRIMINAL CHARGE AGAINST ANYBODY WHO COMMITS A THIRD FELONY? [LB173]

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SENATOR GROENE: DEPENDING ON THE EXACT WORDING, IF IT WAS THE VIOLENT, VERY VIOLENT FELONIES, YES. [LB173]

SENATOR CHAMBERS: NO, NO, NOT VIOLENT, JUST LIKE IT IS NOW: ANY FELON, ANY THREE FELONIES, AND A HABITUAL CRIMINAL CHARGE HAS TO BE FILED. [LB173]

SENATOR GROENE: THAT WOULD BE AGAINST WHAT I BELIEVE. I BELIEVE IN THE DEATH PENALTY. WE SHOULD GIVE DISCRETION TO THE JUDGES IF THEY WANT TO HAVE THE DEATH PENALTY FOR LIFE IN PRISON. THAT'S DISCRETION. I WOULD ALLOW DISCRETION WITHIN THE JUDICIARY SYSTEM. THAT WHAT I STOOD ON THE DEATH PENALTY AND I STAND THAT HERE. [LB173]

SENATOR CHAMBERS: BUT WE'RE NOT TALK... [LB173]

SENATOR GROENE: I'M NOT THE ONE THAT TOOK DISCRETION AWAY FROM THE JUDGES IN THE DEATH PENALTY. [LB173]

PRESIDENT FOLEY: ONE MINUTE. [LB173]

SENATOR CHAMBERS: EXCUSE ME. BUT WE'RE NOT TALKING ABOUT THE DEATH PENALTY BECAUSE THE SUPREME COURT OF THE UNITED STATES HAS ALREADY SAID THERE CANNOT BE A MANDATORY DEATH PENALTY. THERE CANNOT BE. IT'S UNCONSTITUTIONAL. BUT WE CAN MANDATE THAT IN THE CASE OF THREE FELONIES, THERE SHALL BE THE FILING OF A HABITUAL CRIMINAL CHARGE. BUT THAT'S ALL I'LL ASK YOU... [LB173]

SENATOR GROENE: THANK YOU. [LB173]

SENATOR CHAMBERS: ...BECAUSE I ONLY HAVE A MINUTE. DO YOU SEE HOW PEOPLE SUDDENLY ARE CONCERNED ABOUT DISCRETION, EXCEPT WHEN WE'RE TALKING ABOUT THE JUDGES AND TAKING GLITCHES OUT OF THE PRESENT SYSTEM BECAUSE THAT'S NOT A GOOD SOUND BITE, THAT'S NOT SAYING, I'M TOUGH ON CRIME. YET, WHEN THESE PROSECUTORS ENTER PLEA BARGAINS, THEY LET BAD GUYS GET A LESSER SENTENCE. AND IF THAT'S THE DEFINITION OF SOFT ON CRIME, THE PROSECUTORS ARE SOFTER ON CRIME THAN ANYBODY ELSE BECAUSE THEY DO THIS EVERY DAY. AND MORE THAN 95 PERCENT OF THEIR CRIMINAL CASES ARE SETTLED BY WAY OF A PLEA BARGAIN. [LB173]

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PRESIDENT FOLEY: TIME, SENATOR. [LB173]

SENATOR CHAMBERS: SO THEY ARE SOFT ON CRIME. OH, THANK YOU, MR. PRESIDENT. [LB173]

PRESIDENT FOLEY: BUT YOU'RE NEXT. SENATOR, YOU'RE NEXT IN THE QUEUE. [LB173]

SENATOR CHAMBERS: OH. [LB173]

PRESIDENT FOLEY: YOU MAY CONTINUE. [LB173]

SENATOR CHAMBERS: THANK YOU. [LB173]

PRESIDENT FOLEY: YOU WERE NEXT IN THE QUEUE, SENATOR. YOU MAY... [LB173]

SENATOR CHAMBERS: OKAY. I WAS ON A ROLL. I WAS LIKE ONE OF THESE GUYS WHO IS IN FULL FLIGHT AND I'M IN THE MIDDLE OF MY STRIDE WHERE NEITHER FOOT IS ON THE GROUND AND THEY SAY STOP. THEN THE ONLY THING TO DO IS DROP. BUT HERE IS WHAT I'M GETTING TO: MORE THAN 95 PERCENT OF THE CASES HANDLED BY PROSECUTORS ARE HANDLED IN SUCH A WAY AS TO BE SOFT ON CRIME. AND SENATOR McCOY IS NOT HERE NOW. HE IS THE ONE WHO KEPT SAYING "SOFT ON CRIME" ABOUT EVERYTHING, BUT HE WILL AVOID WHAT I'M SAYING NOW, WHICH IS FACTUAL. I'D LIKE TO ASK SENATOR BURKE HARR A QUESTION. [LB173]

PRESIDENT FOLEY: SENATOR BURKE HARR, WOULD YOU YIELD, PLEASE? [LB173]

SENATOR HARR: YES. [LB173]

SENATOR CHAMBERS: SENATOR HARR, MAYBE IN MY EXUBERANCE I OVERSTATED SOMETHING. I WILL ASK YOU, WHAT PERCENTAGE OF CRIMINAL CASES THAT PROSECUTORS GET, WOULD YOU SAY, ARE SETTLED BY WAY OF A PLEA BARGAIN? [LB173]

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SENATOR HARR: I WOULD SAY MORE THAN 95 PERCENT. [LB173]

SENATOR CHAMBERS: THANK YOU. AND YOU WERE A PROSECUTOR, FOR THE RECORD? [LB173]

SENATOR HARR: YES. [LB173]

SENATOR CHAMBERS: THANK YOU. MEMBERS OF THE LEGISLATURE, MORE THAN 95 PERCENT OF THE PROSECUTORS' CASES ARE SOFT ON CRIME, SENATOR SCHNOOR. I SEE YOU SITTING OVER THERE TRYING TO LOOK...BLEND IN WITH THE WALL SO I WON'T KNOW HE IS THERE. BUT YOU ALL SAY THESE WORDS AND YOU DON'T EVEN THINK. YOU SAY THEM AND YOU DON'T MEAN IT. IT'S THE SLOGANEERING. AND THAT'S WHAT MAKES IT DIFFICULT WHEN YOU DEAL WITH PEOPLE WHO DON'T KNOW THE LAW, WHO ARE NOT TRAINED IN THE LAW. ALL OF THE PEOPLE TRAINED IN THE LAW ARE ON THE SAME SIDE OF THE ISSUE, BUT YOU HAVE OUTSIDERS TELLING YOU WHAT TO DO AND THAT'S WHAT YOU DO. YOU WANT TO SAY IN YOUR COMMITTEE, LET THE COMMITTEE HANDLE THIS BECAUSE IT'S FOR THE COMMITTEE TO DO. AND WE'RE SUPPOSED TO GO ALONG WITH IT. WE SAY, LET THOSE WITH THE EXPERTISE AND KNOWLEDGE AND UNDERSTANDING GIVE THE GUIDANCE, AND IT'S NOT ACCEPTED BECAUSE THEN A POLITICAL DECISION IS TO BE MADE, NOT ONE BASED ON KNOWLEDGE, NOT ONE BASED ON THE LAW. I HAVE SAID OVER AND OVER AGAIN, THERE IS NO SINGLE EXPEDIENT WHICH IS GOING TO RESOLVE OVERCROWDING IN THIS STATE. HERE A LITTLE, THERE A LITTLE, LINE UPON LINE, YOU TAKE IT BIT BY BIT. BUT HERE IS WHERE I HAVE THE WHOLE CARD. DON'T DO ANYTHING AND THE FEDERAL COURT WILL DO SOMETHING. AND I WILL TALK TO THE PEOPLE AT ACLU AND I'LL TELL THEM THE LEGISLATURE HAS INDICATED BY THEIR ACTION THEY WANT A LAWSUIT. YOU SEE WHAT HAPPENED AT TECUMSEH. SOME OF THE SENATORS VISITED THERE. AND ONE SENATOR SAID WHEN HE LOOKED AT SOME OF THOSE, AS YOU MIGHT CALL THEM, QUARTERS, LITTLE-BITTY BOXES YOU PUT PEOPLE IN, I WOULDN'T TREAT MY CATTLE LIKE THAT, BECAUSE HE SAW IT. THE REST OF YOU TALK WITHOUT KNOWLEDGE BECAUSE YOU'RE MAKING POLITICAL STATEMENTS AND SOUND BITES. MORE THAN 95 PERCENT. I'LL BET MOST OF YOU ALL HAD NO IDEA THAT WAS THE WAY IT IS. MORE THAN 95 PERCENT OF THE CASES ARE HANDLED BY WAY OF A PLEA BARGAIN. YOU DIDN'T KNOW THAT. AND NOW THAT YOU KNOW IT, WHAT DIFFERENCE DOES IT MAKE? NONE. BECAUSE THE SOUND BITES AND THE POLITICAL POSTURING, MAYBE SOMEBODY WANTS TO RUN FOR THE...SOMETHING OR OTHER. BUT I WISH SENATOR McCOY WERE HERE. AND I WOULD ASK...SENATOR McCOY, I'D LIKE TO ASK YOU A QUESTION. [LB173]

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PRESIDENT FOLEY: SENATOR McCOY, WOULD YOU YIELD, PLEASE? [LB173]

SENATOR McCOY: I WOULD. [LB173]

SENATOR CHAMBERS: SENATOR McCOY,... [LB173]

PRESIDENT FOLEY: ONE MINUTE. [LB173]

SENATOR CHAMBERS: ...WERE YOU AWARE THAT MORE THAN 95 PERCENT OF THE CASES, CRIMINAL CASES, HANDLED BY PROSECUTORS ARE RESOLVED BY WAY OF A PLEA BARGAIN? [LB173]

SENATOR McCOY: I DON'T KNOW THAT I WAS AWARE OF THAT SPECIFIC PERCENTAGE POINT, SENATOR. [LB173]

SENATOR CHAMBERS: OKAY. ARE YOU AWARE THAT A PLEA BARGAIN ALLOWS A PERSON TO PLEAD TO SOMETHING THAT WOULD GET A LESSER PUNISHMENT THAN IF HE OR SHE WENT ON TO TRIAL? [LB173]

SENATOR McCOY: WELL, AS A LAYMAN AND A NONATTORNEY, YES, I AM AWARE OF THE GENERAL CONCEPT OF A PLEA BARGAIN, SENATOR. [LB173]

SENATOR CHAMBERS: AND WHEN YOU ALLOW A PERSON TO GET A LESSER SENTENCE THAN WHAT THE LAW ALLOWS, ISN'T THAT BEING SOFT ON CRIME? [LB173]

SENATOR McCOY: NO. [LB173]

SENATOR CHAMBERS: OKAY. THANK YOU. SEE WHAT I'M TALKING ABOUT? YOU SEE THAT? YOU ARE GOING TO LET THESE BAD GUYS OFF EASY. WHY IS NOT THAT SOFT ON CRIME? WHO IS THE PERSON WHO STARTED THE MANTRA, THE CHANTING, THE SLOGANEERING? THAT'S ALL I'LL ASK YOU, SENATOR McCOY, IF I DIDN'T MAKE IT CLEAR. [LB173]

PRESIDENT FOLEY: TIME, SENATOR. [LB173]

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SENATOR CHAMBERS: SENATOR McCOY HAS OVER AND OVER...THANK YOU, MR. PRESIDENT. [LB173]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS AND McCOY. SENATOR BRASCH, YOU'RE RECOGNIZED. [LB173]

