

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
February 04, 2016

[LB19 LB53 LB136 LB188 LB221 LB295 LB328 LB471 LB474 LB510A LB665 LB666
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PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: GOOD MORNING, LADIES AND GENTLEMEN. WELCOME TO THE GEORGE W. NORRIS LEGISLATIVE CHAMBER FOR THE TWENTIETH DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, SECOND SESSION. OUR CHAPLAIN FOR TODAY IS SENATOR EBKE. PLEASE RISE.

SENATOR EBKE: (PRAYER OFFERED.)

PRESIDENT FOLEY: THANK YOU, SENATOR EBKE. I CALL TO ORDER THE TWENTIETH DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, SECOND SESSION. SENATORS, PLEASE RECORD YOUR PRESENCE. ROLL CALL. MR. CLERK, PLEASE RECORD.

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

PRESIDENT FOLEY: THANK YOU, MR. CLERK. ARE THERE ANY CORRECTIONS FOR THE JOURNAL?

CLERK: I HAVE NO CORRECTIONS.

PRESIDENT FOLEY: THANK YOU, MR. CLERK. ARE THERE ANY MESSAGES, REPORTS, OR ANNOUNCEMENTS?

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

PRESIDENT FOLEY: THANK YOU, MR. CLERK. WE'LL NOW PROCEED TO THE FIRST ITEM ON THE AGENDA, LEGISLATIVE CONFIRMATION REPORTS. MR. CLERK.

CLERK: MR. PRESIDENT, THE FIRST REPORT THIS MORNING IS OFFERED BY THE TRANSPORTATION AND TELECOMMUNICATIONS COMMITTEE INVOLVING THE APPOINTMENT OF KYLE SCHNEWEIS AS THE DEPARTMENT OF ROADS DIRECTOR. (LEGISLATIVE JOURNAL PAGE 432.)

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PRESIDENT FOLEY: SENATOR SMITH, PLEASE PROCEED WITH THE REPORT.

SENATOR SMITH: THANK YOU, MR. PRESIDENT. AND GOOD MORNING, COLLEAGUES. NEAR THE END OF LAST MONTH, THE TRANSPORTATION AND TELECOMMUNICATIONS COMMITTEE HELD A HEARING ON THE APPOINTMENT OF KYLE SCHNEWEIS AS THE DIRECTOR OF THE DEPARTMENT OF ROADS AND THE COMMITTEE UNANIMOUSLY VOTED TO ADVANCE THE CONFIRMATION OF MR. SCHNEWEIS TO THE FLOOR OF THE LEGISLATURE. JUST LOOKING AT HIS RESUME, IT'S CLEAR THAT HIS QUALIFICATIONS FOR THE JOB STAND ON THEIR OWN. DIRECTOR SCHNEWEIS IS A LICENSED CIVIL ENGINEER, THOUGH HE HAS SPENT MUCH OF HIS CAREER IN A PLANNING AND IMPLEMENTATION ROLE. AFTER SPENDING NEARLY A DECADE WITH THE KANSAS DEPARTMENT OF TRANSPORTATION, HE MOVED INTO THE CONSULTING...INTO A CONSULTING ROLE PROVIDING PLANNING AND POLICY EXPERTISE TO A NUMBER OF STATES, INCLUDING COLORADO, KANSAS, AND MISSOURI. LIKE MANY OF YOU, I DID NOT KNOW DIRECTOR SCHNEWEIS WHEN HE WAS APPOINTED LAST SPRING, BUT I'VE BEEN VERY IMPRESSED BY HIM AND HIS WORK SINCE THEN. DIRECTOR SCHNEWEIS TOOK TIME OUT OF HIS SCHEDULE TO TRAVEL ACROSS THE STATE WITH THE TRANSPORTATION AND TELECOMMUNICATIONS COMMITTEE LAST INTERIM. IN ADDITION, I KNOW HE HAS MADE A COMMITTED EFFORT TO VISIT OTHER COMMUNITIES AND STAKEHOLDERS THROUGHOUT NEBRASKA AND HAS SOUGHT TO UNDERSTAND THE NEEDS OF OUR UNIQUE STATE. MANY OF YOU MAY BE AWARE THAT DIRECTOR SCHNEWEIS HAS FORMED AN INNOVATION TASK FORCE TO TAKE A LOOK AT HOW WE PRIORITIZE AND COMPLETE PROJECTS IN OUR STATE AND HOW WE PROMOTE ECONOMIC GROWTH IN NEBRASKA. THIS IS JUST ONE EXAMPLE OF HIS COMMITMENT TO MAKING NDOR WORK FOR THE PEOPLE OF OUR STATE. IN SHORT, COLLEAGUES, WE'RE FORTUNATE TO HAVE SOMEONE AS QUALIFIED AS KYLE SCHNEWEIS AT THE HEAD OF OUR DEPARTMENT OF ROADS AND I HOPE YOU WILL JOIN ME IN CONFIRMING HIS APPOINTMENT. THANK YOU, MR. PRESIDENT. THANK YOU, COLLEAGUES.

PRESIDENT FOLEY: THANK YOU, SENATOR SMITH. SEEING NO SENATORS WISHING TO SPEAK, SENATOR SMITH, DO YOU CARE TO CLOSE ON THE CONFIRMATION REPORT? HE WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE CONFIRMATION REPORT OF THE TRANSPORTATION AND TELECOMMUNICATIONS COMMITTEE. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. RECORD, PLEASE, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGES 493-494.) 27 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE CONFIRMATION REPORT.

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PRESIDENT FOLEY: THE REPORT IS ADOPTED. MR. CLERK.

CLERK: MR. PRESIDENT, I HAVE A SECOND REPORT THIS MORNING FROM THE AGRICULTURE COMMITTEE. IT INVOLVES THREE APPOINTMENTS TO THE BEGINNING FARMER BOARD. (LEGISLATIVE JOURNAL PAGE 448.)

PRESIDENT FOLEY: SENATOR JOHNSON, YOU'RE WELCOME TO OPEN OP THE FIRST REPORT.

SENATOR JOHNSON: THANK YOU, LIEUTENANT GOVERNOR. I'M REPORTING THE APPOINTMENTS FOR THE BEGINNING FARMER BOARD. THIS IS APPOINTMENTS THAT HAPPENS EVERY FIVE YEARS. THERE'S FIVE APPOINTMENTS THAT THE LEGISLATURE RATIFIES AND THAT COMES UP EVERY FIVE YEARS. SO A LOT OF US HAVE NOT HAD THE OPPORTUNITY TO LEARN ABOUT THE BEGINNING FARMER BOARD. AND SO BEFORE WE MAKE THOSE APPOINTMENTS, I WANT TO READ A LITTLE BIT ABOUT THE FARMER CREDIT BOARD. THE FARMER CREDIT...TAX CREDIT PROGRAM WAS PASSED BY THE LEGISLATURE IN 1999. THIS ACT ACTUALLY PROVIDES A REFUNDABLE INCOME TAX CREDIT OF 10 PERCENT OR 15 PERCENT OF THE GROSS RECEIPTS--DEPENDING ON WHETHER IT'S A CASH RENT OR CROP-SHARE ARRANGEMENT--OF THE RENTAL INCOME WHEN RENTING AGRICULTURAL ASSETS TO A BEGINNING FARMER. THE TAX CREDIT SERVES AS AN INCENTIVE FOR OWNERS OF AGRICULTURAL ASSETS TO RENT TO A BEGINNING FARMER WHO HAS MET SPECIFIC ELIGIBILITY REQUIREMENTS. THE OWNER WILL BE ENCOURAGED TO BECOME A MENTOR AND SHARE HIS OR HER EXPERTISE WITH THE BEGINNING FARMER. THE BEGINNING FARMER WILL ATTEND A FINANCIAL MANAGEMENT CLASS TO ENSURE HIS OR HER KNOWLEDGE OF FARM RECORDS AND BUSINESS MANAGEMENT AND PARTICIPATE IN OTHER BOARD-SPONSORED ACTIVITIES. THE BEGINNING FARMER BOARD IS APPOINTED BY THE GOVERNOR FOR FOUR-YEAR TERMS TO DEVELOP AND DIRECT THE PROGRAM, APPROVE AND CERTIFY THE APPLICANTS, AND ADVOCATES FOR FARMERS AS PART OF THEIR DUTIES. THERE'S TWO MEMBERS OF THE BOARD; ONE OF THEM IS THE DIRECTOR OF AGRICULTURE AND THE TAX COMMISSIONER--THAT'S TWO POSITIONS--OR THEIR DESIGNEES. WE HAVE ONE REPRESENTATIVE FROM THE AG CREDIT WORLD; ONE AN AG ECONOMIST; AND THREE ARE AGRICULTURAL PRODUCERS. MY FIRST REPORT IS THREE APPOINTEES THAT ARE BEING APPOINTED FOR THEIR SECOND TERM. I'LL READ A LITTLE BIT OF THEIR BIO. THE FIRST IS DR. BRAD LUBBEN. HE'S A EXTENSION ASSISTANT PROFESSOR AND POLICY SPECIALIST AT THE UNIVERSITY OF NEBRASKA AND DIRECTOR OF THE NORTH CENTRAL EXTENSION RISK MANAGEMENT EDUCATION CENTER. THIS IS HIS SECOND TERM ON THE

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BOARD. THE SECOND IS TODD REED, A PRODUCER FROM CONGRESSIONAL DISTRICT NUMBER ONE. HE DOES RESIDE IN LINCOLN AND HE IS A FULL-TIME FARMER. HE ALSO OPERATES JTR ENTERPRISES AND LISTS HIS FORMER EMPLOYMENT AS A FARM HAND WITH ALTHOUSE AG, INCORPORATED. THE THIRD APPOINTMENT IS DON ANTHONY. DON ANTHONY REPRESENTS THE THIRD CONGRESSIONAL DISTRICT. MR. ANTHONY LIVES NEAR AND FARMS NEAR LEXINGTON. HE SERVED ON SEVERAL AG BOARDS AND ALSO SERVES ON A REGIONAL COOPERATIVE BOARD. HE'S A MEMBER OF AG BUILDERS, FARM BUREAU, CORN GROWERS, AND OTHER AG-ORIENTED AND COMMUNITY ORGANIZATIONS. HE WAS APPOINTED FIRST TO THE BOARD IN 2003 AND HAS BEEN CHAIR OF THE BOARD SINCE 2008. I RECOMMEND THESE THREE APPOINTMENTS. THE COMMITTEE VOTED THE THREE OUT ON A UNANIMOUS VOTE. I MOVE THE ADOPTION OF THE COMMITTEE REPORT.

PRESIDENT FOLEY: THANK YOU, SENATOR JOHNSON. (VISITOR INTRODUCED.) SEEING NO SENATORS WISHING TO SPEAK ON THE CONFIRMATION REPORT, SENATOR JOHNSON, YOU'RE WELCOME TO CLOSE. AND HE WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE CONFIRMATION REPORT FROM THE AGRICULTURE COMMITTEE. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD PLEASE, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGE 494.) 30 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE CONFIRMATION REPORT.

PRESIDENT FOLEY: THE FIRST OF THE CONFIRMATION REPORTS FROM AGRICULTURE COMMITTEE HAS BEEN ADOPTED. MR. CLERK.

CLERK: MR. PRESIDENT, I HAVE A SECOND REPORT FROM THE AGRICULTURE COMMITTEE REGARDING THE APPOINTMENT OF NADINE HAGEDORN. (LEGISLATIVE JOURNAL PAGE 448.)

PRESIDENT FOLEY: SENATOR JOHNSON, YOU'RE RECOGNIZED TO OPEN ON THE CONFIRMATION REPORT.

SENATOR JOHNSON: AGAIN, THANK YOU. THIS IS A NEW APPOINTMENT. NADINE HAGEDORN IS APPOINTED FOR THE FIRST TIME BY GOVERNOR RICKETTS. NADINE IS A CREDIT OFFICER AND SENIOR VICE PRESIDENT OF FIRST BANK (SIC) IN NORFOLK. SHE HAS PREVIOUS POSITIONS IN THE BANK AS BANK PRESIDENT OF THE CITIZENS STATE BANK SERVING OUT OF THE WEST POINT BRANCH AND

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AS A CREDIT OFFICER FOR CITIZENS STATE BANK SERVING IN WEST...WISNER. SHE'S A MEMBER OF THE CUMING COUNTY EXTENSION BOARD, WEST POINT CHAMBER OF COMMERCE, AND FORMERLY SERVED TWO TERMS ON THE WISNER CHAMBER OF COMMERCE BOARD, INCLUDING AS ITS PRESIDENT, MANY OTHER ORGANIZATIONS AND COMMUNITY MEMBERSHIPS. SHE APPEARED BEFORE THE COMMITTEE ON JANUARY 26. THE COMMITTEE RECOMMENDS THE APPROVAL AND APPOINTMENT OF NADINE HAGEDORN BY A UNANIMOUS VOTE. I MOVE THE ADOPTION OF THIS REPORT.

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

SENATOR BRASCH: GOOD MORNING, COLLEAGUES. AND GOOD MORNING, NEBRASKA. I RISE IN HIGH SUPPORT OF NADINE'S NOMINATION. I'M VERY PLEASED TO SEE HER NOMINATED FOR THIS POST. I HAVE SEEN HER WORK TIRELESSLY ON MANY THINGS IN THE COMMUNITY. SHE IS A HARD WORKER, A GREAT REPRESENTATIVE. HER AND HER FAMILY ARE GREAT NEBRASKANS, INDEED. SO I DO SUPPORT HER NOMINATION. THANK YOU, MR. SPEAKER, AND THANK YOU, COLLEAGUES.

PRESIDENT FOLEY: THANK YOU, SENATOR BRASCH. SEEING NO OTHER SENATORS WISHING TO SPEAK, SENATOR JOHNSON...HE WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE SECOND CONFIRMATION REPORT FROM THE COMMITTEE ON AGRICULTURE. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD PLEASE, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGE 495.) 29 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE CONFIRMATION REPORT.

PRESIDENT FOLEY: AND THE SECOND REPORT HAS BEEN ADOPTED. MR. CLERK.

CLERK: A THIRD REPORT FROM THE AGRICULTURE COMMITTEE INVOLVES THE APPOINTMENT OF RYAN UEBERRHEIN TO THE BEGINNING FARMER BOARD. (LEGISLATIVE JOURNAL PAGE 447.)

PRESIDENT FOLEY: SENATOR JOHNSON, YOU'RE RECOGNIZED.

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SENATOR JOHNSON: THANK YOU, AGAIN. THIS IS THE FINAL APPOINTMENT. IT'S THE PRODUCER REPRESENTING THE SECOND CONGRESSIONAL DISTRICT. MR. UEBERRHEIN LIVES IN ELKHORN AND FARMS 1,500 ACRES OF CORN AND SOYBEANS NEAR VALLEY. CURRENT EMPLOYMENT HE LISTS AS A FULL-TIME, SELF-EMPLOYED FARMER. HE'S A PAST...PAST EMPLOYMENT IS IN PEOPLESERVICE, INCORPORATED, AS A WATER OPERATOR AND AS AN EMPLOYEE OF THE PUBLIC WORKS DEPARTMENT OF THE CITY OF VALLEY. HE'S AN EMT FOR THE VALLEY FIRE AND RESCUE, GRADUATED VALLEY HIGH SCHOOL AND SOUTHEAST COMMUNITY COLLEGE. IN FULL DISCLOSURE, HE SAID HE'S A VICE PRESIDENT AND YOUNG FARMER CHAIR FOR THE DOUGLAS COUNTY FARM BUREAU. HE'S A DISTRICT ONE REPRESENTATIVE FOR THE YOUNG FARMER AND RANCHER PROGRAM AND ALSO ON A COMMITTEE FOR WATER RESOURCES WITH FARM BUREAU. MR. UEBERRHEIN APPEARED BEFORE THE COMMITTEE FOR HIS CONFIRMATION HEARING ON JANUARY 26. I BELIEVE HE IMPRESSED THE COMMITTEE WITH A VERY WIDE TYPE OF AN INDIVIDUAL THAT THE BEGINNING FARMER PROGRAM IS INTENDED TO PROVIDE AN OPPORTUNITY FOR YOUNG FARMERS TO REALIZE THEIR EXPERIENCE IN BREAKING INTO FARMING. THE COMMITTEE VOTED...WAS A 6-2 VOTE FOR THE ADVANCEMENT OF THIS APPOINTMENT. I MOVE THE ADOPTION OF THIS COMMITTEE REPORT.

PRESIDENT FOLEY: THANK YOU, SENATOR JOHNSON. SENATOR BLOOMFIELD, YOU'RE RECOGNIZED.

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. I BELIEVE THIS MAN TO BE TOTALLY QUALIFIED TO SERVE ON THE BOARD TO WHICH HE IS SEEKING APPOINTMENT. I DO, HOWEVER, HAVE A LITTLE PROBLEM IN THE FACT THAT IT IS MY UNDERSTANDING THAT HE ALSO SERVES ON THE STATE BOARD FOR THE NEBRASKA FARM BUREAU. AGAIN, IT IS MY UNDERSTANDING THAT THE FARM BUREAU BOARD HAS A POLICY OF ONE VOICE. ONCE THE BOARD HAS REACHED A DECISION, A BOARD MEMBER CANNOT DISAGREE WITH IT. AND I WONDER IF THAT WOULD NOT BE AN ISSUE REACHING OVER WHEN IT COMES TO MAKING DECISIONS ON THIS NEW BOARD THAT HE SEEKS TO BE APPOINTED TO. I JUST...I'M NOT GOING TO VOTE AGAINST HIM, BUT I WILL NOT VOTE FOR HIM EITHER. I JUST...I SEE A CONFLICT THERE AND IT LEAVES ME SOMEWHAT CONCERNED. THANK YOU, MR. PRESIDENT.

PRESIDENT FOLEY: THANK YOU, SENATOR BLOOMFIELD. SEEING NO OTHER SENATORS WISHING TO SPEAK, SENATOR JOHNSON, YOU'RE WELCOME TO CLOSE ON THE CONFIRMATION REPORT.

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SENATOR JOHNSON: I WILL CLOSE JUST BRIEFLY. NOT TO CONTRADICT WHAT SENATOR BLOOMFIELD... WE'VE TALKED ABOUT THIS BEFORE. I DO APPRECIATE THE FACT THAT THE GENTLEMAN HAD FULL DISCLOSURE ON HIS SITUATION. HE SERVES AS A REPRESENTATIVE TO THE STATE BOARD FOR THE YOUNG FARMER AND RANCHER PROGRAM, WHICH IS NOT THE STATE BOARD FUNCTIONING ON A STATEWIDE BASIS ON OTHER FARM POLICY. SO JUST A CLARIFICATION THERE. THAT'S MY CLOSING. THANK YOU.

PRESIDENT FOLEY: THANK YOU, SENATOR JOHNSON. MEMBERS, THE QUESTION IS THE ADOPTION OF THE THIRD CONFIRMATION REPORT FROM THE COMMITTEE ON AGRICULTURE. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD PLEASE, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGES 495-496.) 30 AYES, 0 NAYS ON ADOPTION OF THE CONFIRMATION REPORT.

PRESIDENT FOLEY: THE CONFIRMATION REPORT IS ADOPTED. MR. CLERK.

CLERK: MR. PRESIDENT, THE JUDICIARY COMMITTEE REPORTS ON THE APPOINTMENT OF VIRGIL PATLAN TO THE BOARD OF PAROLE. (LEGISLATIVE JOURNAL PAGE 463.)

PRESIDENT FOLEY: SENATOR COASH, YOU'RE WELCOME TO OPEN ON THE CONFIRMATION REPORT.

SENATOR COASH: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. ON JANUARY 26, THE JUDICIARY COMMITTEE VOTED TO APPROVE THE REAPPOINTMENT OF VIRGIL PATLAN TO THE NEBRASKA BOARD OF PAROLE. MR. PATLAN HAS EXTENSIVE KNOWLEDGE OF THE JUSTICE SYSTEM, HAVING BEEN A MEMBER OF THE OMAHA POLICE DEPARTMENT FOR MORE THAN 25 YEARS BEFORE JOINING THE BOARD. DURING HIS TIME ON THE FORCE, MR. PATLAN SERVED AS A DETECTIVE IN THE GANG UNIT AND HE HAS SAID THAT ONE OF THE THINGS HE FOUND MOST REWARDING WAS FINDING A WAY TO KEEP THE YOUTH OUT OF GANGS AND OUT OF JAIL. MR. PATLAN BELIEVES IN THE RULE OF LAW, BUT ALSO HONESTLY BELIEVES THAT THOSE WHO GOT THEMSELVES IN TROUBLE CAN STILL CHANGE AND BECOME VALUABLE MEMBERS OF SOCIETY. MR. PATLAN IS MORE THAN QUALIFIED TO CONTINUE ON THE NEBRASKA PAROLE BOARD AND I URGE YOUR SUPPORT FOR HIS CONFIRMATION. THANK YOU, MR. PRESIDENT.

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PRESIDENT FOLEY: THANK YOU, SENATOR COASH. SENATOR FOX, YOU'RE RECOGNIZED.

SENATOR FOX: GOOD MORNING. COLLEAGUES, I RISE TODAY IN STRONG SUPPORT OF THE CONFIRMATION OF VIRGIL PATLAN TO THE NEBRASKA PAROLE BOARD. I'VE HAD THE PRIVILEGE OF KNOWING MR. PATLAN FOR SOME TIME NOW AND I'VE ALWAYS BEEN MOVED BY HIS DEDICATION TO THE PEOPLE OF OUR COMMUNITY. HE SERVED 25 YEARS WITH THE OMAHA POLICE DEPARTMENT AND FOUNDED THE OMAHA CHAPTER OF THE LATINO POLICE (SIC--PEACE) OFFICERS ASSOCIATION. HE HAS BEEN AN ACTIVE MEMBER OF THE SOUTH OMAHA VIOLENCE INTERVENTION AND PREVENTION WORKING GROUP AND HE IS A RESPECTED MEMBER OF THE SOUTH OMAHA COMMUNITY, WHICH INCLUDES MY DISTRICT. I FEEL THAT MR. PATLAN HAS THE ABILITY TO LOOK BEYOND THE CRIME, SO TO SPEAK, AND TO LOOK AT EVERY INDIVIDUAL AS A HUMAN BEING. FOR EXAMPLE, A FEW WEEKS AGO I ATTENDED AN EVENT FOR VICTORY BOXING CLUB IN SOUTH OMAHA AT WHICH MR. PATLAN SPOKE. FOUNDED BY A FORMER GANG LEADER THAT MR. PATLAN HELPED TO ARREST, VICTORY'S MISSION IS TO REACH OUT TO THE YOUTH OF SOUTH OMAHA AND TURN THEM AWAY FROM THE PATH OF VIOLENCE. AS REPORTED BY THE OMAHA WORLD-HERALD RECENTLY, MR. PATLAN ACTUALLY PROVIDED SOME OF THE FUNDS NECESSARY TO OPEN THE CLUB NEARLY TEN YEARS AGO AND HAS EVEN SERVED AS THE CLUB'S PRESIDENT, WORKING HAND IN HAND WITH A MAN HE SENT TO PRISON. THIS IS JUST ONE OF THE NUMEROUS INSTANCES OF MR. PATLAN SEEING THE GOOD SIDE TO INDIVIDUALS, INDIVIDUALS THAT MANY WOULD WRITE OFF. MR. PATLAN TAKES THE RESPONSIBILITY OF SERVING ON THE BOARD OF PAROLE SERIOUSLY AND I FEEL HE HAS DONE A WONDERFUL JOB BRINGING A NEEDED VOICE TO OUR PAROLE BOARD. I CONSIDER HIM A FRIEND AND I URGE YOUR GREEN LIGHT FOR THE CONFIRMATION OF VIRGIL PATLAN. THANK YOU.

PRESIDENT FOLEY: THANK YOU, SENATOR FOX. SENATOR McCOLLISTER, YOU'RE RECOGNIZED.