SENATOR BRASCH: THANK YOU, MR. PRESIDENT, AND THANK YOU, COLLEAGUES. I WANT TO REMIND YOU ABOUT THE WORLD-HERALD EDITORIAL. AND I KEEP COMING BACK TO THAT TODAY ESPECIALLY BECAUSE IT QUOTES STATE SENATOR-TURNED-CONGRESSMAN BRAD ASHFORD. AND THE WORLD-HERALD EDITORIAL SAYS, "TREAD LIGHTLY WITH CHANGES TO MANDATORY MINIMUMS." IT'S...AND THIS WAS LAST MONTH, APRIL 15. "GUN CRIMINALS. SEX CRIMINALS. DRUG DEALERS. AND UNREPENTANT LESSER CROOKS WHO WON'T STOP BREAKING THE LAW. THESE ARE THE KINDS OF CRIMINALS NEBRASKA TAXPAYERS BUILD PRISONS TO HOLD, TO KEEP LOVED ONES SAFE, TO PROTECT HOMES AND BUSINESSES. SO WHY ARE NEBRASKA LAWMAKERS TINKERING WITH MANDATORY MINIMUM SENTENCES FOR THOSE CRIMINALS BEFORE FINISHING WORK ON OTHER SENSIBLE PRISON REFORMS FOR NONVIOLENT INMATES? THAT'S A QUESTION POLICE AND PROSECUTORS AROUND THE STATE ARE ASKING, A QUESTION SHARED BY THE AUTHOR OF MANY OF THE STATE'S EARLIER PRISON REFORMS, STATE SENATOR-TURNED-CONGRESSMAN BRAD ASHFORD." AND THIS IS HIS QUOTE: THE WHOLE PRISON REFORM MOVEMENT IS NOT ABOUT BEING EASY ON THE PEOPLE WHO COMMIT BAD CRIMES, ASHFORD TOLD THE WORLD-HERALD. IF YOU'RE GOING TO HAVE A SYSTEM OF PULLING PEOPLE OUT OF THE POPULATION, THOSE PRISON CELLS SHOULD BE RESERVED FOR PEOPLE YOU'RE SCARED OF--I'LL REPEAT THAT, RESERVED FOR PEOPLE YOU'RE SCARED OF--AND THOSE ARE THE PEOPLE. ASHFORD SAYS NEBRASKA'S MANDATORY MINIMUM SENTENCES DO WHAT THEY'RE SUPPOSED TO DO, AND I QUOTE, GET REALLY BAD GUYS OFF THE STREET, END QUOTE. THAT'S WHY, AS A STATE LEGISLATOR, HE ADDED GUN CRIMES TO THE LIST OF ELIGIBLE OFFENSES. THE EDITORIAL GOES ON: UNDER CURRENT LAW, CERTAIN SERIOUS CRIMES--ROBBERY, USING A WEAPON TO COMMIT A FELONY, DRUG DEALING, ASSAULTING A POLICE OFFICER, AND MANUFACTURING OR DISTRIBUTING CHILD PORN--CALL FOR MANDATORY MINIMUM SENTENCES THAT CANNOT BE SHORTENED BY GOOD TIME. BUT STATE LAWMAKERS ARE CONSIDERING LB173, WHICH WOULD ELIMINATE SOME OF NEBRASKA'S MANDATORY MINIMUMS FOR GUN CRIMINALS AND DRUG DEALERS, AS WELL AS SOME REPEAT OFFENDERS. IT GOES ON: MANDATORY MINIMUMS WOULD BE REMOVED FROM CRIMES THAT INCLUDE THE USE OF A FIREARM TO COMMIT A FELONY AND DEALING HARD DRUGS. UNDER THE BILL, FIRING A GUN UNINTENTIONALLY (SIC) IN THE

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DIRECTION OF AN OCCUPIED HOME, BUILDING, OR VEHICLE NO LONGER WOULD QUALIFY FOR A MANDATORY MINIMUM. AND I WILL HIGHLIGHT HERE: LAWMAKERS NEED TO TREAD CAREFULLY AS THEY DEBATE THIS BILL. IT IS TRUE THAT EXPERT RESEARCHERS FOUND MANDATORY MINIMUM SENTENCES CONTRIBUTING TO NEBRASKA'S PRISON POPULATION BOOM. AND THE CURRENT DEFINITION OF HABITUAL CRIMINALS MAY INCLUDE SOME NONVIOLENT OFFENDERS FOR WHOM THERE COULD BE BETTER OPTIONS. BUT THAT..THAT IS A CHANGE WORTH EXAMINING. HOWEVER, OMAHA POLICE LAST YEAR ARRESTED 349 PEOPLE FOR FELONIES THAT QUALIFIED FOR MANDATORY MINIMUM SENTENCES. MOST WERE GUNS AND DRUG OFFENSES. AND POLICE AND PROSECUTORS SAY GETTING SUCH CRIMINALS OFF THE STREETS HELPS MAKE NEBRASKA CITIES SAFER. DOUGLAS COUNTY ATTORNEY DON KLEINE CALLS THAT A SOUND RETURN ON NEBRASKA TAXPAYERS' INVESTMENT. AND I WILL STRESS THIS QUOTE. [LB173]

PRESIDENT FOLEY: ONE MINUTE. [LB173]

SENATOR BRASCH: IF SOMEBODY IS USING A GUN IN A CRIME, THESE ARE THE TYPES OF PEOPLE WE NEED TO PROTECT US FROM, KLEINE SAID. WITH A MINUTE LEFT I WILL TELL YOU WHAT THE END OF THE STORY IS. IT SAYS: NEBRASKANS BUILD PRISONS TO KEEP THE BAD GUYS BEHIND BARS. MOST OF THE PEOPLE SERVING MANDATORY MINIMUM SENTENCES ARE THE BAD GUYS. I BELIEVE SENATOR ASHFORD WAS ON TRACK WITH HIS REFORM OF JUVENILE JUSTICE WITH THE DIRECTION WE'RE MOVING IN TO MAKE SURE THAT WHEN THESE CRIMINALS ARE RELEASED, AS THEY WILL GO FREE ONE DAY, THAT THEY HAVE... [LB173]

PRESIDENT FOLEY: TIME, SENATOR. [LB173]

SENATOR BRASCH: ...INCLUDED... [LB173]

PRESIDENT FOLEY: TIME, SENATOR. [LB173]

SENATOR BRASCH: THANK YOU, MR. PRESIDENT. [LB173]

PRESIDENT FOLEY: THANK YOU, SENATOR BRASCH. MR. CLERK, ITEMS FOR THE RECORD? [LB173]



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ASSISTANT CLERK: THANK YOU, MR. PRESIDENT. I HAVE A SERIES OF REPORTS ON GUBERNATORIAL APPOINTMENTS FROM THE HEALTH AND HUMAN SERVICES COMMITTEE; AN AMENDMENT TO LB173A FROM SENATOR CHAMBERS TO BE PRINTED. THAT'S ALL I HAVE AT THIS TIME. (LEGISLATIVE JOURNAL PAGES 1754-1755.) [LB173A]

PRESIDENT FOLEY: THANK YOU, MR. CLERK. SENATORS, PURSUANT TO THE AGENDA, WE'RE NOW GOING TO MOVE TO THE 3:25 ITEM ON THE AGENDA, LB623. MR. CLERK. [LB623]

ASSISTANT CLERK: MR. PRESIDENT, LB623 IS ON FINAL READING. I HAVE A MOTION FROM SENATOR NORDQUIST TO RETURN LB623 TO SELECT FILE FOR A SPECIFIC AMENDMENT, THAT BEING FA73. (LEGISLATIVE JOURNAL PAGE 1733.) [LB623]

PRESIDENT FOLEY: SENATOR NORDQUIST, YOU'RE WELCOME TO OPEN ON YOUR MOTION. [LB623]

SENATOR NORDQUIST: THANK YOU, MR. PRESIDENT AND MEMBERS. WE ARE NOW ON FINAL READING OF LB623. THIS BILL HAS SEEN GREAT SUPPORT IN THE CAPITOL. IT CONTINUES TO SEE GREAT SUPPORT ACROSS NEBRASKA. WE HAVE SEEN A BROAD BASE OF GROUPS STEP FORWARD FROM A NUMBER OF DIFFERENT PERSPECTIVES. WE'VE SEEN THE NEBRASKA CHAMBER OF COMMERCE, THE OMAHA CHAMBER OF COMMERCE, THE LINCOLN CHAMBER OF COMMERCE, SHOW THEIR SUPPORT EARLY ON, THE NEBRASKA CATTLEMEN WERE A LEAD ADVOCATE OF LB623. THE FRATERNAL ORDER OF POLICE SAYING THIS IS VERY MUCH A PUBLIC SAFETY ISSUE. OMAHA MAYOR JEAN STOTHERT, THE CITY OF LINCOLN AND MAYOR CHRIS BEUTLER HAVE SUBMITTED THEIR INFORMATION. WE'VE SEEN THE NEBRASKA ASSOCIATION OF SCHOOL BOARDS, THE NEBRASKA LEAGUE OF MUNICIPALITIES, THE LEAGUE OF WOMEN VOTERS OF NEBRASKA, GROUPS LIKE...THAT WORK DIRECTLY WITH IMMIGRANT COMMUNITIES LIKE HEARTLAND WORKER CENTER, JUSTICE FOR OUR NEIGHBORS, NEBRASKA APPLESEED, ACLU. THESE ARE ALL GROUPS REPRESENTING NEBRASKANS WHO STEP FORWARD TO SAY THIS IS THE RIGHT THING TO DO FOR OUR STATE, FOR OUR ECONOMY, FOR OUR COMMUNITY, FOR OUR FUTURE, FOR THE NEXT GENERATION. WE HAVE, AS WE HAVE SAID ON GENERAL AND SELECT FILE, 2,700 BRIGHT, YOUNG, EDUCATED INDIVIDUALS WHO ARE JUST WAITING FOR A CHANCE TO DRIVE LEGALLY IN OUR STATE, WAITING FOR US TO REMOVE WHAT JUST IS NOT A COMMONSENSE BARRIER

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THAT IS IN PLACE RIGHT NOW THAT IS PREVENTING THEM FROM FULLY EXCELLING. THE STORIES WE HAVE HEARD INCLUDE NUMBERS OF KIDS WHO HAVE HAD TO PASS UP PROMOTIONS, JOB ADVANCEMENTS, WAYS THAT QUITE FRANKLY THEY COULD BETTER PARTICIPATE IN OUR ECONOMY. AND, YOU KNOW, THERE'S MAYBE SOME THINGS THAT WERE SAID ON SELECT FILE THAT WILL ATTEMPT TO CLARIFY IN OUR TIME HERE TODAY. ONE OF THE THINGS IS WHO WE'RE TALKING ABOUT HERE. I KNOW SOME FOLKS JUST KEPT SAYING ILLEGAL IS ILLEGAL. I THINK WE HEARD THAT PROBABLY A DOZEN OR MORE TIMES ON THE MIKE IN GENERAL AND SELECT FILE. THIS IS A VERY NARROW CLASSIFICATION OF INDIVIDUALS. AS I SAID, IT'S 2,700 IN NEBRASKA. THE SPECIFIC LIMITATIONS ARE THOSE INDIVIDUALS HAD TO BE UNDER THE AGE OF 31 WHEN THE EXECUTIVE ORDER WENT INTO EFFECT ON JUNE 15, 2012. THEY HAD TO COME TO THE UNITED STATES BEFORE REACHING THEIR 16th BIRTHDAY. THEY HAD TO CONTINUOUSLY RESIDE IN THE UNITED STATES SINCE JUNE 15, 2007. SO BEFORE THE ORDER WENT INTO EFFECT, BEFORE THE DACA PROGRAM WENT INTO EFFECT, THEY HAD TO BE IN THE UNITED STATES FOR FIVE YEARS. THEY HAD TO BE PHYSICALLY PRESENT IN THE UNITED STATES ON JUNE 15, 2012. AND AT THE TIME OF MAKING THE REQUEST FOR CONSIDERATION OF DEFERRED ACTION WITH THE UNITED STATES CITIZENSHIP AND IMMIGRATION SERVICES, THEY HAD TO EITHER BE ENROLLED IN SCHOOL, HAVE GRADUATED, OR OBTAINED A CERTIFICATE OF COMPLETION FROM HIGH SCHOOL, HAVE A GED, OR BE HONORABLY DISCHARGED...AN HONORABLY DISCHARGED VETERAN OF THE COAST GUARD OR ARMED FORCES OF THE UNITED STATES. AND THEY HAVE...THEY COULD NOT BE CONVICTED OF A FELONY, SIGNIFICANT MISDEMEANOR, THREE OR MORE MISDEMEANORS, AND DO NOT OTHERWISE POSE A THREAT TO NATIONAL SECURITY OR PUBLIC SAFETY. AGAIN, THESE ARE INDIVIDUALS WHO ARE CONTRIBUTING POSITIVELY TO OUR COMMUNITIES AND OUR STATE AND WITH THESE PROVISIONS IN PLACE, IT'LL... YOU KNOW, THE REASON THIS WAS PUT IN PLACE IS WE HAVE SOMEWHERE PROBABLY BETWEEN 10 AND 15 MILLION UNDOCUMENTED IMMIGRANTS IN THIS NATION AND WE ARE DEPORTING THE HIGHEST LEVEL WE EVER HAVE UNDER THE OBAMA ADMINISTRATION, OVER 400,000 A YEAR. THAT'S OUR HIGHEST NUMBER. BUT WITH SOMEWHERE BETWEEN 10 AND 15 MILLION UNDOCUMENTED IMMIGRANTS AND ONLY THE ABILITY TO DEPORT 400,000, YES, THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY CHOSE TO USE PROSECUTORIAL DISCRETION AND SAY THAT THESE KIDS CERTAINLY ARE NOT AT THE TOP OF THE LIST. AND THEY WERE GIVEN WHEN THEY APPLY FOR THE TWO-YEAR AUTHORIZATION, THEY GET EMPLOYMENT AUTHORIZATION, AS WELL AS A SOCIAL SECURITY NUMBER. THEY ARE AN ASSET TO NEBRASKA BUSINESSES. I'VE BEEN APPROACHED BY A NUMBER OF VERY LARGE NEBRASKA BUSINESSES,

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SOME FORTUNE 500 COMPANIES IN MY DISTRICT THAT SAY, YES, WE GLADLY HIGHER THESE DACA YOUTHS. THEY ARE EXTREMELY POSITIVE, EXTREMELY POSITIVE INFLUENCES ON OUR COMPANY. THEY BRING UNIQUE PERSPECTIVES. THEY BRING DIVERSITY, NOT JUST DIVERSITY IN THE PERSON BUT DIVERSITY IN THOUGHT, DIVERSITY IN PROCESS, TO THE BUSINESSES THAT THEY WORK AT. THAT IS WHY THE BUSINESS COMMUNITIES IN OUR STATE ARE SAYING, YES, PLEASE MOVE FORWARD WITH LB623. WE HAVE EXTENSIVELY WORKED ON THE LANGUAGE THAT IS IN THIS BILL. WE ARE CONFIDENT IN THE LANGUAGE THAT'S IN THE BILL, THAT THE DEPARTMENT OF MOTOR VEHICLES WILL MOVE FORWARD PROMPTLY TO IMPLEMENT OF THIS. THE LEGISLATURE WILL SPEAK VERY CLEARLY WHEN THIS BILL IS PASSED ON FINAL READING. WE ARE HOPEFUL THAT WITH A STRONG SHOWING OF SUPPORT THAT THE GOVERNOR WOULD CHOOSE NOT TO VETO THIS BILL BUT WITH A STRONG SHOWING OF SUPPORT I CERTAINLY FEEL THAT THE LEGISLATURE HAS GIVEN THAT WE ARE IN A GOOD POSITION TO MOVE FORWARD WITH LB623. I WILL READ A LITTLE BIT. MR. PRESIDENT, HOW MUCH TIME DO I HAVE LEFT? [LB623]

PRESIDENT FOLEY: THREE MINUTES, SENATOR. [LB623]

SENATOR NORDQUIST: THANK YOU, MR. PRESIDENT. I WILL READ FROM THE SUPPORT STATEMENT OF THE GREATER OMAHA CHAMBER OF COMMERCE, LINCOLN CHAMBER OF COMMERCE, AND NEBRASKA CHAMBER OF COMMERCE. IT SAYS NEBRASKA IS CURRENTLY THE ONLY STATE THAT DOES NOT ALLOW DACA, DEFERRED ACTION FOR CHILDHOOD ARRIVAL, YOUTH TO QUALIFY FOR NEBRASKA DRIVER'S LICENSES. THE CHAMBER COALITION BELIEVES THAT THE CURRENT SITUATION PRESENTS AN OBSTACLE BOTH TO INDIVIDUALS AND STATE ECONOMIC GROWTH. LB623 WOULD ALLOW THESE YOUNG NEBRASKANS TO CONTRIBUTE THEIR TALENTS MORE FULLY TO OUR COMMUNITIES AND TO THE STATE'S ECONOMY. BY PASSING LB623, NEBRASKA CAN BE ENSURE THESE YOUNG PEOPLE HAVE THE ABILITY TO CONTRIBUTE TO SOCIETY AT LARGE IN THE STATE'S ECONOMY BY PROVIDING THEM THE OPPORTUNITY TO OBTAIN A DRIVER'S LICENSE, SAID LINCOLN CHAMBER OF COMMERCE CHAIRWOMAN ANGIE MUHLEISEN. IT IS CRITICAL THAT NEBRASKA IS KNOWN AS A WELCOME AND OPEN PLACE TO DO BUSINESS. IN GREATER OMAHA AND THROUGHOUT OUR STATE, WE KNOW THAT DUE TO OUR LOW RATE OF UNEMPLOYMENT THE SEARCH IS CONSTANTLY ON FOR WORKERS, ESPECIALLY THOSE WHO ARE NEW TO THE WORK FORCE. LB623 PROVIDES A COMMONSENSE SOLUTION AND ANOTHER TOOL TO ASSIST OUR SMALL BUSINESSES IN FILLING THEIR EXISTING TALENT NEEDS, GREATER OMAHA CHAMBER OF COMMERCE CHAIRMAN CLARK LAURITZEN. AND BARRY KENNEDY, THE PRESIDENT OF THE NEBRASKA

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CHAMBER OF COMMERCE AND INDUSTRY SAID, THE LEGISLATURE MAKES SENSE FROM PUBLIC SAFETY, ECONOMIC, AND LEGAL PERSPECTIVE. THAT IS A STATEMENT OF STRONG SUPPORT FROM THE STATE CHAMBER, OMAHA CHAMBER, AND LINCOLN CHAMBER. THERE HAVE BEEN OTHER SMALLER CHAMBERS OF COMMERCE THAT HAS STEPPED FORWARD, OTHER SMALL-TOWN MAYORS THAT HAVE STEPPED FORWARD TO OFFER THEIR SUPPORT. WE HAVE SEEN... [LB623]

PRESIDENT FOLEY: ONE MINUTE. [LB623]

SENATOR NORDQUIST: ...SUPPORT FROM FOUR POSITIVE EDITORIALS FROM THE KEARNEY PAPER, TWO ACTUALLY FROM THE KEARNEY PAPER, TWO FROM THE LINCOLN JOURNAL STAR, ONE FROM THE GRAND ISLAND PAPER, AND ONE FROM THE SCOTTSBLUFF PAPER. IT CERTAINLY IS THE RIGHT THING TO DO TODAY FOR OUR STATE, AND I HOPE THAT THE SUPPORTERS THAT HAVE STOOD WITH US SO FAR WILL CONTINUE TO REMAIN WITH US IN SUPPORT OF LB623. THANK YOU. [LB623]

PRESIDENT FOLEY: THANK YOU, SENATOR NORDQUIST. (VISITORS INTRODUCED.) SENATOR NORDQUIST, YOU ARE FIRST IN THE QUEUE AND YOU'RE RECOGNIZED. HE WAIVES THE OPPORTUNITY. SENATOR CRAWFORD, YOU'RE RECOGNIZED. [LB623]

SENATOR CRAWFORD: THANK YOU, LIEUTENANT GOVERNOR. I RISE IN SUPPORT OF LB623. AND I THANK SENATOR NORDQUIST FOR HIS LEADERSHIP ON THIS ISSUE, AND I THANK SENATOR McCOLLISTER FOR PRIORITIZING THE BILL AND FOR HIS EXCELLENT ADVOCACY FOR THIS BILL. HE HAS BEEN VERY PERSISTENT IN DISTRIBUTING INFORMATION ABOUT THE BILL TO HELP ALL THE SENATORS UNDERSTAND HOW IMPORTANT THIS BILL IS AND HELPING TO LEAD OTHER SENATORS TO SEE HOW IMPORTANT THE BILL IS, AND WE'VE HAD VERY POSITIVE, STRONG VOTES ON THIS IN THE OTHER TWO ROUNDS, AND I EXPECT WE WILL IN THE FINAL ROUND AS WELL. COLLEAGUES, WHEN I AM DECIDING HOW TO VOTE ON A BILL, ONE ITEM THAT'S VERY IMPORTANT TO ME IS THE COMMITTEE STATEMENT, AND I OFTEN LOOK TO SEE THE BALANCE AND MIX OF THE SUPPORTERS VERSUS THE OPPONENTS. WE HAD A BILL THE OTHER DAY, WE WERE TALKING ABOUT EVERY ONCE IN A WHILE YOU HAVE A BILL WHERE YOU HAVE NO SUPPORTERS, WHICH IS OBVIOUSLY NOT A GREAT SIGN, BUT SOMETIMES THERE'S A REASON FOR THAT, AND WE HAD THAT DISCUSSION THE OTHER DAY. BUT I RARELY SEE A COMMITTEE STATEMENT WHERE THE LIST OF

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SUPPORTERS GOES PAST ONE PAGE AND THAT'S WHAT WE SEE IF YOU LOOK AT THE COMMITTEE STATEMENT FOR LB623. IF YOU LOOK ON YOUR GADGET AT THE COMMITTEE STATEMENT, YOU NOTICE THAT THE LIST OF SUPPORTERS WHO CAME TO TESTIFY FOR LB623 GOES PAST ONE PAGE. IN CONTRAST, LOOK AT WHO IS LISTED AS OPPONENTS, AND YOU WILL SEE WE HAVE TWO CITIZENS WHO CAME TO SPEAK IN OPPOSITION. SO IN TERMS OF WHAT HAPPENED AT THE HEARING, THERE WAS OVERWHELMING SUPPORT FOR LB623. IN TERMS OF WHAT'S HAPPENED IN OUR TWO EARLIER VOTES ON THIS BILL, YOU'VE SEEN VERY STRONG SUPPORT IN THIS BODY FOR LB623. I'VE ASKED MY STAFF TO COMPILE AND COUNT THE E-MAILS WE'VE GOTTEN FROM OUR CONSTITUENTS ON THIS ISSUE, AND I'M FROM A FAIRLY CONSERVATIVE DISTRICT AND MY DISTRICT, I ALMOST HAVE TWICE AS MANY PRO E-MAILS AS ANTI E-MAILS ON LB623. SO I WOULD SAY THAT'S A SIGN OF E-MAIL FROM MY DISTRICT IS OVERWHELMINGLY IN SUPPORT OF LB623. AGAIN THE LIST OF SUPPORTERS THAT ARE ON THE COMMITTEE STATEMENT IS NOT EVEN INCLUSIVE OF ALL OF THE GROUPS AND ENTITIES THAT HAVE COME OUT IN SUPPORT OF LB623 SINCE THE HEARING. AND NOTABLY, AS SENATOR NORDQUIST MENTIONED, THE STATE CHAMBER, THE NEBRASKA STATE CHAMBER, HAS COME OUT IN SUPPORT OF LB623 BECAUSE THIS IS SUCH AN IMPORTANT ISSUE FOR OUR WORK FORCE. IF WE WANT TO GROW NEBRASKA AND HAVE ECONOMIC DEVELOPMENT IN NEBRASKA, WE ALL KNOW A CRITICAL ISSUE IS WORK FORCE AND WE'VE TALKED ABOUT THAT OVER AND OVER AGAIN, AND LB623 IS AN IMPORTANT BILL TO ENSURE THAT WE MAKE THE BEST USE OF THE PEOPLE WE HAVE HERE IN OUR STATE. AND OTHER SENATORS HAVE SPOKEN MOVINGLY ABOUT THE GIFTS AND SKILLS THAT THESE YOUNG PEOPLE BRING TO OUR STATE. I WOULD CALL YOUR ATTENTION TO ONE OF THE SUPPORTERS THAT HASN'T GOTTEN A LOT OF DISCUSSION, PERHAPS. AND THAT IS THE NATIONAL SAFETY COUNCIL AS ONE OF THE SUPPORTERS FOR LB623. SO REGARDLESS OF WHAT YOUR VIEW MAY BE OF THE FEDERAL DECISION TO PROVIDE... [LB623]