SENATOR McCOLLISTER: THANK YOU, MR. LIEUTENANT GOVERNOR, AND GOOD MORNING, COLLEAGUES. I ALSO RISE IN STRONG SUPPORT OF VIRGIL PATLAN TO CONTINUE SERVING ON THE PAROLE BOARD. HE AND HIS WIFE HAVE BEEN SO AMAZINGLY INSTRUMENTAL IN WHAT HAS OCCURRED IN SOUTH OMAHA...AND A MEMBER OF THE COMMUNITY. HE ALSO WAS VERY INSTRUMENTAL IN THE WORK THAT WE DID ON THE VETERANS COURT THAT WE'RE TRYING TO ESTABLISH IN DOUGLAS COUNTY. GREAT MEMBER OF THE COMMUNITY. GOOD

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NEBRASKA CITIZEN. PLEASE PRESS THE GREEN BUTTON FOR VIRGIL PATLAN IN DUE COURSE HERE.

PRESIDENT FOLEY: THANK YOU, SENATOR McCOLLISTER. SEEING NO OTHER SENATORS WISHING TO SPEAK, SENATOR COASH, YOU'RE RECOGNIZED TO CLOSE ON THE CONFIRMATION REPORT. HE WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE FIRST OF THE TWO CONFIRMATION REPORTS FROM JUDICIARY COMMITTEE. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED? RECORD PLEASE, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGE 496.) 40 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE REPORT.

PRESIDENT FOLEY: THE REPORT IS ADOPTED. MR. CLERK.

CLERK: JUDICIARY COMMITTEE REPORTS ON TWO APPOINTMENTS TO THE CRIME VICTIM'S REPARATIONS COMMITTEE. (LEGISLATIVE JOURNAL PAGE 463.)

PRESIDENT FOLEY: SENATOR COASH, YOU'RE RECOGNIZED TO OPEN ON THE CONFIRMATION REPORT.

SENATOR COASH: THANK YOU, MR. PRESIDENT. COLLEAGUES, I HAVE TWO APPOINTMENTS FOR YOUR CONFIRMATION ON THE CRIME VICTIM'S REPARATIONS COMMITTEE. ON JANUARY 26 THE COMMITTEE VOTED TO APPROVE THE REAPPOINTMENT OF BRIAN WACHMAN AND THE NEW APPOINTMENT OF JOANNA BRIGGS TO THIS COMMITTEE AND I WOULD ASK YOU TO APPROVE THESE QUALIFIED INDIVIDUALS. BRIAN WACHMAN OF LINCOLN HAS BEEN REAPPOINTED TO A TERM THAT WILL RUN THROUGH JULY OF 2019 AFTER HAVING ALREADY SERVED FOUR YEARS ON THE COMMITTEE. MR. WACHMAN IS CURRENTLY THE EXECUTIVE DIRECTOR OF THE LINCOLN AND LANCASTER COUNTY UNITED WAY AND HAS BEEN IN THAT POSITION SINCE 2005. BEFORE COMING TO LINCOLN, HE WORKED FOR THE ORGANIZATION AS VICE PRESIDENT OF THE NEW ORLEANS AND GREATER KANSAS CITY AREA SINCE 1997. WHILE MR. WACHMAN DOES NOT HAVE A LAW ENFORCEMENT BACKGROUND, HE BRINGS A UNIQUE VIEWPOINT TO THE COMMITTEE THAT WOULD BENEFIT IT MOVING FORWARD. JOANNA BRIGGS OF LINCOLN, HAS BEEN NEWLY APPOINTED TO A TERM THAT BEGAN AUGUST OF 2015 AND WILL RUN THROUGH JULY OF 2019. SHE HAS EXTENSIVE KNOWLEDGE OF LAW ENFORCEMENT, HAVING WORKED AS A POLICE OFFICER IN LINCOLN SINCE 1982.

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DURING THAT PERIOD SHE HAS SPENT THE MAJORITY OF HER TIME AS A MEMBER OR MANAGER OF THE DEPARTMENT'S VICTIM WITNESS UNIT. SHE HAS ALSO SERVED ON A NUMBER OF OTHER BOARDS, INCLUDING THE INTERSTATE COMMISSION ON ADULT OFFENDER SUPERVISION AND THE LANCASTER COUNTY DOMESTIC VIOLENCE COALITION. BOTH DIRECTOR WACHMAN AND MS. BRIGGS BRING THE EXPERIENCE AND KNOWLEDGE NEEDED AND I URGE YOUR SUPPORT OF THESE TWO CONFIRMATIONS. THANK YOU, MR. PRESIDENT.

PRESIDENT FOLEY: THANK YOU, SENATOR COASH. SEEING NO SENATORS WISHING TO SPEAK, SENATOR COASH...AND HE WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE SECOND OF TWO CONFIRMATION REPORTS FROM THE JUDICIARY COMMITTEE. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD PLEASE, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGES 496-497.) 34 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE CONFIRMATION REPORT.

PRESIDENT FOLEY: THE CONFIRMATION REPORT IS ADOPTED. MR. CLERK.

CLERK: MR. PRESIDENT, REVENUE COMMITTEE WOULD REPORT ON THE APPOINTMENT OF ROBERT HOTZ TO THE TAX EQUALIZATION AND REVIEW COMMISSION. (LEGISLATIVE JOURNAL PAGE 467.)

PRESIDENT FOLEY: SENATOR GLOOR, YOU'RE WELCOME TO OPEN ON THE CONFIRMATION REPORT.

SENATOR GLOOR: THANK YOU, MR. PRESIDENT. GOOD MORNING, MEMBERS. AS THE CLERK HAS STATED, THIS IS A REAPPOINTMENT TO THE TAX EQUALIZATION AND REVIEW COMMISSION, MR. ROBERT HOTZ OF LINCOLN, NEBRASKA. HE IS CURRENTLY A COMMISSIONER, HAS BEEN SINCE '07, WAS CHAIR THROUGH 2013, 2015; ALSO SERVED IN A PRIVATE LAW PRACTICE; HAS BEEN GENERAL COUNSEL TO THE NEBRASKA STATE TREASURER; LEGAL COUNSEL ALSO TO THE NEBRASKA AUDITOR OF PUBLIC ACCOUNTS. AND TO ADD TO HIS DISTINGUISHED CAREER, HE WAS ALSO A LEGISLATIVE AIDE IN THE LEGISLATURE FOR SEVERAL YEARS. I WOULD ASK THE BODY'S APPROVAL OF MR. HOTZ AS A REAPPOINTMENT TO THE TERC. THANK YOU.

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PRESIDENT FOLEY: THANK YOU, SENATOR GLOOR. SEEING NO SENATORS WISHING TO SPEAK, SENATOR GLOOR, YOU'RE WELCOME TO CLOSE. AND HE WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE CONFIRMATION REPORT FROM THE REVENUE COMMITTEE. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD PLEASE, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGES 497-498.) 36 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE REPORT.

PRESIDENT FOLEY: THE CONFIRMATION REPORT IS ADOPTED. MR. CLERK.

CLERK: REVENUE COMMITTEE OFFERS A REPORT WITH RESPECT TO THE APPOINTMENT OF STEVEN KEETLE TO THE TAX EQUALIZATION AND REVIEW COMMISSION. (LEGISLATIVE JOURNAL PAGE 467.)

PRESIDENT FOLEY: SENATOR GLOOR, YOU'RE WELCOME TO OPEN ON THE CONFIRMATION REPORT.

SENATOR GLOOR: THANK YOU, MR. PRESIDENT. GOOD MORNING, AGAIN, MEMBERS. THIS IS AN APPOINTMENT, AN INITIAL APPOINTMENT OF STEVEN KEETLE OF OMAHA, NEBRASKA, AS A COMMISSIONER. MR. KEETLE SERVED FROM MAY '99 TO THE PRESENT AS LEGAL COUNSEL. SO WE CERTAINLY GAIN SOMEBODY WITH A LOT OF EXPERIENCE WORKING WITH AND FOR THE TERC. HE IS TRAINED AS AN ATTORNEY, ALSO SERVED IN A PRIVATE PRACTICE FOR A WHILE, AND I WOULD RECOMMEND HIS APPOINTMENT. AGAIN, THIS IS AN INITIAL APPOINTMENT TO THE TAX EQUALIZATION AND REVIEW COMMISSION. THANK YOU.

PRESIDENT FOLEY: THANK YOU, SENATOR GLOOR. (VISITORS INTRODUCED.) SEEING NO MEMBERS WISHING TO SPEAK ON THE CONFIRMATION REPORT, SENATOR GLOOR, YOU'RE WELCOME TO CLOSE. AND HE WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE CONFIRMATION REPORT FROM THE REVENUE COMMITTEE. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD PLEASE, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGE 498.) 33 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE REPORT.

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PRESIDENT FOLEY: THE CONFIRMATION REPORT IS ADOPTED. MR. CLERK.

CLERK: BANKING, COMMERCE AND INSURANCE COMMITTEE REPORTS ON THE APPOINTMENT OF COURTNEY DENTLINGER AS DIRECTOR OF THE DEPARTMENT OF ECONOMIC DEVELOPMENT. (LEGISLATIVE JOURNAL PAGE 485.)

PRESIDENT FOLEY: SENATOR SCHEER, YOU'RE WELCOME TO OPEN ON THE CONFIRMATION REPORT.

SENATOR SCHEER: THANK YOU, MR. LIEUTENANT GOVERNOR. THIS MORNING I BRING BEFORE YOU THE CONSIDERATION, THE GOVERNOR'S APPOINTMENT OF COURTNEY DENTLINGER TO BE THE DIRECTOR OF THE NEBRASKA DEPARTMENT OF ECONOMIC DEVELOPMENT. IN FULL DISCLOSURE, SHE IS A NATIVE OF THE 19th DISTRICT. SHE'S A GRADUATE OF WAYNE STATE COLLEGE, GEORGE WASHINGTON UNIVERSITY COLLEGE OF LAW IN WASHINGTON, D.C. SHE SERVED AS AN ASSOCIATE DIRECTOR OF GOVERNMENT RELATIONS FOR THE ASSOCIATION OF INTERNATIONAL EDUCATORS IN WASHINGTON, D.C. SHE HAS A PRIVATE LEGAL PRACTICE IN NORFOLK, NEBRASKA. AND SHE SERVED AS THE EXECUTIVE DIRECTOR OF DEVELOPMENT FOR THE NORTHEAST COMMUNITY COLLEGE. IN 2012 SHE...SINCE 2012 SHE HAS SERVED AS THE ECONOMIC DEVELOPMENT DIRECTOR FOR THE CITY OF NORFOLK. HER CURRENT POSITION, SHE HAS DEVELOPED STRONG WORKING RELATIONSHIPS WITH STATE AND REGIONAL PARTNERS IN ECONOMIC DEVELOPMENT, INCLUDING: THE DEPARTMENT OF ECONOMIC DEVELOPMENT, LOCAL CHAMBERS OF COMMERCE, REGIONAL ECONOMIC DEVELOPMENT ORGANIZATIONS, LOCAL UTILITY PARTNERS, AND EDUCATIONAL PROVIDERS. SHE HAS DEVELOPED CLOSE WORKING RELATIONSHIPS WITH AREA BUSINESS AND INDUSTRY LEADERS. SHE'S REVAMPED NORFOLK'S BUSINESS AND RETENTION EXPANSION PROGRAM. SHE HAS FORMED A WORK FORCE TASK FORCE IN CONJUNCTION WITH THE NORFOLK CHAMBER TO IDENTIFY SPECIFIC NEEDS FOR AREA EMPLOYERS AND TO IDENTIFY ISSUES THAT NEEDED TO BE ADDRESSED IN THE WORK FORCE. THE COMMITTEE HEARING, COURTNEY RESPONDED TO A GOOD NUMBER OF QUESTIONS FROM THE MEMBERS OF MY COMMITTEE. SHE WAS ABLE TO EMPHASIZE THAT HER WORK EXPERIENCE HAS PROVIDED HER WITH SIGNIFICANT KNOWLEDGE OF BUSINESS ATTRACTION, EXISTING BUSINESS DEVELOPMENT, ENTREPRENEURIAL ASSISTANCE, TARGET INDUSTRIES, SITE AND INFRASTRUCTURE DEVELOPMENT, PROJECT MANAGEMENT, AND PROJECT ADMINISTRATION. HER EXPERIENCE HAS ALLOWED HER TO BUILD RELATIONSHIPS FROM ACROSS THE STATE WITHIN THE ECONOMIC DEVELOPMENT COMMUNITY. COURTNEY HAS SAID THAT THERE HAS BEEN

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A...SHOULD BE A CONTINUED EMPHASIS ON ECONOMIC DEVELOPMENT IN RURAL AREAS. IN THAT REGARD, SHE SAID THAT SHE WOULD NEED TO BE FOCUSED ON SUCH THINGS AS BUILDING A WELL-TRAINED WORK FORCE, PROMOTING SITE AND BUILDING DEVELOPMENT PROGRAMS. FINALLY, SHE SAID THAT NEBRASKA NEEDS TO EMPHASIZE WHAT ECONOMIC OPPORTUNITIES ARE HERE IN NEBRASKA. THEY WILL BE A POINT OF HER FOCUS. AS A PERSONAL NOTE, I WILL TELL YOU THAT I HAVE NOT SAT AT A HEARING WHERE THE DESIGNEE WAS MORE PREPARED AND PROVIDED A MORE IN-DEPTH DISCUSSION OF WHAT THEY WOULD WANT TO DO IN THAT SPECIFIC POSITION. SHE IS AN ARTICULATE YOUNG WOMAN THAT HAS PROVEN HERSELF BEYOND HER YEARS. I BELIEVE NEBRASKA IS LUCKY TO BE ABLE TO RETAIN HER IN THIS POSITION AND WILL DO AN EXCELLENT JOB AS THE DIRECTOR OF THE ECONOMIC DEVELOPMENT FOR THE STATE OF NEBRASKA. I WOULD URGE YOUR AFFIRMATIVE RESPONSE FOR HER CONFIRMATION. THANK YOU, MR. LIEUTENANT GOVERNOR.

PRESIDENT FOLEY: THANK YOU, SENATOR SCHEER. SENATOR BLOOMFIELD, YOU'RE RECOGNIZED.

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. NOT ONLY HAS THIS APPOINTEE BEEN GOOD FOR NORFOLK, SHE HAS BEEN GOOD FOR THE ENTIRETY OF NORTHEAST NEBRASKA. I WHOLEHEARTEDLY RECOMMEND HER FOR THIS APPOINTMENT. THANK YOU.

PRESIDENT FOLEY: THANK YOU, SENATOR BLOOMFIELD. SEEING NO OTHER SENATORS WISHING TO SPEAK, SENATOR SCHEER WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE CONFIRMATION REPORT FROM THE BANKING, COMMERCE AND INSURANCE COMMITTEE. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD PLEASE, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGES 498-499.) 28 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE REPORT.

PRESIDENT FOLEY: THE CONFIRMATION REPORT IS ADOPTED. MR. CLERK.

CLERK: MR. PRESIDENT, THE EDUCATION COMMITTEE REPORTS ON THE APPOINTMENT OF STAN CARPENTER TO THE EDUCATIONAL TELECOMMUNICATIONS COMMISSION. (LEGISLATIVE JOURNAL PAGE 488.)

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PRESIDENT FOLEY: SENATOR SULLIVAN, YOU'RE RECOGNIZED TO OPEN ON THE CONFIRMATION REPORT.

SENATOR SULLIVAN: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE. I BRING FOR YOUR CONFIRMATION THE APPOINTMENT OF STATE COLLEGE SYSTEM CHANCELLOR, STAN CARPENTER, FOR MEMBERSHIP ON THE NEBRASKA EDUCATIONAL TELECOMMUNICATIONS COMMISSION. CHANCELLOR CARPENTER'S APPOINTMENT WOULD FILL THE STATUTORY REQUIREMENT THAT ONE MEMBER OF THE COMMISSION REPRESENT THE STATE COLLEGE SYSTEM AS PROVIDED UNDER SECTION 79-1315. CHANCELLOR CARPENTER APPEARED BEFORE THE EDUCATION COMMITTEE ON JANUARY 26, AT WHICH TIME HE ANSWERED ALL QUESTIONS ASKED OF HIM IN AN HONEST AND STRAIGHTFORWARD MANNER. CHANCELLOR CARPENTER WAS APPROVED BY THE EDUCATION COMMITTEE BY A 7-1 VOTE. WHILE PROCEDURALLY THIS IS A NEW APPOINTMENT FOR CHANCELLOR CARPENTER--AS HE IS REPLACING FORMER WAYNE STATE COLLEGE PRESIDENT, CURT FRYE, AS THE STATE COLLEGE REPRESENTATIVE ON THE COMMISSION--FACTUALLY, THIS WOULD BE THE SECOND TIME THAT CHANCELLOR CARPENTER WOULD SERVE ON THE COMMISSION, HAVING PREVIOUSLY SERVED FROM 2004 THROUGH 2012 WHEN HE SERVED AS CHAIR OF THE COMMISSION DURING THAT TIME IN 2008-09. SO I ASK FOR YOUR VOTE TO CONFIRM CHANCELLOR STAN CARPENTER TO THIS APPOINTMENT. IF YOU HAVE ANY QUESTIONS, I WOULD BE HAPPY TO ANSWER THEM. THANK YOU, MR. PRESIDENT.

PRESIDENT FOLEY: THANK YOU, SENATOR SULLIVAN. SENATOR GLOOR, YOU'RE RECOGNIZED. HE WAIVES THE OPPORTUNITY. SEEING NO OTHER SENATORS WISHING TO SPEAK, SENATOR SULLIVAN...AND SHE WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE CONFIRMATION REPORT FROM THE EDUCATION COMMITTEE. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD PLEASE, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGE 499.) 26 AYES, 1 NAY, MR. PRESIDENT, ON THE CONFIRMATION REPORT.

PRESIDENT FOLEY: THE REPORT IS ADOPTED. MOVING NOW TO SELECT FILE, REVISOR BILLS. MR. CLERK.

CLERK: MR. PRESIDENT, LB665. SENATOR HANSEN, I HAVE NO AMENDMENTS TO THE BILL. [LB665]

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PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB665]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB665 TO E&R FOR ENGROSSING. [LB665]

PRESIDENT FOLEY: SENATORS, YOU'VE HEARD THE MOTION TO ADVANCE THE BILL. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE BILL ADVANCES. MR. CLERK. [LB665]

CLERK: LB666. SENATOR, I HAVE NO AMENDMENTS TO THE BILL. [LB666]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB666]

SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADVANCE LB666 TO E&R FOR ENGROSSING. [LB666]

PRESIDENT FOLEY: SENATORS, YOU'VE HEARD THE MOTION TO ADVANCE THE BILL. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE BILL ADVANCES. MR. CLERK. [LB666]

CLERK: LB667. SENATOR, I HAVE NO AMENDMENTS TO THE BILL. [LB667]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB667]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB667 TO E&R FOR ENGROSSING. [LB667]

PRESIDENT FOLEY: SENATORS, YOU'VE HEARD THE MOTION TO ADVANCE THE BILL. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE BILL ADVANCES. MOVING NOW TO SELECT FILE, 2016 SENATOR PRIORITY BILLS. MR. CLERK. [LB667]

CLERK: MR. PRESIDENT, LB136. SENATOR, I HAVE E&R AMENDMENTS, FIRST OF ALL. (ER146, LEGISLATIVE JOURNAL PAGE 378.) [LB136]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB136]

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SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADOPT THE E&R AMENDMENTS TO LB136. [LB136]

PRESIDENT FOLEY: SENATORS, YOU'VE HEARD THE MOTION TO ADOPT THE E&R AMENDMENTS. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE E&R AMENDMENTS ARE ADOPTED. [LB136]

CLERK: SENATOR JOHNSON WOULD MOVE TO AMEND WITH AM1768. (LEGISLATIVE JOURNAL PAGE 425.) [LB136]

PRESIDENT FOLEY: SENATOR JOHNSON, YOU'RE WELCOME TO OPEN ON AM1768. [LB136]

SENATOR JOHNSON: THANK YOU, LIEUTENANT GOVERNOR. LB136 PASSED ON GENERAL FILE UNANIMOUS AND WE'RE ADDING TO THAT THE E CLAUSE. THE REASON WE'RE ADDING THE E CLAUSE, THERE'S ALREADY SIX CITIES IN NEBRASKA THAT HAVE ENACTED THIS AND THEY'VE ASKED US TO MOVE THIS FORWARD AS FAST AS WE CAN SO WE'RE ALL IN COMPLIANCE WITH THEIR REGULATIONS. WE ALSO HAVE A REPRESENTATIVE FROM ADM THAT CAME UP TODAY SHOWING THEIR INTEREST IN THIS PASSING WITH THE E CLAUSE ON IT. WITH THAT, I WOULD ASK FOR YOUR SUPPORT FOR THE E CLAUSE, AM1768. [LB136]

PRESIDENT FOLEY: THANK YOU, SENATOR JOHNSON. SEEING NO SENATORS WISHING TO SPEAK ON THE AMENDMENT FROM SENATOR JOHNSON, SENATOR JOHNSON WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF AM1768 TO LB136. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD PLEASE, MR. CLERK. [LB136]

CLERK: 30 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF SENATOR JOHNSON'S AMENDMENT. [LB136]

PRESIDENT FOLEY: AM1768 IS ADOPTED. MR. CLERK. [LB136]

CLERK: I HAVE NOTHING FURTHER ON THE BILL, MR. PRESIDENT. [LB136]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB136]

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SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB136 TO E&R FOR ENGROSSING. [LB136]

PRESIDENT FOLEY: SENATORS, YOU'VE HEARD THE MOTION TO ADVANCE THE BILL. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE BILL ADVANCES. MR. CLERK. [LB136]

CLERK: MR. PRESIDENT, LB471. SENATOR, I HAVE E&R AMENDMENTS, FIRST OF ALL. (ER148, LEGISLATIVE JOURNAL PAGE 450.) [LB471]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB471]

SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADOPT THE E&R AMENDMENTS TO LB471. [LB471]

PRESIDENT FOLEY: SENATORS, YOU'VE HEARD THE MOTION TO ADOPT THE E&R AMENDMENTS. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE E&R AMENDMENTS ARE ADOPTED. MR. CLERK. [LB471]

CLERK: SENATOR HOWARD WOULD MOVE TO AMEND WITH AM1952. (LEGISLATIVE JOURNAL PAGE 469.) [LB471]

PRESIDENT FOLEY: SENATOR HOWARD, YOU'RE RECOGNIZED TO OPEN ON THE AMENDMENT. [LB471]

SENATOR HOWARD: THANK YOU, MR. LIEUTENANT GOVERNOR. AS A REMINDER, LB471 IS OUR PRESCRIPTION DRUG MONITORING PROGRAM THAT WAS MOVED TO SELECT FILE LAST WEEK ON A 47-0 VOTE WITH 2 EXCUSED. THE BILL CALLS FOR DISPENSERS TO REPORT INTO THE SYSTEM AND CAPTURES PRESCRIBER INFORMATION FROM THE HEALTH INFORMATION EXCHANGE. AM1952 IS A TECHNICAL AMENDMENT. IT ALIGNS THE LANGUAGE WITH THE PHARMACY PRACTICE ACT, ADJUSTS THE REPORTING TIME LINE FOR DISPENSERS, AND STRENGTHENS THE PRIVACY LANGUAGE FOR THE PRESCRIPTION MONITORING PROGRAM ITSELF. I WOULD URGE THE BODY TO ADOPT AM1952 AND ADVANCE LB471. THANK YOU. [LB471]

PRESIDENT FOLEY: THANK YOU, SENATOR HOWARD. SEEING NO SENATORS WISHING TO SPEAK, SENATOR HOWARD, YOU'RE WELCOME TO CLOSE. AND SHE