PRESIDENT FOLEY: ONE MINUTE. [LB623]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT...TO PROVIDE LEGAL STATUS FOR THESE YOUNG PEOPLE, OUR CHOICE AT THE STATE LEVEL IS, HOW ARE WE GOING TO RESPOND TO THAT. AND THAT'S THE SITUATION FOR MANY ISSUES WE HAVE BEFORE US. WE MAY AGREE OR DISAGREE WITH A FEDERAL POLICY CHOICE, BUT THEN WE AS A STATE HAVE A CHOICE OF HOW DO WE RESPOND. SO THERE HAS BEEN A FEDERAL CHOICE TO ALLOW LEGAL STATUS FOR THESE YOUNG PEOPLE, AND WE AS A STATE NEED TO DECIDE HOW TO RESPOND. AND I THINK THE BUSINESS COMMUNITY IS CLEARLY TELLING US THAT WE SHOULD

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RESPOND IN A WAY THAT ALLOWS US TO MAKE...TO ALLOW THESE YOUNG PEOPLE TO CONTRIBUTE TO OUR ECONOMY AND I AGREE AND THE SAFETY COUNCIL IS AN EXAMPLE OF ANOTHER INTEREST THAT'S TELLING US IT'S CRITICALLY IMPORTANT IF WE HAVE THESE YOUNG PEOPLE IN OUR STATE THAT WE MAKE SURE WE'RE ABLE TO ENSURE THEY CAN HAVE A DRIVER'S LICENSE SO WE CAN HAVE PUBLIC SAFETY. THANK YOU, MR. PRESIDENT. [LB623]

PRESIDENT FOLEY: TIME, SENATOR. THANK YOU, SENATOR CRAWFORD. SENATOR BAKER, YOU'RE RECOGNIZED. [LB623]

SENATOR BAKER: I YIELD MY TIME TO SENATOR NORDQUIST. [LB623]

PRESIDENT FOLEY: SENATOR NORDQUIST, 5 MINUTES. [LB623]

SENATOR NORDQUIST: THANK YOU, MR. PRESIDENT, MEMBERS. ONE ISSUE THAT HAS COME UP A NUMBER OF TIMES ON THIS BILL, MORE...NOT AS MUCH I WOULD SAY IN DEBATE ON GENERAL AND SELECT FILE BUT MORE AS A TALKING POINT BY SOME OF THOSE IN OPPOSITION THAT'S THROWN AROUND IN THE PRESS, AND I BELIEVE GOVERNOR RICKETTS EVEN MENTIONED IT TODAY AT HIS PRESS CONFERENCE. HIS REASON FOR OPPOSING THIS BILL IS NOT GIVING PUBLIC BENEFITS TO UNDOCUMENTED IMMIGRANTS. AND JUST FOR THE RECORD, FOR THOSE OF YOU THAT WEREN'T HERE IN 2009, OUR FIRST SESSION, THERE WAS A LOT OF DEBATE ABOUT RESTRICTING ACCESS TO BENEFITS FOR UNDOCUMENTED IMMIGRANTS. SOME PEOPLE THOUGHT THAT THE BILL THAT WAS PASSED, LB403, WAS REDUNDANT AND REPETITIVE. THERE ALREADY ARE LIMITATIONS, RESTRICTIONS IN FEDERAL PROGRAMS FOR THAT. BUT, NONETHELESS, WE PASSED A BILL, MAY HAVE BEEN UNANIMOUS, I CERTAINLY KNOW I VOTED FOR IT, TO RESTRICT ACCESS TO PUBLIC BENEFITS TO UNDOCUMENTED IMMIGRANTS. BUT WE DO HAVE IN THAT BILL, AND THE SECTION HAS NOT BEEN CHANGED SINCE THE BILL WAS PASSED, LB4 WAS PASSED IN 2009, WE DO HAVE A DEFINITION OF PUBLIC BENEFITS. AND, YOU KNOW, SOME PEOPLE I GUESS COULD COME UP WITH THEIR OWN DEFINITION AND EXPAND IT AND SAY THEIR DEFINITION IS SOMETHING BROADER, BUT THIS DEFINITION IS AS CRYSTAL-CLEAR AS YOU POSSIBLY COULD GET. SECTION 4-109, PUBLIC BENEFITS DEFINED, FOR PURPOSES OF SECTION 4-108 TO 4-113, WHICH IS WHERE THE MEAT OF LB403 RESIDES, PUBLIC BENEFITS MEANS ANY GRANT, CONTRACT, LOAN, PROFESSIONAL LICENSE, COMMERCIAL LICENSE--AND THAT IS NOT A COMMERCIAL DRIVER'S LICENSE, IT'S COMMERCIAL BUSINESS OPERATION LICENSE--WELFARE BENEFIT, HEALTH PAYMENT OR FINANCIAL

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ASSISTANCE BENEFIT, DISABILITY BENEFIT, PUBLIC OR ASSISTED HOUSING BENEFIT, POSTSECONDARY EDUCATION BENEFIT INVOLVING DIRECT PAYMENT OF FINANCIAL ASSISTANCE, FOOD ASSISTANCE BENEFIT, OR UNEMPLOYMENT BENEFIT, OR ANY OTHER SIMILAR BENEFIT PROVIDED BY OR FOR WHICH PAYMENTS OR ASSISTANCE ARE PROVIDED TO AN INDIVIDUAL, A HOUSEHOLD, OR FAMILY ELIGIBLE UNIT BY AN AGENCY OF THE UNITED STATES, THE STATE OF NEBRASKA, OR POLITICAL SUBDIVISION OF THE STATE OF NEBRASKA. CLEARLY, WHEN THE LEGISLATURE ACTED SPECIFICALLY TO RESTRICT ACCESS TO PUBLIC BENEFITS TO UNDOCUMENTED IMMIGRANTS, IT WAS CRYSTAL-CLEAR THAT DRIVER'S LICENSE WAS NOWHERE IN THAT DEFINITION. SO OUR ELECTED OFFICIALS THAT CONTINUE TO SAY I'M GOING TO OPPOSE THIS BILL BECAUSE IT'S GIVING BENEFITS TO UNDOCUMENTED IMMIGRANTS, THEY'RE SIMPLY MAKING UP THEIR OWN DEFINITION OF BENEFITS FOR UNDOCUMENTED IMMIGRANTS. AND I GUESS FOR PUBLIC DIALOGUE PURPOSES THEY CERTAINLY HAVE THE RIGHT TO DO THAT. I'M GOING TO SHARE ANOTHER STORY FROM THE TRANSPORTATION AND TELECOMMUNICATIONS COMMITTEE TRANSCRIPT FROM MARCH 3, 2015. AND I THINK I MIGHT HAVE MENTIONED HIS NAME LAST NIGHT ON SELECT FILE BUT DIDN'T HAVE TIME TO GET AROUND TO READING... [LB623]

PRESIDENT FOLEY: ONE MINUTE. [LB623]

SENATOR NORDQUIST: ...HIS TESTIMONY AND I MAY NOT BE ABLE TO FINISH ALL OF IT HERE. HIS NAME IS JUAN GALLEGOS AND HE IS DIRECTLY AFFECTED, DIRECTLY AFFECTED DEFERRED ACTION RECIPIENT. TWO-THOUSAND ONE WHEN HE WAS 12 YEARS OLD, HE SAYS HIS PARENTS MADE THE MOST DIFFICULT DECISION OF THEIR LIFE. THEY DECIDED THAT THEY COULD NO LONGER LIVE IN POVERTY AND THEY HAD TO MOVE TO WHERE THE OPPORTUNITIES WERE. AND JUST LIKE EVERYONE'S ANCESTORS IN THE COUNTRY, THEY DECIDED THAT AMERICA WAS THE LAND OF OPPORTUNITY AND IT WAS THE PLACE TO BE. SO, HE SAID, WE MOVED TO HASTINGS, NEBRASKA. HASTINGS, NEBRASKA. HE'S CALLING IT THE LAND OF OPPORTUNITIES. ISN'T THAT BEAUTIFUL? AND THERE'S WHERE I GREW...AND THAT'S WHERE I GREW UP SINCE I WAS 12 YEARS OLD. I WAS ABLE TO GRADUATE FROM HASTINGS HIGH SCHOOL, 36th IN MY CLASS, AFTER LEARNING ENGLISH. AND WITH FULL TUITION SCHOLARSHIP THAT I TOOK ADVANTAGE OF AT THE UNIVERSITY OF NEBRASKA IN KEARNEY WHERE I STUDIED MULTIMEDIA. [LB623]

PRESIDENT FOLEY: TIME, SENATOR. [LB623]

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SENATOR NORDQUIST: THANK YOU. [LB623]

PRESIDENT FOLEY: THANK YOU, SENATOR NORDQUIST. SENATOR MORFELD, YOU'RE RECOGNIZED. [LB623]

SENATOR MORFELD: THANK YOU, LIEUTENANT GOVERNOR. I YIELD MY TIME TO SENATOR McCOLLISTER. [LB623]

SENATOR McCOLLISTER: THANK YOU, SENATOR. I'M GRATEFUL FOR THE TIME. THERE WAS SOME DISCUSSION LAST NIGHT ABOUT THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS, BROWNSVILLE DIVISION, AND WE DISCUSSED THAT CASE AND IT WAS INDICATED THAT NEBRASKA AS BEING ONE OF THE 26 STATES SEEKING INJUNCTIVE RELIEF AGAINST THE UNITED STATES AND SEVERAL OFFICIALS OF THE DEPARTMENT OF HOMELAND SECURITY TO PREVENT THEM FROM IMPLEMENTING A PROGRAM DEFERRED ACTION FOR PARENTS OF AMERICANS UNLAWFUL PERMANENT RESIDENTS. WE SHOULD TALK ABOUT THAT BECAUSE THAT WAS A PROMINENT PART OF THE DISCUSSION LAST NIGHT. IN ACTUALITY, THE STATEMENT BY SECRETARY JOHNSON CONCERNING THE DISTRICT COURT'S RULING IS RELEVANT TO THIS DISCUSSION. I STRONGLY DISAGREE WITH JUDGE HANEN'S DECISION TO TEMPORARILY ENJOIN IMPLEMENTATION OF DEFERRED ACTION FOR PARENTS OF AMERICANS AND LAWFUL PERMANENT RESIDENTS AND EXPAND DEFERRED ACTION FOR CHILDHOOD ARRIVALS. IT'S IMPORTANT TO EMPHASIZE WHAT--WHAT--THE DISTRICT COURT DOES NOT AFFECT. THE COURT'S ORDER DOES NOT AFFECT THE EXISTING DACA INDIVIDUALS, INDIVIDUALS MAY CONTINUE TO COME FORWARD AND REQUEST AND GRANT DACA STATUS FOR RENEWAL OF DACA PURSUANT TO THE GUIDELINES ESTABLISHED IN 2012. SO I'M NOT SURE IT'S RELEVANT TO SPEND MUCH TIME WITH THAT PARTICULAR COURT CASE. SECONDLY, THE...SECONDLY, I THINK IT'S RELEVANT TO LOOK AT SOME OF THE OP-EDS THAT HAVE COME ABOUT AS A RESULT OF THIS LEGISLATION. AND PERHAPS THE MOST POIGNANT TO ME WAS THE ONE THAT CAME OUT OF THE STAR-HERALD. MEANNESS BACKFIRES. THE DEFERRED ACTION FOR CHILDHOOD ARRIVALS PROGRAMS ISSUE SOCIAL SECURITY CARDS TO QUALIFIED IMMIGRANTS ALLOWING THEM TO WORK AND STUDY IN THE UNITED STATES ON TWO-YEAR RENEWABLE PERMITS. ABOUT 2,700 YOUNG IMMIGRANTS IN NEBRASKA HAVE BEEN ACCEPTED INTO THE PROGRAM SINCE IT BEGAN IN 2012. SO WE CAN SEE THAT THE OBVIOUS OPINION OR THE PUBLIC OPINION ABOUT THIS BILL, LB623, IS IN FAVOR OF PASSING OF THIS BILL. IN FACT, WE HAVE A GREAT NUMBER OF SUPPORTERS OF THIS BILL. THE ACLU OF NEBRASKA, BROWN IMMIGRATION LAW, CATHOLIC CHARITIES OF THE ARCHDIOCESE OF OMAHA,



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THE HISPANIC GROUP OF NEBRASKA, DOUGLAS COUNTY BOARD OF COMMISSIONERS, FRATERNAL ORDER OF POLICE, HEARTLAND WORKERS CENTER, JUSTICE FOR OUR NEIGHBORS, LATINO-AMERICAN COMMISSION, THE LATINO CENTER OF THE MIDLANDS, THE LEAGUE OF WOMEN VOTERS OF NEBRASKA, THE LEAGUE OF WOMEN VOTERS OF LINCOLN AND LANCASTER COUNTY, LEAGUE OF NEBRASKA MUNICIPALITIES, LINCOLN CHAMBER OF COMMERCE, LINCOLN MAYOR CHRIS BEUTLER FOR THE CITY OF LINCOLN, NEBRASKA APPLESEED, NEBRASKA ASSOCIATION OF SCHOOL BOARDS, NEBRASKA CATTLEMEN'S ASSOCIATION, NEBRASKA CHAMBER OF COMMERCE, NEBRASKA LABOR COUNCIL, TEAMSTER LOCAL 554, AND ALSO THE WORKERS UNION LOCAL 292, NEBRASKA RESTAURANT ASSOCIATION, THE NEBRASKA RETAIL FEDERATION, NEBRASKA STATE EDUCATION ASSOCIATION, THE NEBRASKA STATE AFL-CIO, NEBRASKA CHAMBER OF COMMERCE, OMAHA MAYOR JEAN STOTHERT, YOUNG NEBRASKANS IN ACTION. SO AS WE CAN SEE, LB623 HAS A GREAT DEAL OF SUPPORT. [LB623]

PRESIDENT FOLEY: ONE MINUTE. [LB623]

SENATOR McCOLLISTER: AND I ENCOURAGE YOUR GREEN VOTE WHEN LB623 COMES UP FOR APPROVAL. THANK YOU, MR. PRESIDENT. [LB623]

PRESIDENT FOLEY: THANK YOU, SENATOR McCOLLISTER. SENATOR HANSEN, YOU'RE RECOGNIZED. [LB623]

SENATOR HANSEN: THANK YOU, MR. PRESIDENT. I'LL YIELD MY TIME TO SENATOR NORDQUIST. [LB623]

PRESIDENT FOLEY: SENATOR NORDQUIST, 5 MINUTES. [LB623]

SENATOR NORDQUIST: THANK YOU, MR. PRESIDENT AND MEMBERS. LET'S SEE, I WAS TALKING ABOUT JUAN, JUAN GALLEGOS, WHOSE FAMILY CAME TO HASTINGS. HE HAD TO LEARN TO SPEAK ENGLISH. HE GRADUATED FROM HASTINGS HIGH SCHOOL, 36th IN HIS CLASS, GOT A FULL TUITION SCHOLARSHIP TO THE UNIVERSITY OF NEBRASKA AT KEARNEY WHERE HE STUDIED MULTIMEDIA. AFTER THAT AND BECAUSE OF LACK OF ACCESS TO A DRIVER'S LICENSE, HE MOVED TO DENVER WHERE HE WAS ABLE TO WORK AS A COMMUNICATIONS DIRECTOR FOR A NONPROFIT ORGANIZATION THAT WORKED STATEWIDE. AND HE WAS ABLE TO GET A DRIVER'S LICENSE FOR THE FIRST TIME AFTER HE GRADUATED FROM COLLEGE. BECAUSE OF A FAMILY EMERGENCY, HE

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HAD TO COME BACK HOME. HE HAD TO MOVE BACK, HE SAID. BUT BEFORE I MOVED BACK I HAD SOME GREAT ACCOMPLISHMENTS THAT I'M VERY PROUD OF. I WAS ABLE TO GET SOME WORK PUBLISHED IN NATIONAL OUTLETS, AND EVEN PUBLISHED IN THE CONGRESSIONAL RECORD IN D.C. ALL THOSE OPPORTUNITIES I HAD BECAUSE I WAS ABLE TO GET A DRIVER'S LICENSE IN COLORADO WHICH MEANT I WAS ABLE TO GET A JOB, I WAS ABLE TO WORK THROUGHOUT THE STATE DIRECTING COMMUNICATIONS FOR A NONPROFIT ORGANIZATION. SO AFTER I MOVED BACK, I FIND MYSELF AGAIN WITHOUT THE ABILITY TO GET A DRIVER'S LICENSE WHICH MAKES IT A LOT MORE DIFFICULT TO GET A JOB. SO A LOT OF JOB POSTINGS THAT I SEE REQUIRE A DRIVER'S LICENSE TO BE ABLE TO TRAVEL EITHER BETWEEN DIFFERENT OFFICES OR, TWO, MORE RECENTLY I APPLIED TO WORK AS A PARALEGAL FOR AN IMMIGRATION LAW FIRM, AND THEY HAVE SATELLITE OFFICES IN DIFFERENT PLACES IN THE STATE. WITHOUT BEING ABLE TO DRIVE, THERE WOULD ALWAYS BE A NEED TO HAVE SOMEBODY ELSE FROM THE LAW OFFICE WITH ME IF I'M GOING TO BE ON BOTH...IF I'M GOING TO BE TRAVELLING TO BOTH SATELLITE OFFICES. OBVIOUSLY, HE THINKS IT WOULD BE A GREAT BENEFIT NOT JUST FOR HIM BUT FOR THE OTHER 2,700 YOUTH THAT WOULD BE IMPACTED BY THIS, AND HE ENCOURAGES OUR SUPPORT OF THIS BILL. IT WENT ON, I BELIEVE, SENATOR DAVIS HAD A GREAT QUESTION THAT HE KEPT ASKING. HE SAID, WHY WOULD ANYONE COME BACK GIVEN YOUR FAMILY SITUATION TO AN UNFRIENDLY CLIMATE? AND JUAN'S RESPONSE WAS, WELL, YOU KNOW, WHEN THE PIONEERS SETTLED THIS LAND, IT WASN'T A HOSPITABLE LAND, BUT THEY WORKED AT IT. THEY WORKED AT IT AS FARMERS, THEY WORKED THE LAND, THEY WERE THERE TRYING TO CHANGE THE LANDSCAPE, AND THAT'S WHAT WE'RE DOING HERE TODAY. FRIENDS, WE CERTAINLY SHOULD BE WORKING TO CHANGE THE LANDSCAPE TO MAKE IT MORE HOSPITABLE TO THOSE INDIVIDUALS THAT BRING STRENGTHS TO OUR COMMUNITIES, AND THAT'S EXACTLY THE POPULATION OF THAT THIS BILL WOULD IMPACT, AND I KNOW MANY OF YOU UNDERSTAND THAT AND HAVE SHOWN YOUR SUPPORT FOR THAT. AND THAT'S WHY WE'RE GOING TO CONTINUE TO PUSH FORWARD WITH LB623 AND WORK UNTIL IT IS ENACTED INTO LAW, HOPEFULLY, SOONER RATHER THAN LATER, SO THAT THESE BRIGHT YOUNG KIDS CAN REACH THEIR FULL POTENTIAL. THANK YOU, MR. PRESIDENT. [LB623]

PRESIDENT FOLEY: THANK YOU, SENATOR NORDQUIST. SENATOR McCOLLISTER, YOU'RE RECOGNIZED. HE WAIVES THE OPPORTUNITY. SENATOR KINTNER, YOU'RE RECOGNIZED. [LB623]

SENATOR KINTNER: WELL, THANK YOU, MR. PRESIDENT. YOU KNOW, SENATOR CRAWFORD SAID THAT THIS IS ABOUT ECONOMIC DEVELOPMENT, HELPING OUR

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ECONOMY AND BRINGING IN NEW WORKERS. WELL, JEEZ, IF IT WAS ABOUT THAT, WHY WOULDN'T WE JUST OPEN UP OUR BORDERS AND SAY COME ON IN? WE COULD CHANGE OUR LAWS AND IF THEY GOT KNOCKED UP WE COULD GIVE THEM MEDICAID AND WE CAN GIVE THEM SECTION 8 HOUSING. THEY GET A LITTLE HUNGRY, WE'LL GIVE THEM FOOD STAMPS, GIVE THEM AN OBAMA PHONE. WE CAN GIVE THEM EVERYTHING. FORTUNATELY, A STATE ALREADY LIKE THAT EXISTS. IT'S CALLED CALIFORNIA. HASN'T WORKED OUT TOO WELL THERE. BUT I GOT TO TELL YOU, I'VE...MY E-MAILS ARE JUST FLOWING, OVERFLOWING, AFTER THIS LAST TWO WEEKS. I WANT TO READ YOU A COUPLE OF THE E-MAILS AFTER WHAT WE DID TO THE STATE THIS MORNING. THIS IS ONE FROM...THIS GUY'S NAMED MARV (PHONETIC). HE GOES, BUT AS A LAW ENFORCEMENT OFFICIAL AND CONSIDERING THE EVENTS OF TODAY WE MUST HAVE THE DEATH PENALTY ON THE RECORDS. KEEP IN MIND, PRISONERS WHO KILL COPS ARE HELD IN HIGH ESTEEM IN PRISON. REPEAL WILL LEAD TO MORE POLICE OFFICERS BEING DEAD. HE DID NOT SAY WHERE HE WAS FROM. I'M THINKING HE'S FROM OMAHA. AND THEN RIGHT UNDERNEATH THAT, A COUPLE MINUTES BEFORE THAT, BILL (PHONETIC), WHAT IN "H-E DOUBLE TOOTHPICKS" IS GOING ON IN LINCOLN? I AM SEEING THE TRANSFORMATION OF NEBRASKA TO LIBERAL VALUES RIGHT BEFORE OUR EYES. WHY WOULD YOU CLOSE THE PRISONS AND TURN EVERYONE LOOSE? THIS IS VERY SAD INDEED. GUY'S NAME IS KEVIN (PHONETIC). AND THEN JUST A MINUTE OR TWO BEFORE THAT WAS SENT, THIS IS FROM DOUG (PHONETIC) AND MARIA (PHONETIC). THEY ARE FROM MY DISTRICT. I AM, I USED THE WORD P-Oed, THAT 32 SUPPOSEDLY CONSERVATIVE SENATORS WOULD VOTE TO BAN THE DEATH PENALTY. I'M ALSO USE THE WORD P-Oed AGAIN, THAT YOU CONSERVATIVE SENATORS VOTED FOR A GAS TAX. PLEASE VOTE NO TO OVERRIDE THE GOVERNOR'S VETO. I LIVE IN EAGLE LAKE AND I VOTED FOR YOU. THERE IS ENOUGH GOVERNMENT WASTE AND EXCESSIVE ENTITLEMENT PROGRAMS THAT MONEY CAN BE FOUND. IT HASN'T BEEN THAT LONG AGO THE LAST GAS TAX WAS RAISED. I'M JUST NOT HAPPY. I KIND OF THINK THAT'S A SMART PERSON BECAUSE THEY VOTED FOR ME. THE NEXT ONE JUST A FEW MINUTES BEFORE THAT, DEAR SENATOR KINTNER, THANK YOU FOR OPPOSING LB268 NOT ONLY FOR VOTING AGAINST LB268 BUT BY SPEAKING OUT AS YOU DID. KEEP SPEAKING OUT ON BEHALF OF CONSERVATIVE NEBRASKA VALUES. SINCERELY, HE GAVEE ME HIS INITIAL R.M., HIS LAST NAME. I GOT ALL THOSE LETTERS JUST PROBABLY STARTING ABOUT 45 MINUTES AFTER THE VOTE THIS MORNING. I'D NEVER IN MY THREE YEARS HAD PHONE CALLS AND E-MAILS AND PEOPLE STOPPING ME SAYING WHAT IS GOING ON IN LINCOLN. THEY'RE FROM ALL OVER NEBRASKA. I THINK SOME OF THEM ARE FRUSTRATED WITH THEIR OWN SENATORS AND THEY WRITE ME. AND...  
[LB623 LB268]