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WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF AM1952 TO LB471. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD PLEASE, MR. CLERK. [LB471]

CLERK: 30 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF SENATOR HOWARD'S AMENDMENT. [LB471]

PRESIDENT FOLEY: AM1952 IS ADOPTED. MR. CLERK. [LB471]

CLERK: MR. PRESIDENT, I HAVE NOTHING FURTHER ON THE BILL. [LB471]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB471]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB471 TO E&R FOR ENGROSSING. [LB471]

PRESIDENT FOLEY: SENATORS, YOU'VE HEARD THE MOTION TO ADVANCE THE BILL. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB471 ADVANCES. ITEMS FOR THE RECORD, MR. CLERK? [LB471]

CLERK: THANK YOU, MR. PRESIDENT. I HAVE TWO NEW RESOLUTIONS: SENATOR SCHEER OFFERS LR430 AND LR431. THOSE WILL BOTH BE LAID OVER AT THIS TIME. I HAVE AN AMENDMENT FROM SENATOR CHAMBERS TO BE PRINTED TO LB474. A REFERENCE REPORT REGARDING A GUBERNATORIAL APPOINTEE. AND YOUR COMMITTEE ON ENROLLMENT AND REVIEW REPORTS LB221 AND LB295, BOTH REPORTED TO SELECT FILE WITH ENROLLMENT AND REVIEW AMENDMENTS ATTACHED. THAT'S ALL THAT I HAVE, MR. PRESIDENT. THANK YOU. (LEGISLATIVE JOURNAL PAGES 500-502.) [LR430 LR431 LB474 LB221 LB295]

PRESIDENT FOLEY: THANK YOU, MR. CLERK. MOVING NOW TO GENERAL FILE, LB328. MR. CLERK. [LB328]

CLERK: MR. PRESIDENT, WITH RESPECT TO LB328, THIS IS A BILL ORIGINALLY INTRODUCED BY SENATOR SCHILZ. (READ TITLE.) THE BILL WAS INTRODUCED ON JANUARY 15 OF LAST YEAR, AT THAT TIME REFERRED TO THE NATURAL RESOURCES COMMITTEE. THE BILL WAS ADVANCED TO GENERAL FILE, MR. PRESIDENT. [LB328]

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PRESIDENT FOLEY: THANK YOU, MR. CLERK. SENATOR SCHILZ, YOU'RE RECOGNIZED TO OPEN ON LB328. [LB328]

SENATOR SCHILZ: THANK YOU, MR. PRESIDENT. MEMBERS OF THE BODY, GOOD MORNING. LB328 WAS INTRODUCED ON BEHALF OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ALLOW THE USE OF THE CASH FUND FOR A PURPOSE RELEVANT TO THAT FUND AND TO CLARIFY WHICH PROFESSIONS MAY PERFORM WORK ON PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEMS. THE PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEM CONTRACTORS CERTIFICATION AND SYSTEM REGISTRATION ACT REQUIRES THAT ANYONE DOING WORK ASSOCIATED WITH ON-SITE WASTEWATER SYSTEMS BE CERTIFIED BY THE STATE. THE BILL ALSO PROVIDES FOR THE REGISTRATION OF ALL ON-SITE WASTEWATER SYSTEMS CONSTRUCTED, ALTERED OR MODIFIED, AND PROVIDES FOR CERTIFICATION AND FEES. THE CASH FUND THAT'S ASSOCIATED WITH THE ACT IS SUPPORTED BY THE FEES FROM THE EXAMINATION AND CERTIFICATION OF ON-SITE PROFESSIONALS AND SYSTEM REGISTRATIONS. LB328 WOULD AUTHORIZE THE USE OF THE FUNDS FOR INVESTIGATION AND INSPECTION OF OLDER ON-SITE WASTEWATER TREATMENTS WHICH WERE INSTALLED PRIOR TO THE ACT AND ARE SUBJECT TO MUCH OF THE ENFORCEMENT WORK OF THE DEPARTMENT. BUT WE SHOULD REMEMBER THAT EVEN IF THIS IS PUT IN PLACE, ALL OF THOSE WASTEWATER TREATMENT INVESTIGATIONS ARE ONLY DONE ON A COMPLAINT BASIS. SO THERE'S NO ONE ACTIVELY OUT THERE GOING TO LOOK FOR THESE SITUATIONS. THE STATUTE CURRENTLY DOES NOT CLEARLY STATE THAT THE INVESTIGATION AND INSPECTION OF OLDER SYSTEMS IS AN ALLOWED USE AND THE DEPARTMENT WOULD LIKE TO HAVE CLEAR STATUTORY AUTHORITY. THE BILL ALSO CLARIFIES THAT LICENSED PROFESSIONAL ENGINEERS AND REGISTERED ENVIRONMENTAL HEALTH SPECIALISTS MAY PERFORM WORK ON PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEMS, IN ADDITION TO CERTIFIED PROFESSIONALS. THIS LANGUAGE DOES NOT CHANGE WHO WORKS ON PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEMS. IT SIMPLY CLARIFIES WHO THE PROFESSIONALS ARE WHO WORK ON THEM. THE DEPARTMENT WORKED WITH THE NEBRASKA ON-SITE WASTE WATER ASSOCIATION TO DEVELOP THIS LEGISLATION WHICH AUTHORIZES THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ADOPT THE RELEVANT FEE SCHEDULES. AND THE INDUSTRY THAT PROVIDES THE REVENUE FOR THE CASH FUND SUPPORTS THE FUND BEING USED TO INSPECT AND INVESTIGATE THESE OLDER SYSTEMS. SO WITH THAT, FOLKS, REALLY THIS IS JUST CLARIFYING LANGUAGE IN A BILL TO HELP THEM GET TO SOME OF THOSE OTHER ON-SITE WASTEWATER TREATMENTS...SEPTIC SYSTEMS

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THAT ARE OUT THERE THAT SHOULD BE AND NEED TO BE CLEANED UP. SO WITH THAT, I WOULD APPRECIATE YOUR SUPPORT ON LB328. [LB328]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHILZ. MR. CLERK. [LB328]

CLERK: MR. PRESIDENT, SENATOR CHAMBERS WOULD MOVE TO BRACKET THE BILL UNTIL APRIL 20, 2016. [LB328]

PRESIDENT FOLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED TO OPEN ON YOUR BRACKET MOTION. [LB328]

SENATOR CHAMBERS: I WITHDRAW THAT MOTION, MR. PRESIDENT. [LB328]

PRESIDENT FOLEY: WITHOUT OBJECTION, THE MOTION IS WITHDRAWN. MR. CLERK. [LB328]

CLERK: MR. PRESIDENT, SENATOR CHAMBERS WOULD MOVE TO RECOMMIT THE BILL TO THE NATURAL RESOURCES COMMITTEE. [LB328]

PRESIDENT FOLEY: SENATOR CHAMBERS, YOU'RE WELCOME TO OPEN ON YOUR RECOMMIT MOTION. [LB328]

SENATOR CHAMBERS: I WITHDRAW THAT MOTION, MR. PRESIDENT. [LB328]

PRESIDENT FOLEY: WITHOUT OBJECTION, THE MOTION IS WITHDRAWN. MR. CLERK. [LB328]

CLERK: MR. PRESIDENT, SENATOR CHAMBERS WOULD MOVE TO AMEND THE BILL BY STRIKING SECTION 1. [LB328]

PRESIDENT FOLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED TO OPEN ON YOUR AMENDMENT. [LB328]

SENATOR CHAMBERS: I WITHDRAW THAT AMENDMENT, MR. PRESIDENT. [LB328]

PRESIDENT FOLEY: THE AMENDMENT IS WITHDRAWN. MR. CLERK. [LB328]

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CLERK: MR. PRESIDENT, SENATOR CHAMBERS WOULD MOVE TO INDEFINITELY POSTPONE LB328. [LB328]

PRESIDENT FOLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED TO OPEN ON YOUR MOTION. [LB328]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE, I HAVE NO OBJECTION TO THIS BILL. IT'S SOMETHING IN THE NATURE OF A SHOT ACROSS THE BOW TO SHOW WHAT CAN BE DONE WITH A BILL. I DECIDED TO DO IT ON A BILL THAT IS NONCONTROVERSIAL, THAT IS OF NO GREAT CONSEQUENCE TO THE BODY AS A WHOLE, BUT I'M LOOKING AT THE NAME OF THE SPONSOR OF THE BILL. AND WHEN I SAW THAT, I THOUGHT OF A MOVIE THAT I HAD SEEN CALLED SOMETHING WICKED THIS WAY COMES. AND THAT'S A QUOTE FROM ONE OF SHAKESPEARE'S PLAYS. THAT GIVES ME THE OPPORTUNITY TO DO SOMETHING THAT I'VE SAID REPEATEDLY I WILL DO. NO MATTER HOW FORCEFULLY I ADVOCATE A POSITION, IF I AM SHOWN FACTS WHICH WILL REVEAL THAT I MISSPOKE, THAT I WAS MISTAKEN OR JUST PLAIN WRONG, I WILL ACKNOWLEDGE THAT AS FORCEFULLY AS I HAD MAINTAINED THE ORIGINAL POSITION. THE OTHER DAY SENATOR BLOOMFIELD HAD MADE SOME COMMENTS ABOUT A CITY IN MASSACHUSETTS NAMED LOWELL. I VERY STRONGLY TALKED ABOUT WHERE THE NAME OF THAT CITY CAME FROM. I SAID IT WAS NAMED AFTER A WRITER NAMED JAMES RUSSELL LOWELL. THAT IS ABSOLUTELY INCORRECT. THAT CITY WAS NAMED AFTER AN INDUSTRIALIST NAMED LOWELL. HOWEVER, THEY PROBABLY WERE MEMBERS OF THE SAME FAMILY. BUT THAT DOES NOT DIMINISH IN ANY WAY THE INACCURACY OF THE COMMENT THAT I HAD MADE. SO NOW THAT I HAVE POINTED OUT WHERE I MADE A STATEMENT THAT WAS INACCURATE, AT SOME POINT IN THE NOT TOO DISTANT FUTURE I WILL HAVE THE OPPORTUNITY TO BRING THE SAME INFORMATION TO YOU WITH REFERENCE TO ONE OF MY COLLEAGUES. BUT HERE IS WHAT I HAD REMEMBERED FROM THIS MOVIE, SOMETHING WICKED THIS WAY COMES. AND I SAID THIS IS A SHOT ACROSS THE BOW. THE MAIN CHARACTER WAS JASON ROBARDS AND HE WAS A LIBRARIAN. HE WOULD BE CALLED A PROTAGONIST BECAUSE HE'S THE GOOD GUY. THE ANTAGONIST WAS A BRITISH GUY NAMED JONATHAN PRYCE, P-R-Y-C-E, AND IN THE MOVIE, HE WAS KNOWN AS MR. DARK. HE WORE GARMENTS LIKE THOSE OF MY COLLEAGUES WHO ARE SURROUNDING ME IN THIS AREA OF THE LEGISLATURE, BLACK CLOTHING. AND I DIDN'T KNOW WHETHER IT WAS A FUNERAL DIRECTORS' CONVENTION, A BANKERS' CONVENTION IN HONOR OF SENATOR STINNER OR JUST WHAT. BUT AT ANY RATE, MR. DARK, IN ADDITION TO WEARING THAT DARK CLOTHING, WORE A TOP HAT. AND HE REPRESENTED SOME PEOPLE CALLED THE

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AUTUMN PEOPLE OR SOMETHING SUCH AS THAT. AND PERIODICALLY THEY CAME TO THIS TOWN. AND WHENEVER THEY APPEARED, BAD THINGS HAPPENED. ANIMALS MISCARRIED. WOMEN MISCARRIED. PEOPLE DIED OF AILMENTS. AND HE WAS THE EMBODIMENT OF EVIL. THERE WAS A SCENE IN THE MOVIE WHERE MR. DARK WAS CONFRONTING MR.... I FORGET THE NAME OF ROBARDS' CHARACTER. BUT THEY WERE TALKING AND MR. DARK WAS TELLING ROBARDS, YOU'VE BECOME AN OLD MAN. YOUR HEART IS WEAK. I CAN RETURN SOME YOUTH TO YOU. I WILL TAKE YOU BACK TO WHEN YOU WERE 30 YEARS OLD. AND HE HAD THIS BOOK AND ROBARDS REJECTED IT. SO MR. DARK TORE THAT PAGE OUT. HE SAID, 40, I'LL TAKE YOU BACK TO 40. NO SOAP. TORE OUT SEVERAL PAGES AND FINALLY, WHEN MR. ROBARDS MADE IT CLEAR HE WAS NOT GOING TO YIELD, MR. DARK THREW THAT BOOK AT HIM. IT HIT MR. ROBARDS, WHO FELL TO THE FLOOR. AND THESE TYPES OF INDIVIDUALS HAVE MINIONS, GENERALLY IN THE FORM OF A BEAUTIFUL WOMAN. AND THIS BEAUTIFUL WOMAN CAME ON THE SCENE. SHE HAPPENED TO HAVE BEEN THE DAUGHTER OF ROOSEVELT GRIER, A FOOTBALL PLAYER WHO WAS VERY LARGE, VERY POWERFUL, AND FAMOUS FOR CROCHETING. HER NAME WAS AND IS PAM GRIER--VERY BEAUTIFUL WOMAN. MAYBE THAT'S WHERE THE NOTION CAME FROM THAT THE BIBLE SAID, THE DEVIL COMES AS AN ANGEL OF THE LIGHT. BUT MR. DARK TOLD HER, GIVE HIM A TASTE OF DEATH SO THAT HE WILL RECOGNIZE IT WHEN IT COMES. SO SHE TOOK HIS HAND AND SHE STARTED WAVING HER OTHER HAND OVER HIS CHEST. HE WAS PROSTRATE ON THE FLOOR. SHE SAID, YOUR HEART IS SLOWING DOWN, IT IS GOING SLOWER AND SLOWER. AND AS THEY DO FOR SPECIAL EFFECTS, YOU HEARD THE THUMPING OF HIS HEART, THUMP THUMP, THUMP THUMP, THUMP THUMP, THUMP THUMP, THUMP THUMP. HIS BREATHING BECAME LABORED, HE BEGAN TO SWEAT. SO THEN HE HAD HER RELEASE HIM BECAUSE HE HAD BEEN GIVEN THE MESSAGE. SO WHEN DEATH ITSELF CAME, HE WOULD RECOGNIZE IT. WHAT I DID THIS MORNING WAS TO GIVE AN EXAMPLE OR A SAMPLE SO...OF WHAT CAN BE DONE SO WHEN THE REAL THING COMES ALONG, EVERYBODY WILL KNOW. IT'S ALMOST AN OVERWHELMING TEMPTATION FOR ME TO GO FURTHER, BUT I SHALL RESIST THE TEMPTATION. I WILL NOT SAY WHAT OLD PEOPLE USED TO TELL CHILDREN TO SAY. WHEN YOU'RE TEMPTED SAY, SATAN, GET BEHIND ME. ONE LITTLE BOY HAD STOLEN SOME COOKIES OUT OF THE COOKIE JAR AND HIS MOTHER SAID, YOU WERE JUST IN CHURCH TWO DAYS AGO. HE LOOKED DOWN LIKE LITTLE CHILDREN WILL DO WHEN THEY'VE BEEN CAUGHT AND HE SAID, YES, MA'AM. SHE SAID, AND YOU HEARD THE PREACHER TELL YOU THAT WHEN YOU FELT TEMPTATION, YOU SHOULD SAY, SATAN, GET BEHIND ME. DO YOU REMEMBER THAT? HE SAID, YES, MA'AM. SHE SAID, WELL, DID YOU SAY IT? HE SAID, YES, MA'AM. SHE SAID, AND WHAT HAPPENED? HE SAID, SATAN GOT BEHIND ME AND

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HE PUSHED ME RIGHT TO THOSE COOKIES AND TOLD ME TO TAKE WHAT I WANTED AND THAT'S WHAT I DID, SO I DID WHAT THEY TOLD ME TO DO IN CHURCH. WHEN WE'RE DEALING WITH CHILDREN, WE SHOULD NOT ATTRIBUTE TO THEM THE KNOWLEDGE, THE UNDERSTANDING, EVEN THE VENALITY THAT ADULTS MAY BE SUBJECT TO. AND WE SHOULD BE CRYSTAL-CLEAR IN WHAT WE SAY AND WHAT WE MEAN. AND IF WE THINK THERE IS ANY DOUBT, ANYTHING THAT MAY BE AMBIGUOUS, WE HAVE THE OBLIGATION TO EXPLAIN THESE THINGS CLEARLY TO CHILDREN. AND WHEN WE FAIL TO DO SO AND THE CHILD ACTS IN A WAY THAT WE CALL GOING ASTRAY, THE CHILD IS NOT TO BLAME. THE CHILD LOOKS TO US TO DIRECT AND GUIDE THEM. AND WHEN WE GAVE WHAT AMOUNTS TO MISINFORMATION, THE FAULT IS WITH US, NOT WITH THE CHILD. AND WE SHOULD NOT BE TOO PROUD, TOO STIFF-NECKED, TOO HARDHEARTED TO APOLOGIZE EVEN TO A CHILD, ESPECIALLY TO A CHILD. SO WE CAN TEACH LESSONS BY EXAMPLE, AS I WANTED TO DO THIS MORNING. WE SHOULD LET THAT CHILD KNOW THAT WE DID NOT MAKE CLEAR TO YOU WHAT WE MEANT, THIS IS WHAT I MEANT, AND GIVE THE CHILD THE BENEFIT OF THE DOUBT. IF IT COULD BE TAKEN AS HAVING BEEN AMBIGUOUS WHEN YOU TOLD THIS INFORMATION TO THE CHILD, BUT YOU THINK THE CHILD MAY BE ACTING, GIVE THE CHILD THE BENEFIT OF THE DOUBT. USE IT AS A TEACHING OPPORTUNITY AND EXPLAIN IN CAREFUL DETAIL WHAT YOU MEANT TO SAY, THE DIRECTIVE YOU ARE GIVING TO THE CHILD, AND THAT SINCE THERE WAS A MISUNDERSTANDING THERE WILL BE NO PUNISHMENT. THERE WILL BE NO CHASTISEMENT. BUT I WILL BE MORE CAREFUL IN THE FUTURE IN HOW I EXPLAIN THINGS TO YOU. [LB328]

PRESIDENT FOLEY: ONE MINUTE. [LB328]

SENATOR CHAMBERS: AND SOMETIMES I'VE SAID THAT OCCASIONALLY ON THE FLOOR I FEEL LIKE AN ADULT DEALING WITH CHILDREN IN THE SANDBOX ON THE GRADE SCHOOL PLAYGROUND. I SAID, SOMETIMES I'M ENGAGING IN CHILD ABUSE. SO I WILL SAY NO MORE, OTHER THAN I'D LIKE TO WITHDRAW THAT MOTION, MR. PRESIDENT. [LB328]

PRESIDENT FOLEY: WITHOUT OBJECTION, THE MOTION IS WITHDRAWN. THANK YOU, SENATOR CHAMBERS. MR. CLERK. [LB328]

CLERK: MR. PRESIDENT, THE MOTION BEFORE THE BODY IS THE ADVANCEMENT OF LB328. [LB328]

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PRESIDENT FOLEY: YOU'VE HEARD THE OPENING. AND DEBATE: SENATOR SCHNOOR, FOLLOWED BY SENATOR HUGHES, AND SENATOR SCHILZ. SENATOR SCHNOOR, YOU'RE RECOGNIZED. [LB328]

SENATOR SCHNOOR: THANK YOU, MR. PRESIDENT. IN THE COMMITTEE, I WAS OPPOSED TO THIS BILL. MY CONCERN WITH SEPTIC TANKS: EVERY FARM, EVERY RURAL AREA HAS A SEPTIC TANK. AND MY CONCERN IS NOW WE OPEN THIS UP AND WE'RE FUNDING THEM TO GO OUT AND LOOK FOR PROBLEMS. AND I WAS...BECAUSE OF THAT, I WAS NOT OPPOSED. NOW, SENATOR SCHILZ HAS TOLD ME OFF THE MIKE THAT THAT IS NOT GOING TO BE THE CASE. BUT IN ORDER TO GET THAT ON THE RECORD, SENATOR SCHILZ, WILL YOU YIELD TO A QUESTION? [LB328]

PRESIDENT FOLEY: SENATOR SCHILZ, WOULD YOU YIELD, PLEASE? [LB328]

SENATOR SCHILZ: YES. [LB328]

SENATOR SCHNOOR: SENATOR SCHILZ, WE HAD TALKED ON THE SIDE AND I HAD VOICED MY CONCERNS. AND YOU HAD SAID THAT THAT WAS NOT THE CASE. COULD YOU PLEASE REITERATE THAT? [LB328]

SENATOR SCHILZ: SURE. THANK YOU, SENATOR SCHNOOR. AND LAST YEAR IN THE HEARING WE TALKED ABOUT BEING ABLE TO GET SOME OF THESE FUNDS TO BE ABLE TO USE THEM FOR THESE TYPES OF INVESTIGATIONS. AND THE CONVERSATION KIND OF WENT, WELL, IF WE'VE GOT THE MONEY AND THERE'S STILL PROBLEMS OUT THERE, THEN WE NEED TO GO OUT AND FIND OUT WHERE THESE ARE ALL AT, WHICH WAS ALL JUST CONVERSATION BUT NOT PART OF THE BILL ITSELF. THE BILL ITSELF AND THE LAW THAT'S IN PLACE USES THIS FUND ONLY WHEN THERE'S COMPLAINTS. AND SO THAT'S THE DIFFERENCE HERE. WE'RE NOT...IF THEY WERE GOING TO TRY AND GO OUT AND DO PROACTIVE INVESTIGATIONS ON THIS STUFF, THE AMOUNT OF MONEY THAT WOULD BE NEEDED TO BUILD THOSE KIND OF POSITIONS AND TO BE ABLE TO EXECUTE THAT IS WAY MORE THAN THIS FUND ALLOWS. AND SO THE REASON THAT THIS BILL GOES INTO PLACE--AND I DON'T MEAN TO TAKE UP YOU'RE TIME, I'LL GIVE YOU MORE IF YOU NEED IT--BUT THE REASON THAT THIS BILL NEEDED TO GO INTO PLACE AS WELL IS BECAUSE THIS THEN EXTENDS THE AUTHORITY TO THE OLDER SYSTEMS THAT WEREN'T COVERED UNDER THIS LAW WHEN IT WAS PUT INTO PLACE. [LB328]

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SENATOR SCHNOOR: OKAY. THANK YOU, SENATOR SCHILZ. AND I AM STILL GOING TO BE OPPOSED TO THIS. I THINK WE'RE...I THINK IT MERELY PROMOTES PEOPLE TO GO LOOK FOR PROBLEMS AND I'M NOT IN FAVOR OF THAT. AND I WILL STAND OPPOSED TO THIS. THANK YOU. [LB328]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHNOOR. SENATOR HUGHES, YOU'RE RECOGNIZED. [LB328]