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PRESIDENT FOLEY: ONE MINUTE. [LB623]

SENATOR KINTNER: ...I THINK THE PEOPLE IN OUR STATE ARE JUST UPSET RIGHT NOW. THEY DID NOT VOTE FOR THIS. THIS IS NOT WHY THEY SENT THEIR SENATORS, A LOT OF THEM, NOT ALL OF THEM, BUT MOST OF THEM, THAT'S NOT WHY THEY SENT THEIR SENATORS DOWN HERE. THEY DIDN'T SEND THEIR SENATORS TO GET RID OF THE DEATH PENALTY. THEY DIDN'T SEND THEIR SENATORS DOWN HERE TO GIVE DRIVER'S LICENSE TO ILLEGAL ALIENS. THEY DIDN'T SEND THEIR SENATORS DOWN HERE TO EMPTY OUT OUR PRISONS. IF ANYTHING, THEY WANT US TO BUILD MORE PRISONS. THEY DIDN'T SEND THE SENATORS DOWN HERE TO RAISE TAXES. I CAN'T DISAGREE WITH THEM. ONCE AGAIN, THE PEOPLE HAVE IT RIGHT AND THIS BODY HAS IT WRONG. THANK YOU, MR. PRESIDENT. [LB623]

PRESIDENT FOLEY: THANK YOU, SENATOR KINTNER. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED. [LB623]

SENATOR PANSING BROOKS: THANK YOU, MR. LIEUTENANT GOVERNOR. I RISE IN SUPPORT OF LB623, AND WANTED TO BRING UP A COUPLE OF POINTS. YOU KNOW, FEDERAL LAW CONSIDERS THE DREAMERS TO HAVE LAWFUL STATUS. THEY'RE NOT CITIZENS, BUT THEY ARE NOT CONSIDERED DEPORTABLE. HOMELAND SECURITY STATES THAT THE FEDERAL GOVERNMENT CONSIDERS THE DACA RECIPIENTS TO HAVE LAWFUL STATUS IF THEY HAVE APPLIED, BEEN APPROVED, AND HAVE BEEN ISSUED WORK PERMITS UNDER SOMETHING CALLED THE EMPLOYMENT AUTHORIZATION DOCUMENTS, EADS. AND THE DACA RECIPIENTS ALSO RECEIVE SOCIAL SECURITY CARDS WITH A SOCIAL SECURITY NUMBER. THEY ARE PERMITTED TO WORK AND TO PAY TAXES AND HAVE PERMISSION TO STAY IN THE COUNTRY FOR A YEAR AT A TIME. DID YOU CATCH THAT? THEY'RE PAYING TAXES. THEY'RE HELPING THE FINANCES IN OUR STATE. NEBRASKA'S THE LAST HOLDOUT AFTER ARIZONA, BECAUSE ARIZONA'S BAN ON THE DREAMERS WAS STRUCK DOWN BY THE NINTH CIRCUIT COURT OF APPEALS IN JANUARY, 2015. THEN, THE UNITED STATES SUPREME COURT, THE SUPREME LAW OF THE LAND, DENIED THE APPEAL, LEAVING NEBRASKA ALONE IN THIS MISTAKEN UNDERSTANDING OF DACA RECIPIENT STATUS. THERE IS A LAWSUIT PENDING RIGHT NOW WITH THREE VERY IMPRESSIVE YOUNG PEOPLE WHO HAVE CALLED AND FOUND NEBRASKA AS THEIR ONLY HOME. ALL OF THEM HAVE WORK PERMITS AND SOCIAL SECURITY CARDS FROM THE FEDERAL GOVERNMENT. THEY WOULD ALL BE ABLE TO DRIVE IN ANY OTHER STATE IN THIS COUNTRY. IN MY OPINION, THE STATE IS OVERREACHING AND IGNORING THE CLEAR TERMS OF THE ELIGIBILITY RULES UNDER THE ADMINISTRATIVE

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PROCEDURES ACT, AND THE CLAIM RIGHT NOW IS THAT THE STATE IS VIOLATING THE DUE PROCESS CLAUSE OF THE NEBRASKA STATE CONSTITUTION AS WELL AS THE EQUAL PROTECTION CLAUSE OF THE UNITED STATES CONSTITUTION. THAT COMES FORWARD WHEN SIMILARLY SITUATED PEOPLE ARE BEING TREATED DIFFERENTLY UNDER OUR LAW. MANY OTHER NONCITIZENS WITH TEMPORARY STATUS GET LICENSES IN NEBRASKA. THOSE INCLUDE REFUGEES, PAROLE PEOPLE AS REFUGEES, ASYLEES, ASYLUM APPLICANTS WHO FILED FOR ASYLUM ON OR AFTER JANUARY 4, 1995, DEFERRED, ENFORCED DEPARTURE, AND EXTENDED VOLUNTARY DEPARTURE APPLICANTS, TEMPORARY PROTECTED STATUS THAT'S GRANTED UNDER 8 CFR SECTION 244, AND UNDER 244.5. THERE ARE 15--15--GROUPS, MY FRIENDS, 15 GROUPS OF PEOPLE THAT ARE NOT CITIZENS THAT ARE BEING GIVEN TEMPORARY LICENSES IN NEBRASKA. THAT'S THE ARGUMENT UNDER THE EQUAL PROTECTION CLAUSE THAT SIMILARLY SITUATED PEOPLE ARE NOT BEING TREATED EQUALLY UNDER OUR CONSTITUTION. THAT'S A VIOLATION OF CONSTITUTIONAL LAW. I KNOW IT'S CONFUSING AND I KNOW PEOPLE SAY, OH, IT'S ABOUT THE LAW AND THIS IS CONFUSING AND JUST FIGURE OUT WHAT TO DO. WELL, THERE ARE 15 GROUPS OF PEOPLE THAT ARE NOT CITIZENS THAT ARE ALLOWED TO GET LICENSES. [LB623]

PRESIDENT FOLEY: ONE MINUTE. [LB623]

SENATOR PANSING BROOKS: AND WE HAVE ONE GROUP THAT'S NOT A CITIZEN THAT IS NOT ALLOWED, EVEN THOUGH IN 49 OTHER STATES, THEY ARE ALLOWED TO GET LICENSES. NO OTHER GROUP OF IMMIGRANTS WITH AN EAD WORK PERMIT IS DENIED. ONLY THE DREAMERS ARE DENIED. THE HOMELAND SECURITY STATED THAT...SENT A LETTER REGARDING THIS TO SENATOR ASHFORD AND SAID THE ID ACT FURTHER PROVIDES THAT CERTAIN CATEGORIES OF ALIENS, INCLUDING INDIVIDUALS WITH DEFERRED ACTION, MAY ONLY BE ISSUED TEMPORARY OR LIMITED-TERM LICENSES OR IDENTIFICATION CARDS VALID DURING THE INDIVIDUAL'S AUTHORIZED PERIOD OF STAY OR FOR UP TO ONE YEAR IN CASES WHERE THE INDIVIDUAL HAS NO DEFINED LENGTH OF AUTHORIZED STAY. WE'RE VIOLATING LAWS, IN MY OPINION, COLLEAGUES. WE'RE VIOLATING THE NEBRASKA CONSTITUTION UNDER BOTH THE DUE PROCESS AND THE... [LB623]

PRESIDENT FOLEY: TIME, SENATOR. [LB623]

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SENATOR PANSING BROOKS: ...EQUAL PROTECTION CLAUSE. THANK YOU, MR. LIEUTENANT GOVERNOR. [LB623]

PRESIDENT FOLEY: THANK YOU, SENATOR PANSING BROOKS. SENATOR GROENE, YOU'RE RECOGNIZED. [LB623]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. I'M GLAD YOU GUYS DECIDED TO FILIBUSTER YOUR OWN BILL BECAUSE I WASN'T DOING IT. BUT IT GAVE ME AN OPPORTUNITY TO POINT OUT, BECAUSE SENATOR NORDQUIST IS A GOOD POLITICIAN RIGHT AT THE END OF THE DAY, THREW HIS ACE OUT THERE ABOUT THE RULING BY THE DISTRICT OF ARIZONA, UNITED STATES DISTRICT COURT. THAT HAS NOTHING TO DO WITH WHAT WE'RE DOING, FOLKS. FOR ONE THING, IT ONLY COVERS ARIZONA. NUMBER TWO, ARIZONA DENIED DACA CHILDREN A DRIVER'S LICENSE. MY AMENDMENT AND THIS LAW WAS GIVING DACA CHILDREN A PRIVILEGE CARD, 100, 200 DEGREES, 5,000 DEGREES TURNAROUND FROM WHAT ARIZONA WAS RULING ON. ARIZONA WAS DENYING THEM. WE WERE GIVING IT. WE HAVE A DISTRICT COURT ALSO, THAT, I'M GOING TO REMIND YOU, WE LIVE UNDER. IT'S CALLED THE UNITED STATES DISTRICT COURT OF THE DISTRICT OF NEBRASKA, AND AS I'VE READ OVER AND OVER AGAIN TO YOU, OUR COURT DIFFERENTIATED PREFERRED PRIVILEGE, DEFERRED PRIVILEGE VERSUS DEFERRED STATUS. IT DIFFERENTIATED IT. THE DEFENDANT ASSERTS THAT...DOES NOT HAVE LAWFUL STATUS IN THE UNITED STATES THOUGH SHE MAY HAVE LAWFUL PRESENCE. THE DEFENDANT AGREES THAT SHE LACKS LAWFUL STATUS. THE LAWYERS FOR THE DEFENDANT EVEN AGREED THEY DIDN'T HAVE LAWFUL STATUS. U.S. CITIZEN IMMIGRATION SERVICE FREQUENTLY ASKED QUESTIONS ABOUT DACA. THIS IS PRESIDENT OBAMA'S ORGANIZATION. WHAT IS DEFERRED ACTION? HOWEVER, DEFERRED ACTION DOES NOT CONFER LAWFUL STATUS. OUR PRESENT MOTOR VEHICLE LAWS ONLY COVER LAWFUL STATUS. NOBODY WHO DEBATED THIS BILL DENIED, WANTED TO DENY THESE CHILDREN A DRIVER'S PRIVILEGE CARD. NOBODY DID. I KEEP HEARING ABOUT THESE POOR KIDS AND IMMIGRATION, BUT I KEEP HEARING ABOUT IMMIGRANTS, ILLEGAL IMMIGRANTS COMING HERE TO WORK. EXCUSE ME, THAT'S NOT PART OF THIS. WE'RE TALKING ABOUT KIDS WHO DIDN'T COME HERE BY THEIR OWN CHOICE, BUT YOU MAYBE OUGHT TO WATCH WHAT YOU SAY. MAYBE THE WAY THIS BILL IS WRITING, THAT'S WHO YOU'RE REALLY TALKING ABOUT. YOU WANT ILLEGAL IMMIGRANTS TO FIT UNDER THIS LAW. I'VE READ IT AGAIN AND AGAIN AND AGAIN AND IT DOES NOT, THE FINAL READING, DOES NOT MENTION DACA CHILDREN AT ALL. IT DOESN'T MENTION IT AT ALL. MY AMENDMENT, IF YOU WOULD HAVE ADOPTED IT, YOU WOULD HAVE GOT WHAT YOU SAID YOU WANTED. YOU'RE GOING TO HAVE A LAWSUIT NOW.