SENATOR HUGHES: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. IF YOU LOOK AT THE COMMITTEE STATEMENT ON THIS BILL, YOU'LL SEE THAT I DID ALSO OPPOSE IT COMING OUT OF COMMITTEE, PARTLY BECAUSE OF THE INSPECTION OF EXISTING SYSTEMS. I WILL TAKE SENATOR SCHILZ AT HIS WORD THAT THAT IS NOT THE INTENT. THERE WILL NOT BE THE MONEY TO DO THAT UNLESS THERE IS A PROBLEM REPORTED. BUT PART OF THE OTHER ISSUE THAT I HAVE IS, LIVING IN MORE RURAL AREAS, IT'S GETTING HARDER AND HARDER TO FIND PEOPLE TO DO THIS WORK FOR US, BECAUSE THE GOVERNMENT CONTINUES TO PUT MORE LAYERS AND LAYERS OF REQUIREMENTS AND RULES AND SCHOOLING. AND, QUITE FRANKLY, THERE'S NOT ENOUGH MONEY INVOLVED IN DOING THIS, PUTTING IN SEPTIC SYSTEMS, THAT YOU CAN AFFORD TO DO ALL THE SCHOOLING AND YOU CHARGE ENOUGH TO MAKE IT HAPPEN. IT'S DRIVING PEOPLE OUT OF BUSINESS TO DO THIS IN THE SMALL, MORE RURAL COMMUNITIES. NOW, IN THE MORE METROPOLITAN AREAS AND FIRST-CLASS CITIES, THERE'S MORE OF A DEMAND. BUT THIS IS JUST ADDING ANOTHER LAYER OF GOVERNMENT THAT'S DRIVING PEOPLE OUT OF BUSINESS. AND THAT'S PART OF MY CONCERN WITH THIS. I DO REMEMBER IN THE COMMITTEE DISCUSSIONS WHEN WE TALKED ABOUT FUNDING DEQ FOR MORE INSPECTORS TO GO OUT IN THE COUNTRY AND BEGIN LOOKING AT EVERY FARMSTEAD. AND I REMEMBER TELLING MY COLLEAGUES, YOU BETTER THINK ABOUT THAT, BECAUSE IF THAT DOES INDEED BECOME THE CASE...AND I THINK THERE'S SOME POTENTIAL FOR THIS BILL TO BE TAKEN TO THAT PLACE, IT DOES AUTHORIZE IT. SENATOR SCHILZ SAYS WE DO NOT HAVE THE FUNDING TO CURRENTLY DO THAT, NOR DO I ANTICIPATE. NEXT YEAR HE'S GONE. DO HIS INTENTIONS CARRY THROUGH? WE NEED TO NOT ONLY BE VERY CAREFUL WHEN WE PASS LEGISLATION ABOUT WHAT IT DOES TODAY, BUT WHAT THE POTENTIAL OF WHAT WE PUT IN PLACE DOES 5, 10, 50 YEARS FROM NOW. THANK YOU, MR. PRESIDENT. [LB328]

PRESIDENT FOLEY: THANK YOU, SENATOR HUGHES. SENATOR SCHILZ. [LB328]

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SENATOR SCHILZ: THANK YOU, MR. PRESIDENT. AND THANK YOU, SENATOR HUGHES, FOR YOUR COMMENTS. I THINK THAT IT...I THINK THAT WE NEED TO UNDERSTAND THAT THIS IS NOT ADDING ANOTHER LAYER OF GOVERNMENT. THIS LAYER OF GOVERNMENT IS ALREADY THERE. THEY'RE ALREADY DOING WORK TODAY. WE'RE NOT ADDING ANY NEW EMPLOYEES, ANYTHING ELSE. WE'RE NOT EVEN CHANGING THE REGULATIONS EXCEPT FOR WE'RE SAYING THAT THE SYSTEMS THAT WERE PUT IN BEFORE THE EFFECTIVE DATE OF THE BILL THAT HAVE THE PROBLEMS THAT WE'RE TALKING ABOUT HERE ARE ALSO SYSTEMS THAT THIS FUND CAN BE USED FOR. AND IF YOU CAN USE THIS FUND FOR THAT, THEN THAT MEANS THAT THE LOCAL PERSON THAT HAS TO TAKE CARE OF THIS DOESN'T HAVE TO EXPEND SOME OF THEIR MONEY TO DO IT. SO IT WOULD BE SOMEWHAT OF A SUBSIDY BECAUSE I THINK SOME OF THIS GRANT FUND--AND I'LL FIND THIS OUT FOR SURE--MAYBE CAN BE USED TO HELP MITIGATE, AS WELL. AND SO I WILL FIND THAT OUT FOR SURE AND LET PEOPLE KNOW. BUT I THINK WE NEED TO BE CAREFUL WHEN WE TALK ABOUT EXPANDING GOVERNMENT HERE WHEN REALLY ALL WE'RE DOING IS WE'RE JUST MAKING IT POSSIBLE FOR THIS MONEY THAT IS THERE AND AVAILABLE TO BE USED ON SYSTEMS THAT STILL DO NEED TO BE CHANGED BUT JUST AREN'T ACTUALLY STATED IN THE LAW ITSELF. AND THE CLARIFICATION IS WHAT THE DEQ IS LOOKING FOR. THANK YOU, MR. PRESIDENT. [LB328]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHILZ. SENATOR BLOOMFIELD, YOU'RE RECOGNIZED. [LB328]

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. MY CONCERNS FOLLOW THE LINE OF THOSE OF SENATOR HUGHES. AND I ALSO WONDER A LITTLE BIT ABOUT IF THIS ISN'T A "SQUEAL ON YOUR NEIGHBOR" BILL. HOW MUCH TROUBLE CAN I GET THE FELLOW DOWN THE ROAD IN IF I WANT TO IF I JUST CALL IN AND SAY HIS SYSTEM ISN'T UP TO PAR? SO I WONDER IF SENATOR SCHILZ WOULD YIELD TO A QUESTION. [LB328]

PRESIDENT FOLEY: SENATOR SCHILZ, WOULD YOU YIELD, PLEASE? [LB328]

SENATOR SCHILZ: YES. [LB328]

SENATOR BLOOMFIELD: THANK YOU, SENATOR. DOES THIS BILL IN ANY WAY CHANGE THE LICENSING PROCEDURE FOR THE PEOPLE THAT INSTALL THESE SYSTEMS? [LB328]

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SENATOR SCHILZ: I DON'T KNOW IF IT CHANGES IT, BUT IT CLARIFIES IT TO TELL EXACTLY WHO THEY ARE. [LB328]

SENATOR BLOOMFIELD: MY LOCAL PLUMBING CONTRACTOR OUT THERE IN THE COUNTRY NOW THAT COMES OUT AND DOES MY SEPTIC WORK, IS HE GOING TO HAVE TO HAVE SOME INCREASED CERTIFICATION OVER WHAT HE'S LIKELY TO HAVE NOW? [LB328]

SENATOR SCHILZ: I DON'T KNOW. I DON'T KNOW WHO YOUR INSTALLER IS, SO I CAN'T TELL YOU THAT. BUT LET ME DO THIS--AND I DON'T WANT TO TAKE UP YOUR TIME--I WILL FIND OUT AND I'LL GET BACK ON THE MIKE AND LET YOU KNOW. [LB328]

SENATOR BLOOMFIELD: OKAY. THANK YOU, SENATOR SCHILZ. AS SENATOR HUGHES SAID, WHEN WE PASS THESE BILLS THAT LOOK VERY SIMPLE, THEY CAN HAVE FAR-REACHING EFFECTS. AS IT STANDS RIGHT NOW, I'M NOT GOING TO SUPPORT THIS THING. WE'LL SEE WHERE IT GOES FROM HERE. WE MAY HAVE TO DO SOME WORK ON IT. THANK YOU. [LB328]

PRESIDENT FOLEY: THANK YOU, SENATOR BLOOMFIELD. SENATOR KEN HAAR YOU'RE RECOGNIZED. [LB328]

SENATOR HAAR: I DON'T KNOW WHY, BUT WHENEVER I TOUCH THE MIKE I GET A SHOCK. I'D LIKE TO ASK SENATOR SCHILZ A QUESTION OR TWO. [LB328]

PRESIDENT FOLEY: SENATOR SCHILZ, WOULD YOU YIELD, PLEASE? [LB328]

SENATOR SCHILZ: YES. [LB328]

SENATOR HAAR: WELL, I LIVE ON AN ACREAGE. AND SO THE PERSON INSTALLING THE SEPTIC SYSTEM WOULD BE AFFECTED BY THIS. IS THAT CORRECT? [LB328]

SENATOR SCHILZ: YES. BUT I CAN TELL YOU THIS, IS THAT IN LOOKING AT THE STATUTE ITSELF AND THE FULL STATUTE, THIS DOESN'T CHANGE THE REQUIREMENTS FOR THE PEOPLE THAT ARE DOING THIS. IT JUST OUTLINES WHAT THEY ARE IN THIS PART OF THE STATUTE. [LB328]

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SENATOR HAAR: OKAY. WELL, I HAVE TO RISE AND SAY I SUPPORT THIS, BECAUSE I LIVE ON AN ACREAGE. AND LIKE MANY OTHER PEOPLE WHO MOVE TO ACREAGES, I KNEW NOTHING ABOUT WHAT IT'S LIKE TO MOVE TO THE COUNTRY. I WAS EXPECTING, OF COURSE, PERFECT CONDITIONS. AND ALL THESE THINGS I HAD TAKEN FOR GRANTED, LIKE A WATER SYSTEM, YOU KNOW, IN THE CITY I GOT MY WATER, I DIDN'T HAVE TO WORRY ABOUT IT; THE SEWAGE SYSTEM I JUST GOT HOOKED UP TO A DRAIN. BUT WHEN YOU MOVE TO AN ACREAGE, ALL THIS STUFF IS BRAND NEW. AND SO I APPRECIATE THE OVERSIGHT. IT TAKES CERTIFIED PEOPLE WHO KNOW WHAT THEY'RE DOING. AND IF THEY DO KNOW WHAT THEY'RE DOING, I DON'T SEE ANY PROBLEM WITH THIS BILL. SO, AGAIN, I RISE IN SUPPORT OF THIS BILL, AND I THINK IT'S IMPORTANT AS, AT LEAST FOR PEOPLE WHO MOVE FROM THE CITY TO THE COUNTRY, TO MAKE SURE THAT WHEN WE INSTALL THESE KIND OF THINGS, THAT IT'S DONE PROPERLY AND IT'S GOING TO LAST A LONG TIME. SO I WANT TO THANK YOU, SENATOR SCHILZ, FOR THIS BILL. [LB328]

PRESIDENT FOLEY: THANK YOU, SENATOR HAAR. SENATOR SCHILZ, YOU'RE RECOGNIZED. [LB328]

SENATOR SCHILZ: THANK YOU, MR. PRESIDENT. AND LIKE I SAID BEFORE, AS I LOOK AND REMEMBER NOW BACK TO THE HEARING AND EVERYTHING LAST YEAR, ONCE AGAIN--AND WE'VE CONFIRMED THIS--THAT THIS DOES ONLY CLARIFY IN THIS PART OF THE STATUTE WHO IS QUALIFIED TO BE DESIGNING THOSE SYSTEMS AND THINGS LIKE THAT. AND SO THAT'S THE CLARIFICATION HERE. AND IF THERE'S SOMETHING THAT PEOPLE DON'T LIKE ABOUT THAT PART OF IT, THEN I WOULD SUGGEST THAT IT CAN'T JUST BE CHANGED IN THIS PART OF IT. IT NEEDS TO BE CHANGED THROUGHOUT THE SYSTEM. BUT I THINK THAT AS YOU'RE PUTTING IN SEPTIC SYSTEMS OUT THERE, YOU WANT TO MAKE SURE THAT THEY'RE ENGINEERED PROPERLY. BECAUSE I CAN TELL YOU, YOU DON'T WANT AN ISSUE AFTER YOU PUT SOMETHING IN TO HAVE PROBLEMS WITH IT, TO HAVE TO TAKE IT ALL BACK OUT AND REDO IT. SO I THINK HAVING THIS CERTIFICATION DOES MAKE SENSE. IT KEEPS THE CONSUMERS OF THESE, THE PEOPLE THAT ARE PUTTING THEM IN, SAFE AS FAR AS IT COMES TO THE DESIGN AND THE FUNCTIONALITY OF THESE SYSTEMS. SO I DON'T THINK THAT THE CERTIFICATION IS NECESSARILY A BAD THING. THANK YOU, MR. PRESIDENT. [LB328]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHILZ. SEEING NO OTHER SENATORS WISHING TO SPEAK, SENATOR SCHILZ, YOU'RE WELCOME TO CLOSE ON THE ADVANCE OF LB328. [LB328]

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SENATOR SCHILZ: THANK YOU, MR. PRESIDENT. I WOULD JUST SAY THAT I WOULD APPRECIATE A GREEN VOTE ON THIS BILL. I KNOW THAT DEQ, WHEN THEY BROUGHT IT IN, WOULD LIKE THIS AUTHORITY, BECAUSE THEY UNDERSTAND THAT THERE ARE OLDER SYSTEMS OUT THERE THAT ARE HAVING PROBLEMS. AND THIS MONEY CAN GO TO HELP ALLEVIATE THOSE PROBLEMS. SO WITH THAT, I'D APPRECIATE YOUR GREEN VOTE ON LB328. THANK YOU, MR. PRESIDENT. [LB328]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHILZ. SENATORS, YOU'VE HEARD THE DEBATE ON LB328. THE QUESTION IS THE ADVANCE OF THE BILL TO E&R INITIAL. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. SENATOR SCHILZ, FOR WHAT PURPOSE DO YOU RISE? [LB328]

SENATOR SCHILZ: WELL, I GUESS I NEED TO CALL THE HOUSE, PLEASE. [LB328]

PRESIDENT FOLEY: THERE'S BEEN A REQUEST TO PLACE THE HOUSE UNDER CALL. THE QUESTION IS, SHALL THE HOUSE GO UNDER CALL? ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. RECORD PLEASE, MR. CLERK. [LB328]

CLERK: 30 AYES, 0 NAYS, MR. PRESIDENT, TO PLACE THE HOUSE UNDER CALL. [LB328]

PRESIDENT FOLEY: THE HOUSE IS UNDER CALL. SENATORS, PLEASE RECORD YOUR PRESENCE. THOSE UNEXCUSED SENATORS OUTSIDE THE CHAMBER PLEASE RETURN TO THE CHAMBER AND RECORD YOUR PRESENCE. ALL UNAUTHORIZED PERSONNEL PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. SENATOR MELLO, SENATOR BURKE HARR, MURANTE, KINTNER, FOX, AND LINDSTROM, THE HOUSE IS UNDER CALL. SENATOR SCHILZ, HOW DID YOU WANT TO PROCEED? [LB328]

SENATOR SCHILZ: YEAH. I'LL TAKE CALL-IN VOTES, PLEASE. [LB328]

PRESIDENT FOLEY: MR. CLERK. [LB328]

CLERK: VOTING AYE, SENATOR MURANTE. SENATOR LINDSTROM IS VOTING YES. SENATOR GLOOR VOTING YES. [LB328]

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PRESIDENT FOLEY: RECORD PLEASE, MR. CLERK. [LB328]

CLERK: 26 AYES, 6 NAYS, MR. PRESIDENT, ON THE ADVANCEMENT OF LB328.
[LB328]

PRESIDENT FOLEY: LB328 ADVANCES. MOVING NOW...THE CALL IS LIFTED.
MOVING NOW TO LB19, MR. CLERK. [LB328 LB19]

CLERK: MR. PRESIDENT, LB19 WAS A BILL ORIGINALLY INTRODUCED BY
SENATOR KRIST. (READ TITLE.) INTRODUCED ON JANUARY 8 OF LAST YEAR, AT
THAT TIME REFERRED TO HEALTH AND HUMAN SERVICES. THE BILL WAS
ADVANCED TO GENERAL FILE. MR. PRESIDENT, I HAVE NO AMENDMENTS
PENDING. [LB19]

PRESIDENT FOLEY: SENATOR KRIST, YOU'RE RECOGNIZED TO OPEN ON LB19.
[LB19]

SENATOR KRIST: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES;
AND GOOD MORNING, NEBRASKA. I WANT TO THANK CHAIRMAN CAMPBELL
AND THE MEMBERS OF THE HEALTH AND HUMAN SERVICES COMMITTEE FOR
ADVANCING LB19. THE BILL CHANGES PROCEDURES FOR THE DIRECTOR OF
PUBLIC HEALTH IN CERTIFYING AND ENTERING INTO AGREEMENTS WITH
PRIVATE LABORATORIES ACROSS THE STATE. LB19 WOULD REQUIRE THE
DIRECTOR TO ENTER INTO AGREEMENTS WITH PRIVATE LABS AND WOULD
ALLOW PRIVATE LABS TO COMPLETE...I'M SORRY, TO COMPETE IN THE
MARKETPLACE WITH THE DEPARTMENTS OF OTHER STATES AS WELL AS IN THIS
STATE. AFTER BEING CERTIFIED BY THE DIRECTOR, PRIVATE LABORATORIES
WOULD BE ABLE TO TEST WATER THAT IS INTENDED FOR HUMAN
CONSUMPTION, INCLUDING THE TESTS REQUIRED FOR COMPLIANCE AND
MONITORING PURPOSES UNDER THE SAFE DRINKING WATER ACT. PRIVATE
LABORATORIES IN NEBRASKA ARE SEEKING CHANGES IN THE CURRENT
STATUTES THAT REGULATE THE TESTING AND COMPLIANCE OF DRINKING
WATER SAMPLES. THESE STATUTES LIMIT PRIVATE LABORATORIES TO ONLY TEST
COMPLIANCE DRINKING WATER SAMPLES FOR TOTAL COLIFORM AND E. COLI,
WHILE ALL THE MANDATED AND COMPLIANCE TESTING MUST BE CONDUCTED
BY THE DEPARTMENT OF HUMAN...HEALTH AND HUMAN SERVICES' LAB. PRIVATE
LABS CURRENTLY HAVE THE CAPABILITY AND THE KNOWLEDGE TO
ACCURATELY AND PRECISELY PERFORM THE DOZENS OF MANDATED TESTS
THAT DHHS IS REQUIRING MUNICIPALITIES AND OTHER PERMITHOLDERS TO

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HAVE PERFORMED ON PUBLIC DRINKING WATER SAMPLES. PASSAGE OF LB19 WOULD PROVIDE THE FOLLOWING BENEFITS: FIRST, IT WILL PROVIDE ALTERNATIVE SOURCES FOR ANALYSIS BY REMOVING THE CURRENT MONOPOLY HELD BY DHHS AND IT WOULD PROVIDE FOR COMPETITIVE PRICING AND SERVICES. SECOND, LB19 INCREASES REVENUE OF NEBRASKA PRIVATE LABS WHICH WILL PROVIDE THE ABILITY TO HIRE MORE EMPLOYEES, ULTIMATELY, PURCHASE INSTRUMENTATION, AND INCREASE TAX REVENUE FOR THE STATE. FINALLY, LB19 ALLOWS DESIGNATING NEBRASKA LABORATORIES AS "NEBRASKA CERTIFIED." THIS WILL INCREASE PRIVATE LABORATORIES' ABILITY TO COMPETE IN THE MARKETPLACE THROUGHOUT THE MIDWEST, INCLUDING SOUTH DAKOTA, KANSAS, MISSOURI, IOWA, AND COLORADO. THE BILL WILL ALSO DECREASE THE HURDLES FACED BY NEBRASKA PRIVATE LABS TO OBTAIN CERTIFICATION IN OTHER STATES, AS WELL AS NATIONAL CERTIFICATION. NEBRASKA CURRENTLY HAS PRIVATE LABORATORIES IN McCOOK, SCOTTSBLUFF, KEARNEY, HASTINGS, LINCOLN, AND OMAHA. THEY WOULD ALL GREATLY BENEFIT FROM THIS BILL. I ASK YOUR SUPPORT FOR LB19. THANK YOU, MR. PRESIDENT. [LB19]

PRESIDENT FOLEY: THANK YOU, SENATOR KRIST. SENATORS, YOU'VE HEARD THE OPENING ON LB19. SENATOR GROENE, YOU'RE RECOGNIZED. [LB19]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. I'M FAMILIAR WITH THE OWNERS OF THE LAB IN McCOOK, AMERICAN LAB, PRIVATE INDIVIDUALS, SMALL COMPANY. THERE IS ABSOLUTELY NO REASON WHY THESE PRIVATE LABS WHO ARE CERTIFIED, WHO DO TESTS FOR PRIVATE INDIVIDUALS--I'VE HAD MY WATER TESTED, TOOK A SAMPLE DOWN TO McCOOK FOR NITRATE AND BACTERIA--THERE'S ABSOLUTELY NO REASON THEY CAN'T DO BACTERIA AND NITRATE. HERE'S AN EXAMPLE: YOU HAVE A LIMIT ON 30 HOURS, IS WHAT I'VE BEEN TOLD, IF YOU WANT TO DO A BACTERIA TEST. SO IF YOU...A TOWN IN WESTERN NEBRASKA HAS TO SEND IT INTO THE LAB, THEY CAN ONLY DO NITRATE, BECAUSE THE LAB AT HHS COULDN'T PROBABLY DO THE BACTERIA. IT'S TOO MUCH TIME. YOU GO TO McCOOK OR SCOTTSBLUFF, A LITTLE TOWN GRABS THEIR SAMPLE, DRIVES INTO McCOOK, DRIVES INTO SCOTTSBLUFF AND IN ONE TEST THEY CAN DO THE BACTERIA AND THEIR NITRATE SAMPLES. IT'S NOT ONLY CITIES. I WAS TOLD IT'S...FORT McPHERSON CEMETERY HAS ITS OWN WELL, HAS TO HAVE TESTS DONE PERIODICALLY. IT'S EVERY STATE PARK FACILITY WITH A WELL. IT'S EVERY GOVERNMENT ENTITY THAT HAS ITS OWN WATER SOURCE HAS TO HAVE THOSE TESTED. SO WHY NOT? WHY NOT SAVE THE COST? WHY NOT KEEP THE MONEY IN THE PRIVATE SECTOR? WHY NOT HAVE SOME COMPETITION, QUICKER TURN AROUND TIME? THIS IS A NO-BRAINER.