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I'LL GUARANTEE YOU YOU'RE GOING TO REALLY HAVE A LAWSUIT NOW, BECAUSE SOMEBODY TOOK ADVANTAGE OF THESE KIDS BECAUSE THEY HAVE ANOTHER THING IN THE BACK OF THEIR MIND WHAT THEY WANT TO DO. THEY WANT TO GIVE DRIVER'S LICENSE TO ILLEGAL ALIENS, TO PEOPLE WHO BROKE OUR LAWS. I WANT TO GIVE DRIVER'S LICENSE TO THE DACA KIDS. NOWHERE, NOWHERE WHERE I CAN FIND THAT DEFERRED ACTION MEANS LAWFUL STATUS OR THIS IS A SPECIAL CASE OF DEFERRED THAT THEY HAVE A PRESENCE HERE FOR TWO YEARS. THAT'S ALL THEY HAVE. DOESN'T FIT UNDER OUR PRESENT DVM (SIC) LAWS, IT DOESN'T FIT UNDER FEDERAL LAW. IT'S A WHOLE BY A MEMORANDUM OF THE SECRETARY OF HOMELAND SECURITY, AND YOU'RE TALKING ABOUT LABOR LAWS AND THEY PAY TAXES. HEY, WE JUST TALKED ABOUT CRIMINALS. I KNOW A LOT OF CRIMINALS THAT WERE ARRESTED RIGHT OFF THE JOB SITE. WE OUGHT TO LEAVE THEM THERE. THEY'RE PAYING TAXES. RATIONAL THINKING, FOLKS, LET'S TRY IT IN THIS BODY. IT'S CALLED DEDUCTIVE REASONING. IT'S STICKING TO ONE FACT. THE FACT IS WE'RE TRYING TO GIVE A DRIVER'S PRIVILEGE CARD TO SOME CHILDREN... [LB623]

PRESIDENT FOLEY: ONE MINUTE. [LB623]

SENATOR GROENE: ...SOME YOUNG PEOPLE. AND THEY'RE NOT ALL EXCELLENT INDIVIDUALS. THEY'RE NOT ALL COLLEGE GRADUATES. LIKE I SAID, THERE'S CRIMINALS AMONGST THEM. THERE'S LAZY PEOPLE AMONG THEM. THERE'S PEOPLE WHO ABANDONED THEIR...HAVE CHILDREN AND ABANDON THEIR CHILDREN, YOUNG MALES. THEY ARE JUST LIKE EVERY OTHER SUBSET OF POPULATION IN THIS COUNTRY. THERE ISN'T 2,700 GIFTED, BEAUTIFUL, LAW-ABIDING CHILDREN IN THIS 2,700 PEOPLE. HATE TO TELL YOU THAT, BUT THERE ISN'T IN MY TOWN. THERE ISN'T IN THE GRADUATING CLASS AT THE UNIVERSITY OF NEBRASKA. THERE ISN'T ANYTHING THAT HAS A PERFECT CLASS OF PEOPLE. SO, MY GOD, LET'S GET BACK TO COMMON SENSE. WE'RE TALKING ABOUT GIVING A PRIVILEGE CARD TO SOME KIDS THAT DESERVE IT. THIS THING...YOU FIND IT IN HERE, I WANT SENATOR NORDQUIST TO FIND IT IN HIS BILL, I WANT HIM TO POINT TO WHERE THE DACA KIDS ARE SPECIFICALLY REFERRED TO IN THIS BILL. I CAN'T FIND IT. YOU BROUGHT IT UP. I WAS WILLING TO JUST LET IT GO, LET IT GO TO THE COURTS, LET IT GO TO THE GOVERNOR'S DESK. [LB623]

PRESIDENT FOLEY: TIME, SENATOR. [LB623]

SENATOR GROENE: BUT IF YOU WANT TO WASTE TIME, I THANK YOU FOR DOING THAT. [LB623]

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PRESIDENT FOLEY: TIME, SENATOR. THANK YOU, SENATOR GROENE. SENATOR COOK, YOU'RE RECOGNIZED. SENATOR COOK WAIVES THE OPPORTUNITY. SENATOR KEN HAAR, YOU'RE RECOGNIZED. [LB623]

SENATOR HAAR: MR. PRESIDENT, MEMBERS OF THE BODY, I WOULD LIKE TO START OUT BY SHARING WITH YOU A MESSAGE FROM MY FORTUNE COOKIE TODAY. AND I'M NOT SURE WHOSE NAME WAS ON THIS. IT SAYS "AVOID COMPULSIVELY MAKING THINGS WORSE." SO I KNOW SOME OF THE E-MAILS WE'RE GETTING HAVE SAID THAT WE'RE DOING THAT, BUT WITH LB623, I THINK WE'RE MAKING THINGS BETTER. AND I WANT TO THANK SENATOR NORDQUIST FOR INTRODUCING THE BILL, ESPECIALLY SENATOR McCOLLISTER FOR DOING SO MUCH WORK TO GARNER SUPPORT FOR THIS. ONCE AGAIN, I WANT TO SAY TO THE DREAMERS WHO ARE LOOKING FOR DRIVER'S LICENSES, WELCOME, WE'RE GLAD YOU'RE HERE. I'VE MET A NUMBER OF THESE KIDS, AND THE THING RIGHT AWAY IS, YOU KNOW, AT LEAST FOR ME, I TRY TO SAY, OKAY, HOW CAN I FIGURE OUT WHERE THEY'RE FROM OR BECAUSE THEY WEREN'T ALL DREAMERS IN THIS GROUP OF YOUNG PEOPLE, AND I COULDN'T TELL THE DIFFERENCE. THESE WERE KIDS WHO ARE...THE DREAMERS IN THE GROUP WERE KIDS WHO HAD BEEN BROUGHT TO THE UNITED STATES VERY YOUNG, THEY HAD GONE TO AMERICAN SCHOOLS, SO THEY SPEAK GOOD, MIDWESTERN ENGLISH LIKE WE ALL DO. THEY HAVE THE SAME ASPIRATIONS, AND ALREADY MANY OF THEM ARE MAKING A CONTRIBUTION TO THIS STATE AND TO THIS COUNTRY. BUT IT IS VERY DIFFICULT TO THINK OF NOT BEING ABLE TO DRIVE A VEHICLE IN NEBRASKA, TO GET TO WORK, TO DO ALL THE KINDS OF THINGS YOU NEED TO DO, ALWAYS HAVING TO FIND SOMEBODY TO DO THAT. AT AGE 72, I SUPPOSE I'M GOING TO BE GETTING TO THE AGE WHERE SOMEDAY MY KIDS WILL TAKE AWAY MY CAR KEYS. I'M NOT LOOKING FORWARD TO THAT AT ALL, BECAUSE IN NEBRASKA, YOU NEED A VEHICLE TO GET AROUND. OBVIOUSLY, LIKE EVERYBODY ELSE, I'VE BEEN GETTING A LOT OF E-MAILS. AND SO I WANT TO SHARE SOME OF THOSE E-MAILS. AGAIN, A LOT OF PEOPLE WATCH US ON TELEVISION, AND SO I THINK, AGAIN, WE NEED TO CLARIFY THAT IN ORDER TO QUALIFY FOR DACA, THE YOUNG PEOPLE ARE REQUIRED TO BE CURRENTLY ENROLLED IN SCHOOL, POSSESS A HIGH SCHOOL DIPLOMA OR GED--THESE ARE OR'S--OR HAVE BEEN HONORABLY DISCHARGED FROM THE U.S. COAST GUARD OR ARMED SERVICES. MANY OF THESE YOUNG PEOPLE ARE TALENTED BUT CANNOT EASILY OBTAIN WORK, EDUCATION, OR REACH THEIR FULL POTENTIAL IN OUR STATE. FURTHERMORE, INABILITY TO OBTAIN A DRIVER'S LICENSE IS A PUBLIC SAFETY ISSUE AS DACA IMMIGRANTS ARE NOT ABLE TO BE INSURED. SO PART OF THIS WHOLE DISCUSSION IS THEY'RE BRINGING TALENTS AND SKILLS TO THIS STATE, AND WE NEED THOSE, AND IT ALSO PROTECTS US, BECAUSE,



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LIKE THIS E-MAIL SAYS, WITHOUT A DRIVER'S LICENSE, YOU CAN'T BE INSURED. SO IF SOMEHOW WE'RE IN A COLLISION ONE WAY OR THE OTHER, THERE MIGHT NOT...THERE WOULD NOT BE THE INSURANCE COVERAGE FOR THOSE FOLKS. LET'S SEE. HERE'S ANOTHER ONE, LB623 WILL ENGAGE...WILL ENABLE YOUNG IMMIGRANTS IN NEBRASKA TO REACH THEIR FULL POTENTIAL AND CONTRIBUTE THEIR TALENTS MORE FULLY TO OUR ECONOMY AND COMMUNITIES, ALL WHILE BETTER PROTECTING THE SAFETY OF THE PUBLIC. [LB623]

PRESIDENT FOLEY: ONE MINUTE. [LB623]

SENATOR HAAR: THANK YOU. I'M A MEMBER OF THE LINCOLN LITERACY AND HAVE TAUGHT ENGLISH TO IMMIGRANTS AND REFUGEES. IN ADDITION TO GETTING THEIR DIPLOMA, GETTING A DRIVER'S LICENSE IS OFTEN KEY TO THEIR GETTING JOBS AND CONTRIBUTING TO THE ECONOMY. MOST ARE MORE PATRIOTIC THAN THOSE WHO WERE BORN HERE AND ARE EAGER TO BE PRODUCTIVE RESIDENTS. THIS IS FROM AN E-MAIL. IT WILL BE GOOD FOR THEM AND IT WILL BE GOOD FOR US. SO, AGAIN, I STAND IN SUPPORT OF LB623. IT'S THE RIGHT THING TO DO, AND I WELCOME THE DREAMERS TO NEBRASKA. THANK YOU. [LB623]

PRESIDENT FOLEY: THANK YOU, SENATOR HAAR. SENATOR KINTNER, YOU'RE RECOGNIZED. [LB623]

SENATOR KINTNER: WELL, THANK YOU, MR. PRESIDENT. YOU KNOW, I HAVE BEEN PROBABLY ABOUT AS CRITICAL OF THIS LEGISLATURE AS ANYBODY INSIDE THE LEGISLATURE OR AS PEOPLE OUTSIDE THE LEGISLATURE ARE MORE CRITICAL THAN I AM. AND I CERTAINLY DISAGREE WITH THE MAJORITY OF MY COLLEAGUES ON MOST OF THE BIG ISSUES WE FACE THIS YEAR. I THINK I AM IN THE MAINSTREAM OF PUBLIC THOUGHT IN THIS STATE. I'M NOT IN THE MAINSTREAM OF PUBLIC THOUGHT IN THIS BODY. THAT'S OKAY. I DON'T DOUBT THE SINCERITY OF ANY OF MY COLLEAGUES. I DON'T DOUBT THEIR SINCERITY OF DOING THE RIGHT THING. I THINK THAT, YOU KNOW, THEY'RE DOING WHAT THEY THINK THEY NEED TO DO. IT'S BETWEEN THEM AND THEIR CONSTITUENTS. THEY'LL HAVE TO ANSWER TO THOSE CONSTITUENTS. SO ALTHOUGH IT SOUNDS LIKE, YOU KNOW, WE FIGHT AND WE HATE EACH OTHER, THAT'S NOT TRUE. WE'RE STILL IN THE UNICAMERAL FAMILY HERE. AND, YES, I AM DISAPPOINTED IN MY COLLEAGUES QUITE OFTEN. BUT I DON'T QUESTION ANY OF THEM THAT THEY WANT THE BEST FOR NEBRASKA AND WHAT THEY

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FEEL IS THE BEST. AND THERE IS NOTHING WRONG IN TRYING TO DO YOUR BEST, EVEN THOUGH I MAY DISAGREE. WITH THAT BEING SAID, I WANTED TO...THIS WILL BE THE LAST TIME I SPEAK, AND SENATOR NORDQUIST WILL SPEAK NEXT, AND YOU THINK THAT SENATOR NORDQUIST AND I HATE EACH OTHER, AND IT'S NOT TRUE. WE GO AROUND AND WE GO AT EACH OTHER PRETTY GOOD SOMETIMES, BUT THAT'S THE NATURE OF WHAT WE DO. THAT'S LIFE. WE HAVE DIFFERENT VIEWS, DIFFERENT VISIONS, BUT THAT DOESN'T...I DON'T THINK HE'S A BAD GUY AND I THINK HE WOULD SAY THE SAME ABOUT ME. SO I KNOW IT'S BEEN A TOUGH WEEK. IT'S BEEN A TOUGH TWO WEEKS, AND WE'VE GOT SIX MORE DAYS. IT COULD BE A TOUGH SIX DAYS. BUT HOPEFULLY WE'LL GET THROUGH IT WITH SOME DIGNITY, SOME GRACE, CIVILITY, AND THEN GET THE HECK OUT OF LINCOLN. THANK YOU, MR. PRESIDENT. [LB623]

SPEAKER HADLEY PRESIDING

SPEAKER HADLEY: SENATOR NORDQUIST, YOU'RE RECOGNIZED. [LB623]

SENATOR NORDQUIST: THANK YOU, MR. PRESIDENT. SENATOR KINTNER, I CERTAINLY DON'T HATE YOU. WHEN YOU WERE MY SOCIAL WELFARE MENTEE YOUR FIRST COUPLE YEARS DOWN HERE, YOU FAILED AT THAT, BUT I CERTAINLY DON'T HATE YOU. WITH THAT, MR. PRESIDENT, I WILL WITHDRAW FA73, AND I BELIEVE THE NEXT ONE IS FA74, I'LL WITHDRAW THAT AS WELL. [LB623]

SPEAKER HADLEY: THEY ARE WITHDRAWN. WE WILL NOW GO TO THE FINAL READINGS, WHERE WE LEFT OFF. MR. CLERK, WHAT BILL WOULD BE THAT? MR. CLERK, LB334. WE WILL NOW MOVE TO FINAL READING. MEMBERS SHOULD RETURN TO THEIR SEATS IN PREPARATION FOR FINAL READING. AGAIN, MEMBERS SHOULD RETURN TO THEIR SEATS IN PREPARATION FOR FINAL READING. MR. CLERK, THE FIRST BILL IS LB334. [LB623 LB334]

ASSISTANT CLERK: (READ LB334 ON FINAL READING.) [LB334]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN PASSED WITH, (THE QUESTION) IS, SHALL LB334 PASS WITH THE EMERGENCY CLAUSE ATTACHED? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB334]

Transcript Prepared By the Clerk of the Legislature  
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ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1756.)  
VOTE IS 46 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, 2 EXCUSED AND NOT  
VOTING, MR. PRESIDENT. [LB334]

SPEAKER HADLEY: LB334 PASSES WITH THE EMERGENCY CLAUSE. MR. CLERK,  
LB342. [LB334 LB342]

ASSISTANT CLERK: (READ LB342 ON FINAL READING.) [LB342]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING  
BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB342 PASS? ALL IN FAVOR  
VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB342]

ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1757.)  
VOTE IS 46 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, 2 EXCUSED AND NOT  
VOTING, MR. PRESIDENT. [LB342]

SPEAKER HADLEY: LB342 PASSES. MR. CLERK, LB365. [LB342 LB365]

ASSISTANT CLERK: (READ LB365 ON FINAL READING.) [LB365]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING  
BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB365 PASS? ALL IN FAVOR  
VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB365]

ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES  
1757-1758.) VOTE IS 47 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, 1 EXCUSED  
AND NOT VOTING, MR. PRESIDENT. [LB365]

SPEAKER HADLEY: LB365 PASSES. WE WILL NOW PROCEED TO LB375. [LB365  
LB375]

ASSISTANT CLERK: (READ LB375 ON FINAL READING.) [LB375]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING  
BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB375 PASS? ALL IN FAVOR  
VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB375]

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ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1758-1759.) VOTE IS 47 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, 1 EXCUSED AND NOT VOTING, MR. PRESIDENT. [LB375]

SPEAKER HADLEY: LB375 PASSES. WE WILL NOW PROCEED TO LB408. [LB375 LB408]

ASSISTANT CLERK: (READ LB408 ON FINAL READING.) [LB408]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB408 PASS? ALL IN FAVOR VOTE AYE; OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB408]

ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1759.) VOTE IS 46 AYES, 0 NAYS, 2 PRESENT AND NOT VOTING, 1 EXCUSED AND NOT VOTING, MR. PRESIDENT. [LB408]

SPEAKER HADLEY: LB408 PASSES. SENATOR HAAR/HARR, YOU HAVE YOUR LIGHT ON. THANK YOU. WE WILL NOW PROCEED TO LB412. [LB408 LB412]

ASSISTANT CLERK: (READ LB412 ON FINAL READING.) [LB412]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB412 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB412]

ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1760.) VOTE IS 47 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, 1 EXCUSED AND NOT VOTING, MR. PRESIDENT. [LB412]

SPEAKER HADLEY: LB412 PASSES. MR. CLERK, LB422. [LB412 LB422]

ASSISTANT CLERK: (READ LB422 ON FINAL READING.) [LB422]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB422 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB422]

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ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1760-1761.) VOTE IS 47 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, 1 EXCUSED AND NOT VOTING, MR. PRESIDENT. [LB422]

SPEAKER HADLEY: LB422 PASSES. MR. CLERK, WE WILL NOW GO TO LB424. MR. CLERK, THE FIRST VOTE IS TO DISPENSE WITH THE AT-LARGE READING. ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB422 LB424]

ASSISTANT CLERK: 44 AYES, 0 NAYS TO DISPENSE WITH THE AT-LARGE READING, MR. PRESIDENT. [LB424]

SPEAKER HADLEY: THE AT-LARGE READING IS DISPENSED WITH. MR. CLERK, PLEASE READ THE TITLE. [LB424]

ASSISTANT CLERK: (READ TITLE OF LB424.) [LB424]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB424 PASS? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB424]

ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1761-1762.) VOTE IS 47 AYES, 0 NAYS, 2 EXCUSED AND NOT VOTING, MR. PRESIDENT. [LB424]

SPEAKER HADLEY: LB424 PASSES. WE WILL NOW PROCEED TO LB455. [LB424 LB455]

ASSISTANT CLERK: (READ LB455 ON FINAL READING.) [LB455]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB455 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB455]

ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1762-1763.) VOTE IS 46 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, 2 EXCUSED AND NOT VOTING, MR. PRESIDENT. [LB455]

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SPEAKER HADLEY: LB455 PASSES. WE WILL NOW PROCEED TO LB456. [LB455 LB456]

ASSISTANT CLERK: (READ LB456 ON FINAL READING.) [LB456]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB456 PASS WITH THE EMERGENCY CLAUSE ATTACHED? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB456]

ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1763.) VOTE IS 47 AYES, 0 NAYS, 2 EXCUSED AND NOT VOTING, MR. PRESIDENT. [LB456]

SPEAKER HADLEY: LB456 PASSES WITH THE EMERGENCY CLAUSE ATTACHED. MR. CLERK, WE WILL NOW PROCEED TO LB464. [LB456 LB464]

ASSISTANT CLERK: (READ LB464 ON FINAL READING.) [LB464]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB464 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB464]

ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1764.) VOTE IS 48 AYES, 0 NAYS, 1 EXCUSED AND NOT VOTING, MR. PRESIDENT. [LB464]

SPEAKER HADLEY: LB464 PASSES. WE WILL NOW PROCEED TO LB477. [LB464 LB477]

ASSISTANT CLERK: (READ LB477 ON FINAL READING.) [LB477]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB477 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB477]

ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1764-1765.) VOTE IS 48 AYES, 0 NAYS, 1 PRESENT AND NOT VOTING, MR. PRESIDENT. [LB477]

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SPEAKER HADLEY: LB477 PASSES. MR. CLERK, WE WILL PROCEED TO LB479.  
[LB477 LB479]

ASSISTANT CLERK: (READ LB479 ON FINAL READING.) [LB479]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING  
BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB479 PASS? ALL IN FAVOR  
VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB479]

ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1765.)  
VOTE IS 49 AYES, 0 NAYS ON THE FINAL PASSAGE OF THE BILL, MR. PRESIDENT.  
[LB479]

SPEAKER HADLEY: LB479 PASSES. WE WILL NOW PROCEED TO LB511. [LB479  
LB511]

CLERK: (READ LB511 ON FINAL READING.) [LB511]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING  
BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB511 PASS? ALL IN FAVOR  
VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB511]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1766.) 48 AYES, 0  
NAYS, 1 PRESENT AND NOT VOTING, MR. PRESIDENT. [LB511]

SPEAKER HADLEY: LB511 PASSES. (VISITORS INTRODUCED.) MR. CLERK, WE WILL  
PROCEED TO LB513. [LB511 LB513]

CLERK: (READ LB513 ON FINAL READING.) [LB513]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING  
BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB513 PASS? ALL IN FAVOR  
VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB513]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1766-1767.) 48 AYES,  
0 NAYS, 1 PRESENT AND NOT VOTING, MR. PRESIDENT. [LB513]

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SPEAKER HADLEY: LB513 PASSES. MR. CLERK, WE WILL NOW GO TO LB515.  
[LB513 LB515]

CLERK: (READ LB515 ON FINAL READING.) [LB515]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB515 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB515]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1767.) 49 AYES, 0 NAYS, MR. PRESIDENT, ON THE FINAL PASSAGE OF LB515. [LB515]

SPEAKER HADLEY: LB515 PASSES. MR. CLERK, WE WILL NOW GO TO LB541.  
[LB515 LB541]

CLERK: (READ LB541 ON FINAL READING.) [LB541]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB541 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB541]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1768.) 49 AYES, 0 NAYS ON THE FINAL PASSAGE OF LB541. [LB541]

SPEAKER HADLEY: LB541 PASSES. WE WILL NOW PROCEED TO LB570. [LB541 LB570]

CLERK: (READ LB570 ON FINAL READING.) [LB570]

SPEAKER HADLEY: ALL PROVISIONS OF LAW RELATIVE TO PROCEDURE HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB570 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB570]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGES 1768-1769.) 49 AYES, 0 NAYS, MR. PRESIDENT, ON THE FINAL PASSAGE OF LB570. [LB570]



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SPEAKER HADLEY: LB570 PASSES. WE WILL NOW PROCEED TO LB640. [LB570 LB640]

CLERK: (READ LB640 ON FINAL READING.) [LB640]

SPEAKER HADLEY: ALL PROVISIONS OF LAW HAVING BEEN COMPLIED WITH, THE QUESTION IS, SHALL LB640 PASS? ALL IN FAVOR VOTE AYE; ALL OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB640]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1769.) 47 AYES, 0 NAYS, 2 PRESENT AND NOT VOTING, MR. PRESIDENT. [LB640]

SPEAKER HADLEY: LB640 PASSES. WHILE THE LEGISLATURE IS IN SESSION AND CAPABLE OF TRANSACTING BUSINESS, I PROPOSE TO SIGN AND DO HEREBY SIGN LB334, LB342, LB365, LB375, LB408, LB412, LB422, LB424, LB455, LB456, LB464, LB477, LB479, LB511, LB513, LB515, LB541, LB570, LB640. ITEMS, MR. CLERK. [LB640 LB334 LB342 LB365 LB375 LB408 LB412 LB422 LB424 LB455 LB456 LB464 LB477 LB479 LB511 LB513 LB515 LB541 LB570]

CLERK: I DO, MR. PRESIDENT, THANK YOU. ENROLLMENT AND REVIEW REPORTS LB315, LB315A, LB452, AND LB540 TO SELECT FILE, SOME OF WHICH HAVE ENROLLMENT AND REVIEW AMENDMENTS ATTACHED. SENATOR DAVIS, NEW RESOLUTION, LR353 AND LR354; SENATOR CAMPBELL, LR355. THOSE WILL ALL BE LAID OVER. AMENDMENTS TO BE PRINTED: SENATOR DAVIS TO LB320, SENATOR GROENE TO LB176. I HAVE AN EXPLANATION OF VOTE FROM SENATOR KRIST (RE LB334, LB342, LB365, LB375, LB408, LB412, LB422, LB424, LB455, AND LB456). (LEGISLATIVE JOURNAL PAGES 1770-1777.) [LB315 LB315A LB452 LB540 LR353 LR354 LR355 LB320 LB176 LB334 LB342 LB365 LB375 LB408 LB412 LB422 LB424 LB455 LB456]

MR. PRESIDENT, A PRIORITY MOTION. SENATOR HILKEMANN WOULD MOVE TO ADJOURN THE BODY UNTIL THURSDAY, MAY 21, AT 9:00 A.M.

SPEAKER HADLEY: ALL IN FAVOR SAY AYE. OPPOSED, NAY. WE ARE ADJOURNED.