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THIS IS GOOD GOVERNMENT. AND I SUPPORT SENATOR KRIST'S LB19 AND I WOULD HOPE EVERYBODY VOTES GREEN. [LB19]

PRESIDENT FOLEY: THANK YOU, SENATOR GROENE. SENATOR KOLTERMAN, YOU'RE RECOGNIZED. [LB19]

SENATOR KOLTERMAN: THANK YOU, MR. PRESIDENT. I RISE IN STRONG SUPPORT OF THIS BILL, AS WELL. WE HAVE THESE LABS ACROSS THE STATE THAT CURRENTLY ARE COMPETING WITH OUR OWN STATE GOVERNMENT IN A LOT OF ESSENCE. I THINK IT'S IMPORTANT TO KNOW THAT THESE LABS HAVE SPENT THOUSANDS, PROBABLY EVEN MILLIONS OF DOLLARS ON EQUIPMENT TO DO A LOT OF THESE TESTS. AND I DON'T UNDERSTAND WHY WE COULDN'T EVEN HAVE THE STATE OF NEBRASKA CONTRACT WITH THEM TO DO A LOT OF THE TESTING THAT GOES ON. SO I WOULD HOPE THAT WE'D ALL GIVE THIS A GREEN LIGHT. IT'S A GOOD EXAMPLE WHERE PRIVATE INDUSTRY CAN PROBABLY TAKE UP SOME OF THE SLACK. RIGHT NOW MOST OF IT GOES THROUGH HHS. AND IT'S IMPORTANT THAT WE GIVE THESE PEOPLE AN OPPORTUNITY TO SHOW WHAT THEY CAN DO. THEY'VE GOT GOOD, QUALIFIED PEOPLE. THEY'VE DONE A LOT OF THESE TESTS ALREADY. THEY JUST HAVEN'T BEEN ABLE TO DO A LOT OF THEM IN THE STATE OF NEBRASKA. I THINK IT'S IMPORTANT. THEY HIRE A LOT OF GOOD PAYING JOBS. IT'S JUST, AS SENATOR GROENE SAID AND SENATOR KRIST, THIS IS VALUABLE TO THE STATE. AND I WOULD ENCOURAGE A GREEN VOTE ON THIS. THANK YOU. [LB19]

PRESIDENT FOLEY: THANK YOU, SENATOR KOLTERMAN. SENATOR McCOLLISTER, YOU'RE RECOGNIZED. [LB19]

SENATOR McCOLLISTER: THANK YOU, MR. PRESIDENT. AND GOOD MORNING, AGAIN, COLLEAGUES. I RISE IN STRONG SUPPORT OF LB19. AS A MEMBER OF THE MUD BOARD FOR 30 YEARS, I SAW FIRSHTHAND SOME WATER LABORATORIES, AT LEAST AT MUD. AND THIS BILL WILL EXTEND WATER TESTING THROUGHOUT THE STATE, WHICH WILL MAKE IT CHEAPER AND MORE WIDELY AVAILABLE. SO I SALUTE SENATOR KRIST FOR ITS INTRODUCTION AND I URGE YOUR POSITIVE VOTE FOR LB19. THANK YOU, MR. PRESIDENT. [LB19]

PRESIDENT FOLEY: THANK YOU, SENATOR McCOLLISTER. SENATOR CRAWFORD, YOU'RE RECOGNIZED. [LB19]

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SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT. I RISE BECAUSE I WAS PRESENT, NOT VOTING ON THIS BILL. I THINK IT'S A REAL CHALLENGING BALANCE TO STRIKE. AND I...SO I JUST WANTED TO RAISE SOME OF MY CONCERNS AND CAUTIONS BUT ALSO ACKNOWLEDGE THE WAYS IN WHICH THE BILL DOES HELP TO ADDRESS THOSE CAUTIONS, AS WELL. SO WHEN WE'RE TALKING ABOUT WATER SAFETY, THIS IS A FUNDAMENTAL PUBLIC HEALTH ISSUE TO ENSURE THAT THE WATER THAT WE DRINK IS SAFE AND A FUNDAMENTAL RESPONSIBILITY OF OUR DEPARTMENT OF HEALTH AND HUMAN SERVICES TO MAKE SURE THAT WE HAVE SAFE DRINKING WATER. THAT'S A FUNDAMENTAL FUNCTION THAT WE WANT TO ENSURE IS SUSTAINABLE AND STRONG. SO MY CONCERN ABOUT LB19 IS IF THE EASIER AND MORE PROFITABLE KINDS OF TESTS ARE DONE BY PRIVATE LABS, AND THEN THAT LEAVES THE DEPARTMENT OF HEALTH AND HUMAN SERVICES WITH THE MORE DIFFICULT RESPONSIBILITIES, HOW THAT IMPACTS THE SUSTAINABILITY AND THE FEES THAT WILL END UP BEING CHARGED FOR THOSE PLACES THAT ARE HARDER TO SERVE OR THE TESTS THAT ARE HARDER TO CARRY OUT. SO THAT IS MY CAUTION ABOUT LB19 IS, I AM CONCERNED ABOUT MAINTAINING THAT IMPORTANT PUBLIC SERVICE AND MAKING SURE THAT IT IS STRONG IN THE STATE. NOW, I DO RECOGNIZE LB19 DOES DIRECT THE DEPARTMENT TO FIGURE OUT HOW TO WORK WITH THESE LABS. IT DOES DIRECT THEM TO RECOGNIZE CERTIFIED LABS THAT MEET CERTIFICATIONS. SO THERE IS GOING TO BE AN ABILITY FOR THE DEPARTMENT TO MAKE SOME CHOICES IN HOW THIS IS CARRIED OUT. I WOULD HOPE THEY WOULD DO SO WITH A SERIOUS THOUGHT OF THE CONSEQUENCES OF THE RULES AND REGULATIONS THAT THEY CREATE IN TERMS OF THE LONG-TERM VIABILITY OF THE PUBLIC HEALTH FUNCTION OF ENSURING THAT WE HAVE SAFE DRINKING WATER. THE DEPARTMENT DID COME IN, IN OPPOSITION TO THE BILL. THIS WAS ONE OF THEIR MAIN CONCERNS, WAS ASKING THE QUESTION ABOUT HOW DO WE ENSURE THAT WE HAVE SUSTAINABILITY FOR PUBLIC WATER TESTING AND MAKING SURE THAT, AGAIN, THAT THE EASIER, CHEAPER OR MORE PROFITABLE TESTS ARE NOT PULLED OFF, LEAVING THE DEPARTMENT WITH THE MOST DIFFICULT ONES TO MAINTAIN AND THE IMPLICATIONS THAT MIGHT HAVE FOR THE SUSTAINABILITY OF THE DEPARTMENT IN MAINTAINING THIS KEY FUNCTION. SO THAT'S WHY I WAS PRESENT, NOT VOTING. I CAN UNDERSTAND THE ADVANTAGES TO SOME LOCAL AREAS OF BEING ABLE TO GET NEARBY WATER TESTING. I CAN UNDERSTAND THE ADVANTAGE OF ALLOWING ENTREPRENEURSHIP AND ALLOWING THESE TESTS TO BE DONE BY PRIVATE LABS. ON THE OTHER HAND, IT'S VERY IMPORTANT THAT WE MAKE SURE THAT THAT IS NOT DONE IN A WAY THAT PUTS AT RISK THE SUSTAINABILITY OF THE CENTRAL PUBLIC FUNCTION OF ENSURING

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THAT THERE IS SAFE WATER TO DRINK IN OUR STATE. THANK YOU, MR. PRESIDENT. [LB19]

SPEAKER HADLEY PRESIDING

SPEAKER HADLEY: THANK YOU, SENATOR CRAWFORD. SENATOR KOLOWSKI, YOU'RE RECOGNIZED. [LB19]

SENATOR KOLOWSKI: THANK YOU, MR. CHAIR. I ALSO STAND IN SUPPORT OF LB19 AND THANK SENATOR KRIST FOR BRINGING THIS FORWARD. I DO HAVE A QUESTION FOR HIM IF HE WOULD YIELD, PLEASE. [LB19]

SPEAKER HADLEY: SENATOR KRIST, WILL YOU YIELD? [LB19]

SENATOR KRIST: ABSOLUTELY. [LB19]

SENATOR KOLOWSKI: THANK YOU, SENATOR KRIST. I WANTED TO ASK ABOUT THE STANDARDS AND THE OVERALL QUALITY OF THE TESTING STATIONS. IS THERE A REGULAR CYCLE OF CALENDAR DATES OR PERSONNEL STANDARDS THEY ALSO HAVE TO GO THROUGH IN ORDER TO MAKE SURE THAT THE PEOPLE DOING THE TESTING ARE SKILLED AND UP TO PAR FOR THE RESULTS THAT THEY'RE PRODUCING? [LB19]

SENATOR KRIST: SENATOR KOLOWSKI, I'M GOING TO ANSWER THAT IN TWO WAYS: FIRST OF ALL, THE SAME STANDARD THAT CURRENTLY EXISTS AT THE DEPARTMENT LABORATORIES WOULD BE EXTENDED IN TERMS OF ANY LABORATORY THAT WOULD BE CERTIFIED TO DO THIS TESTING. AND THAT, AS SENATOR CRAWFORD HAS SAID, IS IMPORTANT BECAUSE THE LAB WILL HAVE THE CERTIFICATION AUTHORITY OVER THOSE OTHER LABS. AND SECONDLY I WOULD SAY, IN VISITING A LAB, THERE IS A CYCLE OF TESTING FOR THE MACHINES THAT ARE PERFORMING THE TESTS. THE ACTUAL TESTS THAT ARE BEING CONDUCTED HAVE TO BE WEIGHED IN TERMS OF A QUALITY MEASUREMENT AND HOW IT'S BEING TESTED AND WHAT THE RESULTS WOULD BE. SO THERE'S ONGOING TESTS GOING ON IN THE LABS THEMSELVES TO MAINTAIN THAT INTEGRITY. [LB19]

SENATOR KOLOWSKI: THANK YOU, SENATOR KRIST. AND THAT IS AN EXCELLENT ANSWER, AND I WOULD HOPE THOSE STANDARDS WOULD REMAIN AS STRONG

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AS THEY ARE NOW AND EVEN IMPROVE UPON THEM OVER TIME. THANK YOU VERY MUCH. [LB19]

SPEAKER HADLEY: SENATOR COOK, YOU'RE RECOGNIZED. [LB19]

SENATOR COOK: THANK YOU, MR. PRESIDENT. AND GOOD MORNING, COLLEAGUES. I RISE TO NOT SO MUCH OFFER AN EXPLANATION, BUT TO RECALL THIS HEARING LAST YEAR. IN LIGHT OF THE RECENT EVENTS IN THE NEWS IN FLINT, MICHIGAN, I THINK IT'S IMPORTANT FOR US, ALTHOUGH ALL OF THE IS ARE DOTTED AND TS ARE CROSSED FROM WHAT I CAN SEE IN THIS LEGISLATION, IT'S IMPORTANT FOR US TO REMEMBER, JUST AS SENATOR CRAWFORD SAID, THAT ENSURING THE SAFETY OF OUR WATER SUPPLY IS AN IMPORTANT AND A PRIORITY PUBLIC HEALTH AND PUBLIC RESPONSIBILITY. SO WHILE I UNDERSTAND ALL OF THE REASONS WHY WE MIGHT OUTSOURCE AND CERTAINLY WANT TO GO INTO ANY SORT OF CONTRACTUAL RELATIONSHIP WITH A LAB BELIEVING THAT THEY WILL FOLLOW THROUGH AND DO THE RIGHT THINGS AND NOT CUT CORNERS IN PURSUIT OF THE PROFIT MOTIVE--WHICH IS WHAT BUSINESSES ARE IN BUSINESS TO DO, MAKE A PROFIT--I JUST WANT US TO BE AWARE THAT AS WE ADVANCE THIS LEGISLATION, IT IS RELATED TO TESTING OF WATER AND NOT OUTSOURCING OTHER KINDS OF FUNCTIONS THAT WE MIGHT HAVE WITHIN HEALTH AND HUMAN SERVICES OR IN THE OTHER AGENCIES. WITH THAT, I'LL YIELD THE BALANCE OF MY TIME TO THE CHAIR. THANK YOU. [LB19]

SPEAKER HADLEY: THANK YOU, SENATOR COOK. SENATOR McCOLLISTER, YOU'RE RECOGNIZED. [LB19]

SENATOR McCOLLISTER: THANK YOU, MR. SPEAKER. I WOULD LIKE TO RESPOND TO SENATOR CRAWFORD'S CONCERNS AND ALSO SENATOR COOK'S CONCERNS. WHEN I WAS IN PRIVATE BUSINESS, WE OPERATED A LAB. AND WE WERE CONCERNED ABOUT MAINTAINING QUALITY IN EVERYTHING WE DID, AS WELL. AND TO DO THAT WE DID PEER REVIEW. SO OTHER LABS THAT DID THE SAME KIND OF WORK THAT WE DID WOULD GO AROUND AND MONITOR OUR TESTS AND WE WOULD SUBMIT SAMPLES TO A NUMBER OF LABS AND THOSE RESULTS WOULD BE COMPARED AND WE WOULD MAINTAIN CONFIDENCE THAT WE HAD A GOOD LABORATORY. I'M SURE SOMETHING OF THAT KIND AND PROCESS WILL BE INSTITUTED BY OTHER LABS THAT WOULD DO WATER TESTS. I THINK THE FACT THAT SOME LABS WOULD DEVELOP STANDARDS THAT COULD BE WIDELY USED IS A GOOD THING FOR NEBRASKA. THE MORE THAT WE CAN DISSEMINATE

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THOSE LABORATORIES THROUGHOUT THE STATE IS OUR BEST ASSURANCE THAT WE HAVE QUALITY WATER IN NEBRASKA. THANK YOU, MR. PRESIDENT. [LB19]

SPEAKER HADLEY: THANK YOU, SENATOR McCOLLISTER. SENATOR KOLTERMAN, YOU'RE RECOGNIZED. [LB19]

SENATOR KOLTERMAN: THANK YOU, MR. PRESIDENT. I INDICATED THAT I WAS SUPPORTIVE OF THIS BILL AND I'M STILL SUPPORTIVE OF THIS BILL. I TAKE CONCERN ABOUT THE FACT THAT OUR DOCTOR, ACIERNO, CAME IN AND TESTIFIED AGAINST THIS BILL LAST YEAR IN HHS. AND HE INSINUATED THAT PROBABLY...THERE'S BETTER OPPORTUNITY FOR PEOPLE IN PRIVATE INDUSTRY TO CUT CORNERS AND MAKE A BETTER PROFIT. I DON'T THINK THAT'S AN ACCURATE ASSESSMENT. I THINK TO THINK THAT GOVERNMENT IS THE ONLY PEOPLE THAT CAN DO A GOOD JOB IS INSINUATING THE WRONG THINGS. I THINK PRIVATE INDUSTRY GOES FAR AND BEYOND WHAT THEY NEED TO DO TO CREATE A GOOD REPUTATION AND I TAKE EXCEPTION TO THAT THOUGHT THAT THE ONLY PEOPLE THAT CAN DO THINGS RIGHT ARE GOVERNMENT. SO I, AGAIN, SUPPORT THIS BILL AND ENCOURAGE YOU TO GET BEHIND IT WITH A GREEN VOTE. THANK YOU. [LB19]

SPEAKER HADLEY: THANK YOU, SENATOR McCOLLISTER. IS THERE ANYONE ELSE WISHING TO SPEAK ON LB19? SEEING NONE, SENATOR KRIST, YOU'RE RECOGNIZED TO CLOSE ON LB19. [LB19]

SENATOR KRIST: MY CLOSING WILL BE VERY BRIEF. I WANT TO THANK SENATOR CRAWFORD, SENATOR COOK, AND ALL THOSE WHO TALKED ABOUT THE QUALITY OF CERTIFICATION BECAUSE WE HAVE ESTABLISHED A LEGISLATIVE INTENT AND A DIRECTION TO THE DEPARTMENT TO UPHOLD THOSE HIGH STANDARDS ACROSS THE STATE. I ALSO WANT TO SAY ONCE AGAIN THAT BY PASSING LB19, WE ARE GOING TO ALLOW THESE LABORATORIES TO BE NEBRASKA CERTIFIED, WHICH IS GOING TO ALLOW THEM TO GET INTO OTHER MARKETS AND DO WELL. THE FOLKS IN THE LABORATORIES IN McCOOK, SCOTTSBLUFF, KEARNEY, HASTINGS, LINCOLN, AND OMAHA THANK YOU FOR YOUR GREEN VOTE ON LB19. THANK YOU. [LB19]

SPEAKER HADLEY: THANK YOU FOR YOUR CLOSING, SENATOR KRIST. THE QUESTION IS THE ADVANCEMENT OF LB19 TO E&R INITIAL. ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED? RECORD, MR. CLERK. [LB19]

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CLERK: 32 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADVANCEMENT OF LB19. [LB19]

SPEAKER HADLEY: LB19 ADVANCES TO E&R INITIAL. MR. CLERK. [LB19]

CLERK: MR. PRESIDENT, LB188 IS A BILL BY SENATOR WATERMEIER. (READ TITLE.) INTRODUCED JANUARY 12 OF LAST YEAR, AT THAT TIME REFERRED TO THE JUDICIARY COMMITTEE. THE BILL WAS ADVANCED TO GENERAL FILE. THERE ARE JUDICIARY COMMITTEE AMENDMENTS PENDING. (AM374, LEGISLATIVE JOURNAL PAGE 746, FIRST SESSION 2015.) [LB188]

SPEAKER HADLEY: SENATOR WATERMEIER, YOU'RE RECOGNIZED TO OPEN ON LB188. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. GOOD MORNING, NEBRASKA AND THE MEMBERS OF THE LEGISLATURE. TODAY, I BRING YOU LB188. THIS IS A VERY COMMON-SENSE PIECE OF LEGISLATION THAT DOES ONE THING AND ONE THING ONLY. IT DEFINES FOR THE FIRST TIME IN HISTORY A TERM IN NEBRASKA'S MOTOR VEHICLE PURSUIT STATUTE. LB188 CLARIFIES THE MEANING OF INNOCENT THIRD PARTY FOR PURPOSES OF DETERMINING LIABILITY OF LAW ENFORCEMENT AGENCIES WHEN A PASSENGER IN A FLEEING VEHICLE IS INJURED. NEBRASKA IS THE ONLY STATE, THE ONLY STATE IN THE COUNTRY THAT IMPOSES STRICT LIABILITY FOR LAW ENFORCEMENT MOTOR VEHICLE PURSUITS ON A LAW ENFORCEMENT AGENCY EVEN WHEN IT IS THE DRIVER OF THE VEHICLE BEING PURSUED THAT CAUSES INJURY TO THIS INNOCENT THIRD PARTY. WHAT THIS MEANS IS THAT LIABILITY IS IMPOSED EVEN IF THE LAW ENFORCEMENT AGENCY IS NOT IN ANY WAY NEGLIGENT IN ITS PURSUIT AND FOLLOWS TO THE LETTER THEIR MOTOR VEHICLE PURSUIT POLICY AND CONDUCTS THE REQUIRED PURSUIT TRAINING OF ITS OFFICERS. IN THE PAST 30 YEARS, NOT ONE OTHER STATE HAS CHOSEN TO FOLLOW NEBRASKA'S UNIQUE AND UNPRECEDENTED STATUTORY SCHEME. RATHER, EVERY OTHER STATE IMPOSES LIABILITY ONLY IF THERE IS NEGLIGENCE DEMONSTRATED ON THE PART OF THE LAW ENFORCEMENT AGENCY, OR GOES FURTHER AND LIMITS OR ELIMINATES LIABILITY ALTOGETHER ON THE BASIS THAT THIS IS AN INHERENTLY RISKY OPERATION WHICH LAW ENFORCEMENT AGENCIES NONETHELESS NEED TO ENGAGE IN FROM TIME TO TIME FOR THE PROTECTION OF THE PUBLIC. LEGISLATION INTRODUCED IN THE 1980s HAS IMPROVED POLICE PURSUIT PROCEDURES. THEY HAVE DONE A GOOD JOB. CONSEQUENTLY, THE NUMBER OF POLICE PURSUITS HAS DROPPED OFF SIGNIFICANTLY SINCE THEN. LEGISLATION WAS PASSED TO REQUIRE POLICIES

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TO BE ESTABLISHED ON POLICE PURSUITS AND TO PROTECT INNOCENT THIRD PARTIES. HOWEVER, WHEN THIS STATUTE WAS ENACTED, THE LEGISLATURE DID NOT DEFINE THE MEANING OF AN INNOCENT THIRD PARTY. INSTEAD, THE COURTS HAVE JUDICIOUSLY CONSTRUCTED A DEFINITION. UNFORTUNATELY, THIS DEFINITION HAS BEEN EXTENDED BY THE COURTS IN A WAY THAT I DON'T BELIEVE THE LEGISLATURE, AS A WHOLE, INTENDED. THE COURTS HAVE HELD THAT INNOCENT THIRD PARTY EVEN INCLUDES PASSENGERS IN A FLEEING VEHICLE ENGAGED IN ILLEGAL CONDUCT OF THEIR OWN. FOR EXAMPLE, THE COURTS HAVE DETERMINED THE FOLLOWING PERSONS TO BE INNOCENT, AN INNOCENT THIRD PARTY: A PASSENGER KILLED IN A FLEEING VEHICLE WHO HAD SPENT THE EVENING LEADING UP TO THE PURSUIT WITH THE DRIVER OF THE FLEEING VEHICLE VISITING BARS AND DRINKING ALCOHOL, RESULTING IN THE DRIVER'S VISIBLE INTOXICATION AND THE DISPLAY OF SLURRED SPEECH AND IMPAIRED MOTOR FUNCTIONS. THIS IS THE CASE IN HENERY v. CITY OF OMAHA IN 2002. SECOND, A PASSENGER ON A FLEEING MOTORCYCLE, WHERE EVIDENCE WAS PRESENTED TO SHOW THAT DURING THE PURSUIT THE PASSENGER WAS GIVEN AT LEAST ONE OPPORTUNITY AND POSSIBLY MORE TO GET OFF OF THE MOTORCYCLE WHEN THE MOTORCYCLE STOPPED OR DRAMATICALLY SLOWED DOWN DURING THE PURSUIT. THIS IS A CASE FROM STEWART v. CITY OF OMAHA IN 1993. MOST SHOCKINGLY, THE NEBRASKA SUPREME COURT HAS EVEN HELD THAT A PASSENGER IN A FLEEING VEHICLE WHO IS DRINKING FROM AN OPEN CONTAINER OF BEER IN THE VEHICLE AND WAS ULTIMATELY FOUND WITH METHAMPHETAMINE AND TWO METHAMPHETAMINE PIPES ON HIM, FOR WHICH HE HAD CHARGED AND PLED GUILTY TO A FELONY DRUG OFFENSE, WAS NONETHELESS STILL AN INNOCENT THIRD PARTY. AS A RESULT, NIRMA, ON BEHALF OF THE PLATTE COUNTY, WAS ORDERED TO PAY THIS INDIVIDUAL \$1 MILLION, \$1 MILLION. THIS IS THE CASE IN WERNER v. COUNTY OF PLATTE IN 2012. THE HOLDING IN THE WERNER CASE PROMPTED ONE NEBRASKA SUPREME COURT JUSTICE TO ISSUE A SEPARATE OPINION IN THAT CASE IN WHICH HE STATED: I DOUBT THAT MOST MEMBERS OF THE LEGISLATURE HAVE ASKED WHAT CHARACTERIZE A PASSENGER IN A FLEEING...A VEHICLE FLEEING FROM LAW ENFORCEMENT WHO HAS ON HIS PERSON METHAMPHETAMINE AND GLASS PIPES FOR SMOKING IT LATER THAT EVENING, AND WHO POSSESSES AND IS LIKELY DRINKING FROM AN OPEN CONTAINER OF ALCOHOLIC BEVERAGE WHEN THE PURSUIT BEGINS, AS AN INNOCENT THIRD PARTY. REALLY, INNOCENT THIRD PARTY. HOWEVER, EVEN THIS JUSTICE CONCURRED WITH THE DECISION OF THE FULL COURT BECAUSE HE FOUND THAT THE COURTS HAVE PREVIOUSLY DEFINED INNOCENT THIRD PARTY VERY BROADLY AND THE LEGISLATURE HAD NOT REPLACED THE COURT'S DEFINITION WITH ONE OF ITS OWN. WHEN THAT OCCURS, THERE IS A

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PRESUMPTION THAT THE LEGISLATURE HAS ACQUIESCED OR ACCEPTED TO SUCH THE COURT'S DETERMINATION. THE JUSTICE DID EMPHASIZE, THOUGH, THAT THE LEGISLATURE HAS THE POWER TO CHANGE THE RESULT IN A FUTURE CASE AND SUGGESTED THAT THE LEGISLATURE COULD DECIDE TO NARROW THIS DEFINITION OF AN INNOCENT THIRD PARTY TO EXCLUDE A PERSON IN A FLEEING VEHICLE THEN ENGAGED IN A VIOLATION OF A FELONY OR A MISDEMEANOR OFFENSE WITHOUT REGARD TO WHETHER SUCH PERSON OR HIS OR HER CONDUCT WAS KNOWN TO LAW ENFORCEMENT OFFICERS BEFORE INITIATING THE PURSUIT. IN LIGHT OF THE WERNER DECISION, IT IS CLEAR THAT THE LEGISLATURE NEEDS TO DEFINE WHO IS INTENDED, SHOULD BE CONSIDERED AN INNOCENT THIRD PARTY FOR PURPOSES OF THIS STRICT LIABILITY PURSUIT LAW, RATHER THAN LEAVING IT UP TO THE COURTS TO DEFINE IN THE ABSENCE OF DIRECTION FROM THE LEGISLATURE. IN THE LAST TEN YEARS, I'M AWARE OF THREE CASES IN WHICH STRICT LIABILITY CLAIMS WERE MADE AGAINST COUNTIES, TOTALING IN EXCESS OF \$3 MILLION, WHEN EVIDENCE SHOWED THAT IT WASN'T A TRULY INNOCENT THIRD PARTY. THIS IS JUST THE SMALLER COUNTIES AND DOESN'T INCLUDE DOUGLAS, OR LANCASTER COUNTIES, OR THE CITIES OF LINCOLN OR OMAHA. THE CITY OF OMAHA TESTIFIED AT THE PUBLIC HEARING THAT THEY AVERAGE APPROXIMATELY \$600,000 PER YEAR IN PAYMENTS TO INNOCENT THIRD PARTIES IN POLICE PURSUIT LAWSUITS. THE CITY OF OMAHA REPRESENTED AND ESTIMATED THAT THIS BILL WOULD ONLY AFFECT A VERY SMALL NUMBER OF THOSE LAWSUITS, BUT EMPHASIZED THAT THESE CASES CAN BE EXPENSIVE. KEEP IN MIND THAT ALTHOUGH COUNTIES AND CITIES HAVE A \$1 MILLION CAP, THE STATE HAS NO SUCH CAP AND COULD FACE UNLIMITED LIABILITY IN THE AMOUNT JUDGMENT THAT COULD BE ENTERED AGAINST IT. LB188 IS A MODEST PROPOSAL. IT IS LIMITED TO DEFINING INNOCENT THIRD PARTY AND THAT IS FURTHER LIMITED IN THAT IT ONLY ADDRESSES THAT DEFINITION IN THE CONTEXT OF THOSE PASSENGERS IN A FLEEING VEHICLE. THE BILL DOES NOT REPEAL THE UNDERLYING STRICT LIABILITY PURSUIT LAW ITSELF, THOUGH AN ARGUMENT COULD BE MADE TO DO THIS. NOR IS IT INTENDED TO REMOVE TRULY INNOCENT THIRD PARTIES FROM THE SCOPE OF THE CURRENT LAW. THIS MEANS THIRD PARTIES INJURED DURING A LAW ENFORCEMENT PURSUIT WHILE TRAVELING IN ANOTHER VEHICLE UNCONNECTED WITH THE PURSUIT, OR RIDING A BIKE OR OTHERWISE WALKING OR TRAVELING ALONG ON A ROADWAY, WILL NOT BE IMPACTED BY THESE CHANGES IN ANY WAY WHATSOEVER. UNDER THIS PROPOSAL, AS AMENDED BY THE COMMITTEE AMENDMENT, A PASSENGER IN OR ON A FLEEING VEHICLE WOULD NOT BE CONSIDERED AN INNOCENT THIRD PARTY IF THAT PASSENGER DOES THE FOLLOWING OR ONE OF: ENTERS INTO OR ONTO A MOTORCYCLE, A VEHICLE, WITHOUT COERCION, KNOWING OR

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WITH A REASONABLE BELIEF THAT THE DRIVER OF THE VEHICLE IS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS. SECOND INSTANCE: FAILS TO TAKE RESPONSIBLE STEPS TO PERSUADE THE DRIVER OF THE VEHICLE TO STOP THE VEHICLE. THIRDLY: PROMOTES, PROVOKES, OR PERSUADES THE DRIVER TO ENGAGE IN FLIGHT FROM LAW ENFORCEMENT PERSONNEL; IS SOUGHT TO BE APPREHENDED BY LAW ENFORCEMENT PERSONNEL; OR HAS ENGAGED IN CONDUCT CHARGEABLE AS, OR AMOUNTING TO, A FELONY WHILE IN OR ON OR PRIOR TO ENTRY INTO THE FLEEING VEHICLE. THIS LAST CATEGORY WAS THE SUBJECT OF THE COMMITTEE AMENDMENTS, WHICH NARROWED THE DEFINITION OF THE INNOCENT THIRD PARTY TO ENSURE THAT PASSENGERS SUBJECT ONLY TO MISDEMEANOR PROSECUTION'S ARE NOT AFFECTED BY THIS BILL. THE BILL WAS FURTHER LIMITED TO THOSE PERSONS CHARGEABLE AS A FELON. WHILE A GOOD ARGUMENT COULD BE MADE FOR ALSO EXCLUDING THOSE ENGAGED IN MISDEMEANOR CRIMINAL ACTIVITY FROM THE DEFINITION OF THIS INNOCENT THIRD PARTY, THIS WAS AN ACCEPTABLE COMPROMISE TO ENSURE THAT THE BILL ONLY DEALT WITH A VERY LIMITED CLASS OF PEOPLE WHO CANNOT REASONABLY BE CONSIDERED INNOCENT FOR PURPOSE OF RECOVERING LARGE SUMS OF CASH AT TAXPAYER EXPENSE WHILE THEY ARE FLEEING VEHICLE CRASHES. LB188 IS TRULY A MATTER OF COMMON SENSE. AND I HAVE HEARD THIS EXPRESSED TIME AND TIME AGAIN AS I'VE DISCUSSED THIS BILL WITH OTHER SENATORS AND WITH MY CONSTITUENTS. THE TAXPAYERS OF OUR COUNTIES AND CITIES SHOULD NOT HAVE TO CONTINUE TO SHOULDER THE BURDEN FOR A MILLION DOLLAR JUDGMENT AWARDED TO PASSENGERS WHO ARE INVOLVED WITH FLEEING DRIVER IN ILLEGAL ACTIVITY, OR WHO ARE THEMSELVES FLEEING FELONS. I WOULD URGE MEMBERS TO TAKE A STAND FOR COMMON SENSE AND VOTE TO ADVANCE LB188 AS AMENDED BY THE COMMITTEE AMENDMENTS. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR WATERMEIER. AS THE CLERK STATED, THERE ARE AMENDMENTS FROM THE JUDICIARY COMMITTEE. SENATOR COASH, AS VICE CHAIR OF THE COMMITTEE, YOU'RE RECOGNIZED TO OPEN ON THE AMENDMENTS. [LB188]

SENATOR COASH: THANK YOU, MR. PRESIDENT. AM374 IS THE COMMITTEE AMENDMENT. AM374 WAS ADVANCED FROM THE JUDICIARY COMMITTEE ON A 5-2 VOTE WITH 1 MEMBER NOT PRESENT. THE AMENDMENT MAKES THREE CHANGES THAT I WILL OUTLINE. SENATOR WATERMEIER ALSO TALKED ABOUT THEM. THE FIRST CHANGE ADDS A PASSENGER THAT ENTERS ONTO A VEHICLE WITH A REASONABLE BELIEF THAT THE DRIVER IS UNDER THE INFLUENCE OF ALCOHOLIC LIQUOR OR DRUGS. ADDING THE TERM "ONTO" IS TO COVER

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MOTORCYCLES AS WELL. SECOND CHANGE REMOVES A PASSENGER THAT IS SUBJECT TO ARREST. THAT CLARIFIES THE COMMITTEE'S INTENT THAT THIS SHOULD BE MORE CLEAR AND THAT THOSE SUBJECT TO MISDEMEANORS WOULD NOT BE SUBJECT. AND THE THIRD CHANGE LIMITS THE EXCLUSION OF A PASSENGER ENGAGING IN ILLEGAL ACTIVITY TO FELONIES, BUT EXPANDS IT TO INCLUDE CONDUCT THAT WAS ENGAGED IN PRIOR TO, INTO OR ONTO THE VEHICLE. THOSE ARE THE COMMITTEE AMENDMENTS AND I URGE YOUR ADOPTION. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR COASH. MR. CLERK. [LB188]

CLERK: MR. PRESIDENT, SENATOR CHAMBERS WOULD MOVE TO AMEND THE COMMITTEE AMENDMENTS WITH FA85. (LEGISLATIVE JOURNAL PAGE 503.) [LB188]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED TO OPEN ON YOUR FLOOR AMENDMENT. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, I WOULD LIKE TO BEGIN WITH A LINE OR TWO FROM THE NIGHT BEFORE CHRISTMAS, OR THE VISIT OF ST. NICHOLAS: 'T WAS THE NIGHT BEFORE CHRISTMAS AND ALL THROUGH THE HOUSE NOT A CREATURE WAS STIRRING, NOT EVEN A MOUSE. MAMA IN HER 'KERCHIEF, AND I IN MY CAP--AND THIS IS THE CRUCIAL LANGUAGE--HAD JUST SETTLED OUR BRAINS FOR A LONG WINTER'S NAP. WE'RE GOING TO BE ON THIS BILL AS LONG AS WE WERE ON THE GUN BILL. PEOPLE TALK WHAT THEY DON'T KNOW. SENATOR WATERMEIER DOESN'T KNOW THE ORIGIN OF THIS LANGUAGE; THE SUPREME COURT DOES NOT KNOW. WHEN THEY, IN ONE OF THEIR OPINIONS, HAD SAID THAT YOU HAVE TO LOOK AT WHAT THE LEGISLATURE WAS TRYING TO DO, WHAT WAS THE PROBLEM TO BE SOLVED AND WHETHER A MEANS HAD BEEN ADOPTED TO SOLVE THAT PROBLEM, AND THEN THE COURT SHOULD CONSTRUE THE LEGISLATION SO AS TO CARRY OUT THAT INTENT RATHER THAN TO DEFEAT IT. I'M THE ONE WHO BROUGHT THAT ORIGINAL BILL. IN OMAHA THERE WERE NUMEROUS HIGH-SPEED CHASES. POLICE WOULD BEHAVE IN AN ABSOLUTELY STUPID, RECKLESS MANNER. NOBODY SAW FIT TO DO ANYTHING ABOUT IT EXCEPT ME. AND WHAT PERSUADED THE LEGISLATURE TO GO ALONG WAS AN INCIDENT THAT INVOLVED AN OPS SCHOOL TEACHER. HE WAS NOT VIOLATING THE LAW IN HIS CAR, BUT THE POLICE, IN THEIR CRAZY WAY, WERE CHASING SOMEBODY DOWN A BUSY STREET. THIS PERSON STRUCK THE CAR, KILLED THE

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TEACHER WHO LEFT A WIFE AND FOUR CHILDREN. THERE WAS NO RECOVERY BECAUSE THE LAW DID NOT SAY THAT THE POLICE WERE RESPONSIBLE UNLESS...WELL, THERE PROBABLY WASN'T ANY LAW ON IT ANYWAY, BUT CASE LAW TALKED ABOUT THE POLICIES OF THE POLICE DEPARTMENT NEGLIGENCE STANDARDS. BUT I KNEW THOSE WERE INADEQUATE BECAUSE OF THE NUMBER OF HIGH-SPEED CHASES OCCURRING. THERE WERE NUMEROUS INJURIES TO INNOCENT THIRD PARTIES, AND I'LL TOUCH ON WHAT "INNOCENT" REFERRED TO AT THAT TIME. POLICE CARS WOULD CHASE VEHICLES THROUGH THE YARDS OF CITIZENS. THE FOOL BEING CHASED WOULD GO THROUGH A YARD, THEN THE STUPID FOOLS IN BLUE WOULD CARAVAN AND FOLLOW THROUGH THAT YARD, CREATING PROPERTY DAMAGE, THREATENING THE PEOPLE WHO LIVED IN THE HOUSE, PERSONS WALKING DOWN THE STREET, DRIVING DOWN THE STREET. SO WHAT I DID WAS TO BRING LEGISLATION. SENATOR WATERMEIER IS COMPLETELY CORRECT WHEN HE SAYS NEBRASKA IS THE ONLY STATE WITH SOMETHING LIKE THIS, BECAUSE NEBRASKA IS THE ONLY STATE WITH A SENATOR SMART ENOUGH AND CONCERNED ENOUGH ABOUT THE PUBLIC TO DO SOMETHING ABOUT IT. AND I BROUGHT THE LEGISLATION AND THE LEGISLATURE ADOPTED IT. WHEN THE TERM "INNOCENT THIRD PARTY" WAS UTILIZED, IT HAD NOTHING TO DO WITH THE MORALITY OF ANYBODY, MISCONDUCT THAT SOMEBODY MAY HAVE COMMITTED SOMEWHERE ELSE. IT HAD TO DO WITH SOMEBODY WHO HAD NOT GENERATED THE CHASE, WHO WAS NOT A PART OF THE CHASE. THAT WAS THE SOLE MEANING OF INNOCENT THIRD PARTY. IT COULD HAVE BEEN SOMEBODY ON THE STREET SMOKING DOPE. AND IF HE OR SHE HAD BEEN RUN OVER, THAT PERSON WAS AN INNOCENT THIRD PARTY AS FAR AS THAT CHASE WAS CONCERNED. THERE HAVE BEEN A NUMBER OF FAMILIES WHO CONTACTED ME AND SAID THEY HAD NO IDEA HOW FAR-REACHING THE BILL WAS OR HOW FARSIGHTED I WAS IN GETTING IT, BECAUSE THEY HAD A MEMBER WHO WAS HURT. THERE WAS A POLICE OFFICER'S FAMILY AND THE POLICE UNION AND COPS WERE ALWAYS OPPOSED TO THIS AND TALKED ABOUT HOW CRAZY IT WAS. I BELIEVE THE LAST NAME OF THE FAMILY WAS BOBER, B-O-B-E-R. AND SUDDENLY, THEY CHANGED THEIR VIEW WHEN ONE OF THEIR FAMILY MEMBERS--AND IT MAY HAVE BEEN ONE WHO HAD BEEN A COP OR WAS A COP--WAS IN A CAR STRUCK BY SOMEBODY BEING PURSUED, AND THEY WERE VERY HAPPY THAT THAT BILL WAS IN PLACE AND ALLOWED THEM TO RECOVER. I WILL FIGHT TOOTH AND NAIL FOR THIS IRRESPONSIBLE LEGISLATION, WHICH IS NOT IN LINE WITH WHAT WAS INTENDED BY THE BILL. HERE WAS THE PHILOSOPHY AND THE POSITION THAT I PRESENTED TO THE LEGISLATURE AND IN INDIVIDUAL DISCUSSIONS WITH THE SENATORS. EVERYBODY KNOWS THAT HIGH-SPEED CHASES ARE INHERENTLY DANGEROUS. POLICE HAVE SHOWN THAT THEY DO NOT HAVE THE JUDGMENT TO BE TRUSTED

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TO DO THIS BASED ON THEIR INDIVIDUAL JUDGMENT. SO I WANT TO GO AFTER THOSE WHO MAKE DECISIONS REGARDING WHAT POLICE ARE GOING TO DO. MY BILL WILL NOT PUT ANY LIABILITY ON THE CHASING OFFICER. WHAT IT WILL DO IS PLACE RESPONSIBILITY ON THE POLITICAL LEADERS OF WHATEVER POLITICAL SUBDIVISION HIRED THE OFFENDING OFFICER. IT WOULD BE UP TO THOSE INDIVIDUALS TO ADOPT POLICIES, WHICH THEY HAD THE POWER TO DO AND THE POWER TO ENFORCE, THAT WOULD RESTRICT THESE CHASES. BUT IF SUCH POLICIES WERE ADOPTED, THEY DID NO APPRECIABLE GOOD. SO WHAT THE LANGUAGE SAID, AND I'M PARAPHRASING IN ORDER NOT TO PUT ALL THE VERBIAGE IN THAT'S IN THE LAW, YOU CAN READ IN THE GREEN COPY AND SEE PRECISELY WHAT THAT LANGUAGE IS. IF THERE IS A PURSUIT AND THE INDIVIDUAL WHO IS HURT WAS NOT INVOLVED IN THAT PURSUIT, THAT PERSON WOULD BE COMPENSATED FOR ANY INJURY, MEDICAL TREATMENT, OR IN THE CASE OF DEATH THAT PERSON'S ESTATE WOULD BE COMPENSATED BY THE POLITICAL SUBDIVISION THAT HIRED THAT INDIVIDUAL WHO WAS DRIVING THE CHASE CAR. AND I WENT A STEP FURTHER BECAUSE I APPARENTLY VIEW THINGS FROM A BROADER PERSPECTIVE THAN MY COLLEAGUES. POLICE OFFICERS FROM IOWA CHASE PEOPLE ACROSS THE BRIDGE INTO OMAHA. AT FIRST, I WAS GOING TO MAKE THE STATE OF NEBRASKA RESPONSIBLE IF ONE OF THOSE IOWA OFFICERS WERE IN THE POSITION OF A NEBRASKA OFFICER AND A PERSON WHO WAS INNOCENT AS A THIRD PARTY WAS HURT. THEN I CHANGED MY MIND. FIRST OF ALL, THAT MIGHT NOT BE POSSIBLE BECAUSE IT WOULD MAKE THE STATE OF NEBRASKA LIABLE TO RESPOND IN MONEY DAMAGES FOR CONDUCT ENGAGED IN BY SOMEBODY WHO WAS NEITHER A CITIZEN OF NEBRASKA NOR WORKING FOR ANY ENTITY IN NEBRASKA. SO, I WROTE THE LEGISLATION BASED ON THE NOTION OF THE LONG ARM STATUTE. A STATE COULD OBTAIN JURISDICTION OVER A NONRESIDENT IF THAT NONRESIDENT HAD SUFFICIENT CONTACT WITH THE STATE TO SHOW A PRESENCE WHICH WOULD ALLOW LIABILITY TO ATTACH FOR WHAT THAT PERSON DID IN NEBRASKA, EVEN IF HE OR SHE HIGHTAILED IT SOMEPLACE ELSE. SO WHAT THAT LEGISLATION SAID, IN EFFECT, WAS THAT THESE OFFICERS WHO PURSUE AND COME INTO NEBRASKA WOULD CREATE FOR THEIR STATE SUFFICIENT CONTACT WITH THE STATE OF NEBRASKA, BECAUSE THAT PURSUING OFFICER HAD BEEN AUTHORIZED BY HIS OR HER STATE TO PURSUE IN NEBRASKA, THAT CREATED SUCH A PRESENCE IN NEBRASKA THAT THAT ENTITY THAT HIRED AND PAID FOR THAT OFFICER IN IOWA WOULD BE LIABLE TO THE INNOCENT THIRD PARTY... [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

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SENATOR CHAMBERS: ...HARMED IN NEBRASKA. THIS HAS BEEN A COMPLEX MATTER. MOST OF THE SENATORS ON THE FLOOR DON'T UNDERSTAND IT. I'M GOING TO PROVE TO YOU THAT SENATOR WATERMEIER DOESN'T UNDERSTAND IT. HE'S JUST READING WHAT SOMEBODY WROTE FOR HIM, JUST AS SENATOR EBKE BROUGHT US A BILL THAT HAD BEEN WRITTEN BY THE NRA. BUT BECAUSE I TAKE THESE THINGS SERIOUSLY, I ENGAGE IN CONDUCT THAT IS THOUGHT OUT AND AIMED AT SOLVING A PROBLEM, I'M GOING TO DEFEND WHAT I THINK IS APPROPRIATE FOR THE PEOPLE IN THIS STATE. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: YOU'VE HEARD THE OPENING ON FA85. AND, SENATOR CHAMBERS, YOU'RE NEXT IN THE QUEUE. [LB188]

SENATOR CHAMBERS: NOW HAVING EXPLAINED ALL THAT, LET ME GO A LITTLE DEEPER INTO THIS. NO POLITICAL SUBDIVISION WANTS TO BE RESPONSIBLE FOR THE INAPPROPRIATE CONDUCT OF THOSE WHO WORK FOR THAT SUBDIVISION. THE COURTS IN THIS STATE HAVE NOT MISAPPLIED THE LAW FROM THE STANDPOINT OF HELPING MALEFACTORS. THEY HAVE INTERPRETED...MISINTERPRETED IT, IN MY OPINION, TO HELP LAW ENFORCEMENT DEFEAT THE ORIGINAL PURPOSE OF THIS LEGISLATION. THE DESIGN WAS TO RESTRICT POLICE CHASES. AND THAT, IN CASE I DIDN'T MAKE IT CLEAR, WAS PREMISED ON THIS IDEA. SINCE THESE CHASES ARE INHERENTLY DANGEROUS, IT CAN BE ANTICIPATED THAT INNOCENT THIRD PARTIES WILL BE INJURED. BUT IF SOCIETY NEVERTHELESS APPROVED OF THIS DANGEROUS TACTIC AS A LEGITIMATE LAW ENFORCEMENT PRACTICE, THEN SOCIETY AS A WHOLE SHOULD BE RESPONSIBLE FOR COMPENSATING THOSE INNOCENT PERSONS WHO WERE INJURED AS A RESULT OF THIS DANGEROUS BUT SOCIETALLY APPROVED METHOD OF LAW ENFORCEMENT. AND THAT WAS DONE BY THE LANGUAGE OF THE LAW AS IT EXISTS NOW. THE POLITICAL ENTITY WHICH REPRESENTS THE PEOPLE OVER WHOM THAT ENTITY EXERCISES JURISDICTION, ALL OF THOSE CITIZENS WILL COLLECTIVELY PARTICIPATE IN MAKING WHOLE AN INNOCENT PERSON HARMED BY ONE OF THESE POLICE CHASES, WHETHER THE DAMAGE WAS DONE BY THE ONE BEING CHASED OR THE OFFICER DOING THE CHASING. AS LONG AS SOCIETY APPROVES OF THAT, SOCIETY SHOULD NOT ALLOW ANY INNOCENT THIRD PARTY TO BE HARMED BY AN ACT DESIGNED TO BENEFIT SOCIETY. THE INNOCENT SHOULD NOT SUFFER. AND IF SOMEBODY IS FALLING DOWN DRUNK IN A CAR THAT'S BEING CHASED, AND THE DRIVER LOSES CONTROL, AND THAT PERSON IS HURT, THAT PERSON FOR THE PURPOSES OF THAT CHASE IS AN INNOCENT INDIVIDUAL, AND SOCIETY SHOULD PAY. IF SOMEBODY IS DRUNK BUT THEY CAN STAGGER, AND THAT

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PERSON IS STAGGERING ACROSS THE STREET, AND A PERSON DRIVING A VEHICLE HAD THE OPPORTUNITY TO SEE THAT PERSON AND STOP AND CHOSE NOT TO, THE ONE WHO RAN OVER THAT PERSON CANNOT SAY, WELL, I'M JUSTIFIED BECAUSE HE OR SHE WAS DRUNK. NO, IT WON'T WASH. BUT THAT'S WHAT SENATOR WATERMEIER AND HIS SO-CALLED LAW ENFORCEMENT BUDDIES ARE TRYING TO PERSUADE YOU TO DO TODAY. YOU WON'T GET IT DONE TODAY. YOU WON'T GET IT DONE IN LESS THAN SIX HOURS. I'M HOPING YOU WON'T GET IT DONE AT ALL. BUT WE WILL BE ON THIS BILL AT LEAST TEN HOURS. SIX HERE, SIX ON SELECT, TWO ON SELECT, MAYBE FOUR, I DON'T KNOW. I'LL FIND OUT. BUT HOWEVER MANY WE CAN GO, THAT'S WHAT WE'RE GOING TO DO. AND I WILL DO IT ALONE, BECAUSE IT WILL GIVE ME AN OPPORTUNITY TO SHOW YOU HOW MISBEHAVING OFFICERS IN OMAHA HAVE MANIPULATED THE SYSTEM AS IT EXISTS NOW. THEY HAVE WHAT THEY CALL DEEP SILENT PURSUITS. AND YOU KNOW WHAT THAT MEANS? WHEN A COP WANTS TO CHASE, HE WILL NOT ENGAGE THE OVERHEAD LIGHTS OR THE SIREN. AND THE VIDEO CAMERA WILL NOT BE TURNED ON. [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: AND THEY CHASE ANYWAY. AND THEY DO AS MUCH DAMAGE. AND YOU KNOW WHAT COURTS HAVE SAID? THAT'S NOT A PURSUIT. BUT IT WAS. SO IF ANYTHING, THE LAW SHOULD BE CHANGED TO FILL THESE LOOPHOLES THAT LAW ENFORCEMENT IS CONTRIVING. SENATOR WATERMEIER DIDN'T KNOW THAT. MOST PEOPLE DON'T KNOW IT. I DIDN'T KNOW IT UNTIL IT WAS BROUGHT TO ME BY PEOPLE IN LAW ENFORCEMENT. AND NOT ALL OFFICERS LIKE WHAT THEIR FELLOW OFFICERS DO, BUT IN THE SAME WAY THAT PEOPLE IN A COMMUNITY WILL NOT TELL THE POLICE WHO SHOT SOMEBODY, A COP IS NOT GOING...WHAT THEY CALL RAT OUT HIS BUDDY, EVEN THOUGH HE KNOWS HE'S VIOLATING THE LAW. AND I WILL SHOW YOU A CASE WHERE ONE OFFICER WENT SO FAR AS TO DESTROY EVIDENCE WHICH WAS TAKEN BY WAY OF A VIDEO OF MISCONDUCT BY ONE OF HIS FELLOW OFFICERS. BUT THERE HAPPENED TO BE VIDEO EVIDENCE OF WHAT HE DID. [LB188]

SPEAKER HADLEY: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR CHAMBERS. SENATOR SCHNOOR, YOU'RE RECOGNIZED. [LB188]

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

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SENATOR SCHNOOR: THANK YOU, MR. PRESIDENT. SENATOR CHAMBERS, WILL YOU YIELD TO A QUESTION, PLEASE? [LB188]

SPEAKER HADLEY: SENATOR CHAMBERS, WILL YOU YIELD? [LB188]

SENATOR CHAMBERS: YES, I WILL. [LB188]

SENATOR SCHNOOR: OKAY. YOU WENT TO LAW SCHOOL, CORRECT? [LB188]

SENATOR CHAMBERS: YES. [LB188]

SENATOR SCHNOOR: ALL RIGHT. DO YOU THINK THERE'S CROOKED LAWYERS OUT THERE? [LB188]

SENATOR CHAMBERS: OH, YES, THERE ARE CROOKS EVERYWHERE, EVEN IN CHURCHES. [LB188]

SENATOR SCHNOOR: OKAY. I WOULD HAVE TO AGREE WITH YOU, BELIEVE IT OR NOT. DO YOU THINK...NOW WHEN YOU TALKED ABOUT THE LEGISLATION THAT YOU PASSED YEARS AGO, WHEN WAS THAT? [LB188]

SENATOR CHAMBERS: WELL, IF YOU LOOK AT THE STATUTE, IT WILL GIVE A DATE UNDERNEATH IT. IT WAS MANY YEARS AGO. I DON'T REMEMBER THE EXACT DATE. [LB188]

SENATOR SCHNOOR: OKAY. BUT IT WAS BEFORE MY TIME BEING HERE, I'M SURE. [LB188]

SENATOR CHAMBERS: OH, YES. OH, YES. [LB188]

SENATOR SCHNOOR: WE'RE TALKING MAYBE IN THE '80s OR EARLY '90s? [LB188]

SENATOR CHAMBERS: YOU MAY NOT HAVE EVEN BEEN BORN YET, SONNY. (LAUGHTER) [LB188]

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SENATOR SCHNOOR: ALL RIGHT. I GUESS MY POINT BEING IS THOSE THINGS THAT YOU SAY HAPPENED, PROBABLY HAPPENED. I DON'T KNOW THAT THEY HAVE OR NOT BECAUSE I WASN'T AROUND THEN. MORE THAN LIKELY, I WAS IN THE MILITARY AND SOMEWHERE ELSE, BUT I BELIEVE YOU THAT THEY HAPPENED. BUT I ALSO THINK THAT THIS HAS NOW GONE TO THE EXTREME ON THE OTHER SIDE OF THE EQUATION WHERE ATTORNEYS, NOT ALL ATTORNEYS, BUT SOME ATTORNEYS ARE SEEING DOLLAR SIGNS, AND THEY'RE SEEING AN EASY DOLLAR THAT THEY CAN MAKE AND TO TAKE FROM THE STATE. AND SOME OF THESE VICTIMS ARE, IN FACT, THIRD PARTY, INNOCENT VICTIMS, AND OTHERS, LIKE SENATOR WATERMEIER SAID, ARE JUST AS GUILTY AS THE PERSON DRIVING THE CAR. NOW, I DON'T KNOW WHETHER YOU AGREE TO THAT, BUT THE POINT BEING IS THERE ARE PEOPLE OUT THERE THAT ARE GOING TO TAKE ADVANTAGE OF THE SYSTEM IN ANY WAY, SHAPE, OR FORM TO GET SOME MONEY. AND THAT'S WHAT WE'RE SEEING, AND I BELIEVE THAT'S WHAT THIS BILL IS TRYING TO STOP FROM HAPPENING. BUT MY QUESTION I HAVE FOR YOU, SENATOR CHAMBERS, AS WELL, IS YOUR AMENDMENT SAYS THE...TO GET INSERTED INTO HERE INTO LB...OR EXCUSE ME, INTO AM374, IT HAS TO SAY THAT, "AND SUCH FACT IS KNOWN TO THE OFFICER AT THE TIME THE PURSUIT WAS COMMENCED." HOW IS HE SUPPOSED TO KNOW WHETHER THAT PERSON IS INNOCENT OR HAS A FELONY CHARGE AGAINST HIM BEFORE A PURSUIT IS COMMENCED? [LB188]

SENATOR CHAMBERS: YOU HIT THE NAIL ON THE HEAD. IF HE DOESN'T KNOW THAT THESE THINGS HAVE HAPPENED, THERE'S NO REASON TO PURSUE. AND THAT PERSON IS NOT A REASON FOR THE PURSUIT, SO IT SHOULD NOT EVEN ENTER INTO THE EQUATION. [LB188]

SENATOR SCHNOOR: CORRECT, THAT PERSON IS NOT THE REASON FOR PURSUIT. THE PERSON DRIVING THE VEHICLE IS THE REASON FOR PURSUIT. [LB188]

SENATOR CHAMBERS: BUT THIS HAS TO DO WITH THE PASSENGER. [LB188]

SENATOR SCHNOOR: I KNOW, BUT THEY'RE DOING THEIR JOB AND THEN THESE ATTORNEYS ARE COMING AND TAKING ADVANTAGE OF THE SITUATION TO MAKE A DIME. THAT'S WHAT IT COMES DOWN TO. [LB188]

SENATOR CHAMBERS: BUT HERE'S WHAT HAPPENS. IT CAN BE SHOWN THAT THERE WAS NO PROBABLE CAUSE TO BEGIN A PURSUIT. AND IN MY COMMUNITY THAT HAPPENS, AND IN POOR COMMUNITIES AND OTHER PLACES WHERE THERE

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ARE POOR WHITE PEOPLE IT HAS HAPPENED. SO WHEN IT IS SHOWN THAT THEY HAD NO BASIS IN THE CONDUCT, THE MOVEMENT OF THE CAR OR ANYTHING TO PURSUE, IF THEY CAN SHOW THAT SOMEBODY IN THE CAR HAD DONE SOMETHING BEFORE THAT THE OFFICER DIDN'T EVEN KNOW ABOUT, THEY USE THAT TO JUSTIFY A PURSUIT WHEN THAT HAD NOTHING TO DO WITH WHY THE PURSUIT WAS OVERTAKEN...UNDERTAKEN. SO WHAT I'M TRYING TO FOCUS ATTENTION ON IS WHAT THE OFFICER KNOWS AND CAN SHOW WAS A BASIS FOR THE PURSUIT, AND THAT LANGUAGE I HAVE NOT DISTURBED EXCEPT WHERE I THINK IT PUTS ON THE PASSENGER THE REQUIREMENT TO KNOW THINGS THAT NOBODY MAY KNOW. [LB188]

SENATOR SCHNOOR: SO NOW THIS LAW ENFORCEMENT OFFICER... [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR SCHNOOR: ... HAS TO...DID YOU SAY ONE MINUTE? [LB188]

SPEAKER HADLEY: ONE MINUTE, YES. [LB188]

SENATOR SCHNOOR: OKAY, THANK YOU. I'M SORRY, I DIDN'T UNDERSTAND. HE HAS TO NOW DO A BACKGROUND CHECK, SO TO SPEAK, ON EVERYBODY IN THE CAR BEFORE HE CAN START CHASING THEM? [LB188]

SENATOR CHAMBERS: WHAT HE OR SHE, AS THE OFFICER, HAS TO DO IS SEE WITH HIS OR HER EYES SOMETHING THAT IS DONE THAT WOULD LEAD HIM TO BE JUSTIFIED IN PURSUING THAT VEHICLE. [LB188]

SENATOR SCHNOOR: AND I WOULD SAY THAT'S WHAT THEY'RE DOING. BUT, YOU KNOW, THEY CAN'T...THEY HAVE...IF THERE'S A CRIME BEING COMMITTED, I DON'T THINK THEY HAVE TIME TO RESEARCH EVERY LITTLE DETAIL ABOUT THIS IF THEY KNOW THAT SOMEBODY IN THAT VEHICLE HAS COMMITTED A CRIME, AND THEY'RE GOING AFTER THE DRIVER. [LB188]

SENATOR CHAMBERS: WELL, YOU SAID IF THEY KNOW, BUT THEY DON'T KNOW. THEY USE THAT AS A COVER AFTER THE FACT. IN THE SAME WAY THAT IF YOU GET INTO A SITUATION WITH AN OFFICER AND THEY MISBEHAVE, THEY WILL CHARGE YOU WITH RESISTING ARREST. [LB188]

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SPEAKER HADLEY: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: THANK YOU. [LB188]

SENATOR SCHNOOR: THANK YOU. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR SCHNOOR AND SENATOR CHAMBERS.
SENATOR GROENE, YOU'RE RECOGNIZED. [LB188]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. I JUST GOT A CALL EARLIER FROM MY CITY ADMINISTRATOR IN NORTH PLATTE AND HE'S FOR LB188 AND THE AMENDMENT AND AGAINST FA85. NORTH PLATTE JUST WENT THROUGH THIS. WE HAD A...DRUNK DRIVERS, COUPLE OF GUYS IN THEIR 20s, WASTED. POLICE TURNED THEIR LIGHTS ON TRYING TO PROTECT THE INNOCENT. YOU KNOW, A LOT OF PEOPLE DIE FROM DRUNK DRIVERS. THEY DIDN'T CHASE THEM TWO BLOCKS. THE GUY DROVE INTO A FRONT OF A HOUSE, CRASHED. THE GUY IN THE PASSENGER SEAT, AFTER HE SOBERED UP, SOME LAWYER GOT AHOLD OF HIM AND HE SUED. WE LOST. THE LIABILITY INSURANCE HAD TO PAY IT. NOW, I DON'T KNOW ABOUT YOU, BUT I'M A LITTLE OLD-FASHIONED. I ALWAYS THOUGHT THIS IS HOW IT'S SUPPOSED TO WORK. YOU'RE DRIVING YOUR CAR, LIGHTS GO ON, YOU STOP. THE POLICE COME TO YOU AND ASK YOU WHAT YOU'RE DOING, GIVES YOU A TICKET OR ARRESTS YOU. I DON'T KNOW WHATEVER HAPPENED TO PERSONAL RESPONSIBILITY, BUT WHO'S RESPONSIBLE IF SOMEBODY RUNS AWAY FROM A POLICE OFFICER? IT'S THE DRIVER. NOW, IN MY WORLD, IF I'M SITTING AS A PASSENGER, I SUE THE DRIVER IF I GET HURT. I'M OLD-FASHIONED. THAT'S CALLED PERSONAL RESPONSIBILITY. HAVE WE TOTALLY LOST THAT IN SOCIETY? HAVE THE COURTS GONE TO THE POINT WHERE WE HAVE DEREGULATED PERSONAL RESPONSIBILITY? IS THAT WHERE WE'RE AT, AT SOCIETY? I'M PAYING MORE MONEY, PROPERTY TAXES, MY CONSTITUTES (SIC) ARE, TO PAY A LIABILITY INSURANCE POLICY FOR THE CITY. AS I TOLD SENATOR...ASKED SENATOR WATERMEIER OFF THE MIKE, IF A WANTED FELON IS STANDING ON THE STREET CORNER, YOU KNOW, PROPOSITIONING A PROSTITUTE, HE'S HIGH ON METH AND HE GETS RUN OVER BY THE CAR BEING PURSUED, CAN HE SUE? YES, HE CAN. HE CAN STILL DO THAT. SO WHAT SENATOR CHAMBERS DREW THAT ALL INTO THIS, NO, THAT DOESN'T CHANGE THAT. WE'RE TALKING ABOUT INDIVIDUALS IN THE PURSUIT VEHICLE. FREELY GOT IN, UNLESS THEY WERE KIDNAPPED, I GUESS. IN MY WORLD ALSO, IF I'M DRIVING A CAR, AND I GET DRUNK, WHICH I DON'T DRINK, AND I HIT SOMEBODY AND THE PASSENGER GETS HURT, MY INSURANCE COMPANY, I'M SURE THIS PERSON BEING

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PURSUED IN THE STATE OF NEBRASKA HAS TO HAVE CAR INSURANCE. THAT'S THE WAY IT'S SUPPOSED TO WORK IN A CIVILIZED WORLD. BUT, NO, WE PROTECT THOSE WHO ARE NOT RESPONSIBLE. WE BURDEN THE PEOPLE WHO ARE. THINGS HAVE GOTTEN OUT OF WHACK. WE NEED TO PASS LB188 AND AM374 AND VOTE DOWN FA85 BECAUSE, FOLKS, WE'VE GOT TO REVERSE THE TRENDS IN THIS COUNTRY. WE HAVE GOT TO REREGULATE THAT YOU ARE PERSONALLY RESPONSIBLE FOR YOUR BEHAVIOR. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR GROENE. SENATOR WATERMEIER, YOU'RE RECOGNIZED. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. I JUST HAVE TO RISE IN OPPOSITION TO THE FLOOR AMENDMENT FROM SENATOR CHAMBERS, AND I GUESS I WOULD HAVE A QUICK QUESTION FOR SENATOR CHAMBERS IF HE'D BE AVAILABLE. [LB188]

SPEAKER HADLEY: SENATOR CHAMBERS, WILL YOU YIELD? [LB188]

SENATOR CHAMBERS: YES. [LB188]

SENATOR WATERMEIER: THANK YOU, SENATOR CHAMBERS. I GUESS I'VE HEARD YOU SPEAK SO NEGATIVELY OVER THE POLICE AND ANYBODY IN LAW ENFORCEMENT OVER THE YEARS, I'M KIND OF SURPRISED TO SEE THIS AMENDMENT BECAUSE AS I READ IT YOU'RE SAYING, AS SUCH FACT IS KNOWN TO THE OFFICER. YOU MUST THINK THEY'RE MIND READERS. [LB188]

SENATOR CHAMBERS: NO. [LB188]

SENATOR WATERMEIER: HOW DO YOU EXPECT THEM TO KNOW THAT? [LB188]

SENATOR CHAMBERS: NO, IF YOU ARE GOING TO PUT INTO THE LAW A REASON TO SAY THAT A PERSON WHO IS NOT DRIVING THE CAR, HAS NOTHING TO DO WITH ITS BEING DRIVEN, CANNOT BE CONSIDERED AN INNOCENT THIRD PARTY FOR THE PURPOSE OF BEING COMPENSATED IF INJURED WHEN CHASED BY AN OFFICER, THEN THAT OFFICER SHOULD HAVE TO KNOW WHATEVER THERE IS ABOUT THAT PASSENGER THAT IS GOING TO EXCUSE THE POLITICAL SUBDIVISION FOR BEING RESPONSIBLE FOR THE INJURY. [LB188]

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SENATOR WATERMEIER: THANK YOU, SENATOR CHAMBERS. I GUESS I'D HAVE TO ARGUE THAT THAT POINT IS MOOT FOR ME. I MEAN, WE'RE GETTING DOWN TO THE POINT ON THIS WHERE THIS IS JUST THE WAY IT IS. YOU HAD LAID OUT ALL THESE EXAMPLES, AND WE'RE NOT TAKING AWAY ANYTHING. IF AN INNOCENT PERSON IS RUN OVER ON THE STREET, THEY ARE LIABLE. THAT POLITICAL SUBDIVISION IS STILL LIABLE. THERE'S NO DOUBT ABOUT IT. AND I WOULD ALSO LIKE TO REMIND THE BODY THAT YOUR LEGISLATION, AND IT WAS IN THE EARLY '80s THAT THIS PASSED, HAS DONE MONUMENTAL GOOD THINGS FOR THE STATE OF NEBRASKA. THE STATE OF NEBRASKA POLICE PURSUITS ARE DOWN. WE'RE HOLDING THOSE ACCOUNTABLE TO NEW PROCEDURES, POLICIES, AND REGULATIONS. YOU'VE DONE A GOOD THING WITH THAT. I WOULD SAY YOU'RE 99 PERCENT TO WHERE YOUR INTENT WAS IN THAT LAW. BUT I CAN'T HELP BUT THINK THAT YOU EVEN WOULD NOT HAVE AGREED THAT A FELON OR ONE WHO IS ESCAPING BECAUSE THEY'VE DONE A FELONY...COMMITTED A FELONY SHOULD BE CONSIDERED AN INNOCENT THIRD PARTY. I WOULD JUST LIKE THE BODY TO REMIND OURSELVES WHERE WE'RE AT ON THIS. WE'VE DONE LOTS OF GOOD THINGS IN THE STATE OF NEBRASKA BECAUSE OF THIS LAW, BUT WE NEED TO TONE IT DOWN AND DEFINE...THE COURT'S ARE TELLING US, DEFINE INNOCENT THIRD PARTY. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR WATERMEIER. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB188]

SENATOR CHAMBERS: MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, THERE HAVE BEEN CASES, THERE'S AT LEAST ONE CASE WHERE AN OFFICER WAS INVOLVED IN A CHASE, TURNED OFF THE SIREN, TURNED OFF THE LIGHTS, BUT CONTINUED TO PURSUE AND A PERSON WAS STRUCK. AND THE SUPERVISORY LIEUTENANT HAD DEALT WITH IT AS A POLICE CHASE, AND THEY SHOULD, THEREFORE, MAKE WHAT THEY CALL A CHASE PACKAGE. WHEN THAT WAS PRESENTED, THE COURT SAID IT WAS NOT A CHASE. SO WHEN SENATOR GROENE STANDS UP HERE AND TALKS WHAT HE'S TALKING ABOUT BECAUSE SOME PERSON WHO KNOWS NOTHING CALLED HIM, AND SENATOR WATERMEIER SEEMS TO THINK THAT EVERYTHING HAS GONE TOO FAR, I'M LOOKING AT HOW COURTS ARE DELIBERATELY MISREADING THE LAW. THERE WAS A CASE IN SOUTH OMAHA WHERE A SNITCH AND THE POLICE WERE GOING TO MAKE A NARCOTICS TRANSACTION. WHEN THE TRANSACTION WAS COMPLETED, THE GUYS WHO WERE THE DOPE DEALERS TOOK OFF DOWN AN ALLEY, AND AN UNMARKED POLICE CAR TOOK OUT AFTER THEM. AND ALTHOUGH THE SPEED LIMIT IN ALLEYS IN OMAHA IS 15 MILES PER HOUR, THIS COP ADMITTED HE WAS GOING 35 MILES AN HOUR. WELL, WHEN THEY ORDERED HIM TO GO DOWN THE

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ALLEY IN PURSUIT OF THIS VEHICLE, THEY DIDN'T BLOCK THE OTHER END OF THE ALLEY. SO, THAT VEHICLE EXITED THE ALLEY WITH THE OTHER CAR IN PURSUIT. THE ONE BEING PURSUED LOST CONTROL AND RAN OVER A PEDESTRIAN. SENATOR GROENE'S TALKING WHAT HE DOESN'T KNOW WHEN HE SAYS IF AN INNOCENT PERSON IS HIT WHAT WILL HAPPEN? SENATOR WATERMEIER DOESN'T KNOW, BUT THE ONES WHO TOLD HIM TO BRING THIS LAW KNOW VERY WELL. AND YOU KNOW WHAT THE COURT SAID? THAT BECAUSE THE POLICE REQUIREMENTS SAY THAT AN UNMARKED VEHICLE SHOULD NOT ENGAGE IN CHASES, AND SINCE IT DID NOT HAVE THE LIGHTS, IT DID NOT HAVE THE SIREN, EVEN THOUGH IT WAS BEHIND THE CAR AND THAT'S THE REASON THE CAR TOOK OFF, AND THE INNOCENT PERSON WAS STRUCK AND SERIOUSLY INJURED, THE COURT SAID THAT WAS NOT A CHASE. YOU TALK ABOUT COMMON SENSE. WHAT DO YOU THINK, IF IT WAS A MEMBER OF YOUR FAMILY, IF IT WAS YOU ON THE SIDEWALK AND A CAR, BEHIND WHICH A POLICE CAR WAS, WAS WHY THAT CAR WAS SPEEDING? BUT BECAUSE THE POLICE SAID IN THEIR RULES THAT YOU SHOULD HAVE YOUR LIGHTS ENGAGED AND YOUR SIREN, THAT PERSON DID NOT RECOVER ANYTHING. THE CITY REFUSED TO PAY, AND WHEN A LAWSUIT WAS FILED, IT WAS DISMISSED BY WAY OF A SUMMARY JUDGMENT. THAT MEANS YOU GET NOT EVEN A DAY IN COURT. THERE ARE OTHER CASES WHERE INDIVIDUALS...I'M TRYING NOT TO USE TOO MANY WORDS BECAUSE I DON'T WANT TO MAKE IT SO COMPLICATED, SO IF I DON'T STATE EVERY DETAIL, I THINK I CAN STATE ENOUGH FOR YOU TO GET WHAT I'M SAYING. LET'S SAY THAT THIS STREET GOES WEST AND THERE ARE NO TRAFFIC SIGNALS STOPPING YOU ON THAT STREET, WHICH IS ONE WAY, AT ALL. BUT STREETS THAT INTERSECT THAT STREET DO HAVE STOP SIGNS. THERE WAS A CAR PROCEEDING ALONG THIS STREET. [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: A POLICE CRUISER BLEW THROUGH A STOP SIGN AND HIT THAT CAR IN THE BACK, SPUN IT, AND A PASSENGER WAS KILLED. THE COP, THEY NEVER EXPLAINED WHY HE SHOT THROUGH THAT STOP SIGN, BUT HE SAID HE WAS DISTRACTED BECAUSE HE WAS LOOKING FOR ANOTHER VEHICLE, WHICH MEANT HE WAS GOING AFTER ANOTHER VEHICLE. THAT WAS RULED NOT TO BE A CHASE. SO THE PEOPLE IN THAT CAR WERE LEFT WITH THE EXPENSES, AND NOTHING WAS DONE. SO THE LAW AS IT'S WRITTEN NOW HAS BEEN LOOPHOLED TO DEATH BY THE COURTS. NOTHING NEEDS TO BE DONE TO MAKE IT EASIER FOR LAW ENFORCEMENT. THEY'RE GETTING THAT ALREADY FROM THE COURTS UNDER THE LAW AS IT IS. NOBODY CAN SHOW ME A CASE WHERE SOMEBODY

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HAD USED A LOOPHOLE THAT WE'RE HEARING ABOUT THESE DISHONEST LAWYERS DOING. [LB188]

SPEAKER HADLEY: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: SEEING NO ONE ELSE IN THE QUEUE BESIDES SENATOR CHAMBERS, YOU'RE RECOGNIZED TO CLOSE ON YOUR AMENDMENT, FA85. [LB188]

SENATOR CHAMBERS: THANK YOU. AND I THINK THIS IS ONE OF THOSE WHERE I'M GOING TO SHOW THAT I CAN DO IT ALONE, AND I SHALL. TOO MANY PEOPLE ON THIS FLOOR AND IN SOCIETY BELIEVE THE POLICE CAN DO NO WRONG. THERE HAVE BEEN CASES IN OMAHA WHERE MIRACULOUSLY A VIDEO WORKS DURING THE SHIFT BEFORE A CHASE OCCURS. IT WORKS AFTER THE CHASE OCCURRED, BUT IT DIDN'T WORK WHILE THE CHASE WAS OCCURRING. AND YOU ALL SAY, WELL, THE POLICE DIDN'T DO ANYTHING WITH THAT. IN CHICAGO WHERE THEY SHOT A YOUNG BLACK KID 16 TIMES, AND THE COPS DIDN'T KNOW THAT THE VIDEO WOULD EVER BE DISCLOSED, ALL OF THEM WROTE LYING REPORTS. EVERY COP THERE TOLD A LIE. THIS KID SUPPOSEDLY WAS APPROACHING AN OFFICER IN A THREATENING MANNER WITH A KNIFE. AND RAHM EMANUEL, THE MAYOR, WAS RUNNING FOR REELECTION. HE CONCEALED THE VIDEO. AND WHEN IT CAME OUT, IT SHOWED NOT ONLY WAS THE KID NOT MENACING ANYBODY, HE WAS WALKING AWAY WHEN HE WAS SHOT AND THEN SHOT 16 TIMES. AND ALL THOSE POLICE OFFICERS LIED AND YOU ALL DON'T THINK COPS LIE. I KNOW THEY LIE, AND THEY COMMIT MURDER, AND THEY GET AWAY WITH IT. THERE WAS A JUDGE IN ANOTHER CASE IN CHICAGO WHO POINTED OUT HOW THE TOP LAWYER IN CHICAGO HAD FALSIFIED EVIDENCE, WITHHELD EVIDENCE, AND HE WAS ALLOWED TO RESIGN. HE SHOULD HAVE BEEN PROSECUTED. THAT'S WHAT THEY DO IN THESE CORRUPT POLICE ACTIVITIES. SO, AS WE PROCEED, I'M GOING TO GIVE YOU ALL SOME MORE CONCRETE EXAMPLES BECAUSE YOU DON'T THINK THE POLICE FALSIFY AND FABRICATE. I HAD TOLD YOU, BUT I DIDN'T MENTION THAT A COP WAS PROSECUTED IN OMAHA FOR DESTROYING EVIDENCE. THE EVIDENCE HE DESTROYED WAS THAT TAKEN BY SOMEBODY WITH ONE OF THESE MAGICAL PHONES AND IT RECORDED MISCONDUCT BY AN OFFICER. ANOTHER OFFICER TOOK THAT PHONE AND DESTROYED THE EVIDENCE THAT WOULD HAVE BEEN THEREIN. AS IT TURNED OUT, THE COUNTY ATTORNEY PROSECUTED THAT

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OFFICER. BUT IT WASN'T BECAUSE THE COUNTY ATTORNEY WANTED TO BRING THE OFFICERS TO BOOK. THERE WERE OTHER VIDEOS SHOWING HOW MUCH WRONGFUL CONDUCT THOSE OFFICERS HAD ENGAGED IN. SO WHEN THERE WAS VIDEO EVIDENCE THAT COULDN'T BE GAINSAID, OR DENIED, AND THE COPS THOUGHT THEY HAD DESTROYED ALL OF THE VIDEO EVIDENCE BECAUSE THEY FOUND THE PHONE IN THE HOUSE, THERE WAS NOTHING THE PROSECUTOR COULD DO OTHER THAN TAKE ACTION. THERE WAS A CASE WHICH THE COUNTY ATTORNEY, DON KLEINE, LIKES TO RAISE TO SHOW THAT HE'S WILLING TO PROSECUTE POLICE OFFICERS. HE SAID AN OFFICER HAD FORCED A PROSTITUTE TO PERFORM ORAL SEX ON HIM, AND HE PROSECUTED THAT COP. DO YOU KNOW WHY? BECAUSE THE EVIDENCE WAS PROCURED BY THE PROSTITUTE. SHE SPAT THE SEMEN ON ONE OF THESE PLASTIC CARDS AND WAS ABLE TO PRESENT IT AS THE EVIDENCE, AND THE COUNTY ATTORNEY COULDN'T DO ANYTHING EXCEPT BRING THE CHARGES. SO IN ONE CASE THERE WAS VIDEO EVIDENCE, IN THE OTHER THERE WAS THE PHYSICAL EVIDENCE, AND NOTHING COULD BE DONE TO GET AROUND IT, SO PROSECUTIONS WERE HAD. AND BY THE WAY, THAT COP WAS PUT ON PROBATION AND SOME PROFESSOR FROM UNO WENT DOWN AND TALKED ABOUT WHAT A GREAT GUY HE WAS. A COP IN ANOTHER CITY, HE HAD DONE THIS SEVERAL TIMES AND HAD... [LB188]

SPEAKER HADLEY: ONE MINUTE, SENATOR. [LB188]

SENATOR CHAMBERS: ...FORCED BLACK WOMEN TO HAVE SEX WITH HIM. HE GOT SEVERAL 99-YEAR SENTENCES, BUT IN OMAHA, THE COP WHO FORCED THIS PROSTITUTE WAS GIVEN PROBATION. SO WHEN YOU ALL TALK ABOUT HOW GREAT THESE COPS ARE IN LAW ENFORCEMENT, I KNOW THAT THEY ARE ESPECIALLY BAD BECAUSE THEY ARE GIVEN VIRTUAL IMMUNITY. THEY CAN BE CAUGHT WITH THE GOODS ON CAMERA. BUT WE'RE GOING TO CONTINUE THIS, AND I WOULD ASK FOR A CALL OF THE HOUSE AND A ROLL CALL VOTE. [LB188]

SPEAKER HADLEY: THERE'S BEEN A REQUEST TO PLACE THE HOUSE UNDER CALL. THE QUESTION IS, SHALL THE HOUSE GO UNDER CALL? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB188]

CLERK: 19 AYES, 0 NAYS, MR. PRESIDENT, TO PLACE THE HOUSE UNDER CALL. [LB188]

SPEAKER HADLEY: THE HOUSE IS UNDER CALL. SENATORS, PLEASE RECORD YOUR PRESENCE. THOSE UNEXCUSED SENATORS OUTSIDE THE CHAMBER

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PLEASE RETURN TO THE CHAMBER AND RECORD YOUR PRESENCE. ALL UNAUTHORIZED PERSONNEL PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. SENATOR SCHNOOR, COOK, BAKER, BOLZ, HARR, RIEPE, HOWARD, MORFELD, HANSEN, McCOLLISTER, EBKE, FOX, KOLTERMAN, STINNER, COASH, HUGHES, SCHILZ, KOLOWSKI, DAVIS, PLEASE RETURN TO THE FLOOR. THE HOUSE IS UNDER CALL. SENATOR HUGHES, WOULD YOU PLEASE CHECK IN. SENATOR SCHILZ, WOULD YOU PLEASE CHECK IN. HOW DID YOU WISH TO PROCEED, SENATOR CHAMBERS? [LB188]

SENATOR CHAMBERS: ROLL CALL VOTE. [LB188]

SPEAKER HADLEY: THERE'S BEEN A REQUEST...MR. CLERK, THERE'S BEEN A REQUEST FOR A ROLL CALL VOTE. [LB188]

CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGE 503.) 4 AYES, 16 NAYS, MR. PRESIDENT, ON THE AMENDMENT. [LB188]

SPEAKER HADLEY: THE AMENDMENT FAILS. I RAISE THE CALL. MR. CLERK. [LB188]

CLERK: MR. PRESIDENT, SENATOR CHAMBERS WOULD MOVE TO RECONSIDER THE VOTE TAKEN WITH RESPECT TO FA85. [LB188]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED ON YOUR MOTION TO RECONSIDER THE VOTE. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, WHAT THAT VOTE INDICATED TO ME IS THAT PEOPLE HAVE SOME DOUBTS ABOUT THIS BILL. IT IS THE SUBJECT ABOUT WHICH THE SENATORS DON'T THINK BECAUSE THERE'S NO REASON TO. THE LAW HAS BEEN ON THE BOOKS FOR DECADES. THERE HAS BEEN NO ABUSE OF THE LAW BY ANYBODY, NOT BY LAWYERS, NOT BY PLAINTIFFS, BUT IF ABUSED BY ANYBODY, IT'S THE COURTS AND THE POLICE. THE POLICE HAVE FOUND WAYS TO CIRCUMVENT THE LAW. AND IF YOU ALL KNOW ANY COPS, ASK THEM DOES THIS HAPPEN WHERE THEY WILL TURN OFF THE LIGHTS. IN FACT, THERE WAS A CASE WHERE IN OMAHA, WHERE A MOTORCYCLIST WAS BEING PURSUED. AND THE CASE WAS HUNTER v. CITY OF OMAHA. AND THE COP SAW...HE SAID HE SAW THE MOTORCYCLIST ROLL THROUGH A STOP SIGN AND TURNING A CORNER, SO HE GOT IN BEHIND THE

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MOTORCYCLE. AND AS A LOT OF PEOPLE WILL DO WHO HAVEN'T DONE ANYTHING, THAT MOTORCYCLIST TOOK OFF. AND YOU KNOW WHY I SAY PEOPLE WHO HAVEN'T DONE ANYTHING? THERE HAVE BEEN PURSUITS WHERE THEY CATCH THE PERSON AND THERE MIGHT BE AN ACCIDENT. THEY FIND OUT THAT PERSON HAD NO PRIORS. THAT PERSON HADN'T DONE ANYTHING. AND WHEN THEY ASK WHY DID YOU RUN, THE ANSWER WAS BECAUSE I'M AFRAID OF THE POLICE. AND I KNEW I HADN'T DONE ANYTHING, AND WHEN THEY TURNED THE LIGHTS ON, I TOOK OFF. WELL, IN THIS CASE, THE COP AT FIRST HAD ENGAGED THOSE LIGHTS, BUT THEN FOR SOME REASON, I GUESS TO CONTINUE THE PURSUIT WHEN HE SHOULDN'T HAVE, HE TURNED OFF THOSE LIGHTS, BUT HE PUT A SPOTLIGHT ON THE PURSUING MOTORCYCLE. AND THIS PURSUIT CONTINUES. AND AT THE END, AFTER THE OFFICER TURNED OFF THE RED AND BLUE LIGHTS AND PUT THE SPOTLIGHT ON THE MOTORCYCLE, THEY WERE GOING ALONG A RESIDENTIAL STREET AND THE COP REACHED SPEEDS OF UP TO 65 MILES PER HOUR, ACCORDING TO THE COP'S OWN REPORT. THE DRIVER LOST CONTROL OF THE MOTORCYCLE AND WAS KILLED. THE PASSENGER WAS INJURED IN THE CRASH. HOWEVER, YOU KNOW WHAT THE COURT DETERMINED? THERE WAS NO PURSUIT. AND WHAT I HAVE TOLD YOU ALL IS WHAT WAS DETERMINED FROM THEM READING THE OFFICER'S REPORT, FOLLOWING, OR WHATEVER THE OFFICER WANTS TO CALL IT, A MOTORCYCLE IN A RESIDENTIAL AREA AT UP TO 65 MILES PER HOUR. THE CYCLIST WAS KILLED. THE PASSENGER WAS INJURED, AND THE COURT SAID THERE WAS NO PURSUIT. NOW, HOW IN THE WORLD IS SENATOR WATERMEIER GOING TO PERSUADE YOU ALL THAT YOU'VE GOT SOME DISHONORABLE LAWYERS; SENATOR GROENE, SOME CITIZENS WHO WON'T ACCEPT RESPONSIBILITY? THIS IS WHERE THE COURT SAID THERE WAS NO PURSUIT. AND THERE ARE OTHER CASES OF LIKE IMPORT WHICH ARE OUT THERE. WHAT THE COURT PUTS ON A LAWYER AS A RESPONSIBILITY WHEN A BRIEF IS BEING PREPARED TO PUT INFORMATION FROM THE OTHER SIDE, DON'T WITHHOLD ANYTHING. THAT'S NOT THE CASE WITH LAW ENFORCEMENT OFFICERS. THE CHIEF KNOWS THESE THINGS HAPPEN. THE HEAD OF THE STATE PATROL KNOWS THESE THINGS HAPPEN. WHOEVER THAT PERSON WAS THAT SENATOR GROENE TALKED TO KNOWS THAT THESE THINGS HAPPEN. BUT I'VE NOTICED THAT SENATOR GROENE AND OTHER PEOPLE FROM LITTLE TOWNS COME HERE WITH LITTLE THOUGHTS AND THEY SAY ONE PERSON TOLD ME SOMETHING AND THAT'S WHAT'S HAPPENING AROUND THE WORLD. AND SOMEBODY WROTE A STORY ABOUT THAT. THERE WAS THIS LITTLE BITTY CHICKEN, DIDN'T KNOW MUCH ABOUT THE WORLD. CHICKEN LITTLE WAS WHAT HE WAS CALLED, HE WAS SO SMALL. AND HE WAS OUT PLAYING IN THE YARD. AND BECAUSE HE DIDN'T KNOW VERY MUCH, AN ACORN FELL AND HIT HIM ON HIS HEAD, AND ALL THAT CHICKEN LITTLE KNEW WAS THAT THAT WHICH IS

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ABOVE EVERYBODY IS THE SKY. SO CHICKEN LITTLE SAID, THE SKY IS FALLING. THE SKY IS FALLING. AND HE WENT, AND FIRST ONE HE TOLD WAS "MOANY GROANY." AND "MOANY GROANY" SAID, GOOD GOD, THE SKY IS FALLING. LET'S GO TELL FOXY LOXY AND DUCKY LUCKY AND GOOSEY LOOSEY AND FOXY LOXY. AND FOXY LOXY WAS SMART. HE KNEW HE HAD SOME DUMBBELLS. SO HE SAID, I CAN GIVE YOU ALL SAFETY FROM THIS FALLING SKY. HE SAID, COME INTO MY HOUSE AND YOU'LL BE SAFE. AND THEY NEVER AGAIN HEARD FROM GOOSEY LOOSEY, DUCKY LUCKY, CHICKEN LITTLE, OR THE REST OF THOSE WHO WERE PUT IN TERROR BECAUSE AN ACORN FELL. I FIND A DISTURBING TREND ON THE FLOOR OF THIS LEGISLATURE. PEOPLE WILL COME FROM A LITTLE TOWN AND SAY SOMEBODY TOLD THEM THAT THEY SAW SOMETHING HAPPEN, OR SOMETHING HAPPENED, AND THEY WANT A LAW TO BE IMPOSED ON THE ENTIRE STATE. AND THE SENATORS, LACKING A BACKGROUND IN TERMS OF INFORMATION AND KNOWLEDGE, WILL TAKE THAT AND RUN WITH IT AS THOUGH THAT ONE INCIDENT CHARACTERIZES NOT ONLY WHAT HAPPENED TO THAT INDIVIDUAL ON HIS OR HER BLOCK, BUT EVERYBODY IN THAT TOWN, EVERYBODY IN THAT COUNTY, EVERYBODY ALL OVER THE STATE, SO THEY BRING A BILL. AND YOU KNOW WHO HAS TO STAND AGAINST THAT? I DO. THAT'S WHY I'M AWARE OF HOW MUCH TRASH LEGISLATION COMES THROUGH HERE BECAUSE MUCH OF IT WOULD SLIDE RIGHT ACROSS THE BOARD IF I DIDN'T SERVE AS THE GATEKEEPER. AND THIS BILL IS ATROCIOUS. I AM NOT TRYING TO GET RID OF EVERYTHING THAT THIS BAD BILL PROPOSES. THERE IS ONE POINT IN HERE, THE GREEN COPY, AND IT'S A PART FROM THE COMMITTEE AMENDMENT, BECAUSE THE COMMITTEE AMENDMENT, IF YOU ACCEPT MINE, IS NOT A BAD PIECE OF WORK. BUT THERE WAS A CASE CALLED HENERY v. CITY OF OMAHA OR SOMETHING LIKE THAT, H-E-N-E-R-Y. THERE WAS AN EXTRA E IN HENRY SO MAYBE IT'S "ENERY," AND THE COURT GAVE WHAT AMOUNTED TO A DEFINITION OF A THIRD PARTY WHO WOULD NOT BE INNOCENT. AND THIS IS THE CRUCIAL LANGUAGE, AND IT'S IN THIS BILL: IF THE PASSENGER PROMOTES, PROVOKES, OR PERSUADES THE DRIVER TO ENGAGE IN FLIGHT FROM LAW ENFORCEMENT PERSONNEL, THAT INDIVIDUAL IS NOT AN INNOCENT THIRD PARTY. THAT'S WHAT THE COURT HAS ALREADY SAID IN CONSTRUING THIS LEGISLATION. WHAT MR. VALENTINO AND THOSE HE REPRESENTS THOUGHT THEY COULD DO, KNOWING THAT THE LEGISLATORS DON'T READ COURT CASES, DON'T KNOW THE LAW, WILL ACCEPT WHAT A COP SAYS OR A LOBBYIST SAYS, WILL TELL YOU THAT THERE'S SOMETHING WRONG WITH EVERYTHING THAT THIS LAW IS ATTEMPTING TO DO. THEY HAVE MADE WHAT THEY'RE TALKING ABOUT AN ATTACK ON VENAL LAWYERS, ON GREEDY CITIZENS WHO HAVE BEEN INJURED, BUT THE COPS ARE ALWAYS DOING THEIR JOB. SO I HAVE TO STAND HERE, AND I WILL STAND HERE, AND I WILL FIGHT AGAINST ALL OF THIS KIND

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OF CRACKPOT LEGISLATION. AND YOU NOTICE ALL THOSE WHO BRING THIS CRACKPOT LEGISLATION WILL READ FROM A STATEMENT PREPARED FOR THEM BY SOMEBODY ELSE. THE NRA PREPARED STATEMENTS THE OTHER DAY. SENATOR WATERMEIER HAD A STATEMENT PREPARED FOR HIM. I RECOGNIZE SOME OF THE LANGUAGE IN IT. I WON'T ASK HIM WHO WROTE IT. BUT I CAN TELL YOU THIS FOR SURE. SENATOR WATERMEIER DIDN'T WRITE THAT. BUT THERE ARE CASES WHICH WILL SHOW HOW MUCH THE COURTS ARE BENDING OVER BACKWARDS TO JUSTIFY COPS ENGAGING IN HIGH-SPEED CHASES, WHICH WILL ENCOURAGE THEM... [LB188]

SENATOR SCHEER PRESIDING

SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...TO TURN OFF THEIR VIDEOS SO THERE IS NO CONCRETE EVIDENCE OF WHAT TOOK PLACE. AND EVEN, IN AT LEAST ONE INSTANCE, WHERE THE SUPERVISORY OFFICER, AFTER READING REPORTS OF WHAT THE OFFICERS HAD DONE WHO WERE INVOLVED IN THE CHASE, SAW IT AS A HIGH-SPEED CHASE, THE COURT OVERRULED WHAT THAT SUPERVISORY OFFICER KNEW, HAD OBTAINED FROM READING THE POLICE REPORTS, AND SAID, BUT THE COURT FEELS IT WASN'T A CHASE. SO NOW WHAT THE CITY OF OMAHA IS DOING IS CHALLENGING ANY, OR PRACTICALLY ALL, OF THESE CLAIMS THAT ARE MADE WHEN POLICE ARE INVOLVED IN THESE PROBLEMS. BUT WHAT THEY DO IS SET ASIDE A CERTAIN AMOUNT OF MONEY TO PAY OFF THESE JUDGMENTS. WHAT THEY WANT TO DO, IF IT DOESN'T GO TO A JUDGMENT BUT THERE MIGHT BE A SETTLEMENT, IS PRESSURE THE PERSON INTO SETTLING FOR LESS THAN WHAT THEY PROBABLY COULD WIN IF THEY WENT TO COURT. [LB188]

SENATOR SCHEER: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: THANK YOU. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR CHAMBERS. SPEAKER HADLEY FOR ANNOUNCEMENT. [LB188]

SPEAKER HADLEY: MR. PRESIDENT, MEMBERS OF THE BODY, I JUST WANT TO LET YOU KNOW A LITTLE BIT ABOUT SCHEDULING. TOMORROW WILL BE OUR FIRST DAY OF FINAL READING. SO WE WILL START AT 9:00 WITH FINAL READINGS ON

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BILLS, AND THEN WE HAVE THREE BILLS ON FINAL READINGS. AND AFTER WE GET DONE WITH THOSE, WE WILL GO BACK TO THE AGENDA WHERE WE LEFT OFF TODAY. THANK YOU.

SENATOR SCHEER: THANK YOU, SPEAKER HADLEY. IN THE QUEUE WAITING TO SPEAK: PANSING BROOKS, SCHUMACHER, WATERMEIER, AND CHAMBERS. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED. [LB188]

SENATOR PANSING BROOKS: THANK YOU, MR. SPEAKER. I WAS JUST WONDERING IF...SENATOR WATERMEIER, IF YOU COULD ANSWER A COUPLE QUESTIONS. [LB188]

SENATOR SCHEER: SENATOR WATERMEIER, WILL YOU YIELD, PLEASE? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR PANSING BROOKS: OKAY, THANK YOU, SENATOR WATERMEIER. WELL, AS I WAS LOOKING BACK AT MY NOTES THAT I HAD TAKEN IN THIS HEARING, ONE OF THE FIRST THINGS THAT I ASKED YOU ABOUT WAS, WHAT ABOUT MINORS? WHAT ABOUT MINORS THAT ARE IN THE CAR? [LB188]

SENATOR WATERMEIER: I THINK IN STATUTES, AND I WILL LEAN ON THE ATTORNEYS IN THE ROOM, THE STATUTE SAYS THERE'S SOME POINT IN TIME, AND I DON'T KNOW IF IT'S 14 YEARS OR 16 YEARS, THAT THEY CANNOT BE ABLE TO DEFINE WHETHER THEY'RE BEING COERCED OR NOT. SO IF A MINOR WAS INJURED, AND WHATEVER THAT DEFINITION IS, THEY WOULD NOT BE ABLE TO MAKE THE JUDGMENT ABOUT WHETHER TO GET OUT OF THE CAR OR NOT, SO THEY WOULD BE EXCLUDED FROM THAT ARGUMENT. [LB188]

SENATOR PANSING BROOKS: OKAY. WELL, THEY'RE NOT EXCLUDED HERE, THOUGH. I THOUGHT YOU WERE GOING TO ADD IT IN AN AMENDMENT. I THOUGHT THERE WAS SOME DISCUSSION ABOUT THAT. OKAY. SO I DON'T BELIEVE THAT YOU CAN POINT TO ANOTHER AREA OF LAW AND SAY THAT A MINOR WOULD NOT BE...THERE'S...IN MY OPINION THERE'S NO WAY THAT A MINOR COULD BE TELLING THEIR FATHER OR THEIR GUARDIAN AND TAKING REASONABLE STEPS TO PERSUADE THE DRIVER OF THE FLEEING VEHICLE TO STOP. SO I DON'T UNDERSTAND HOW...THAT'S ONE OF MY CONCERNS. ANOTHER CONCERN IS WHAT ABOUT ANY NEXUS TO THE ILLEGAL ACTIVITY. [LB188]

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SENATOR WATERMEIER: THE BILL DOES NOT DIRECT THAT IF YOU ARE INVOLVED IN THAT ACT...THE FELON THAT WOULD BE EXCLUDED FROM LIABILITY WOULD NOT HAVE A NEXUS TO THAT INSTANT. HE COULD HAVE A FELONY THAT WOULD BE PRIOR TO THAT ONE DAY OR TWO YEARS. [LB188]

SENATOR PANSING BROOKS: SO... [LB188]

SENATOR WATERMEIER: I COULD EXPLAIN THAT A LITTLE FURTHER IF YOU'D ALLOW ME. [LB188]

SENATOR PANSING BROOKS: OKAY. [LB188]

SENATOR WATERMEIER: THE IDEA IS, IF THE PERSON IS KNOWN TO HAVE DONE A FELONY, EITHER BEEN CONVICTED OR IS A FELON, THEY WOULD BE IN POSITION TO COERCE THE DRIVER INTO FLEEING. AND THAT'S THE WHOLE INTENT OF THAT IDEA, WHO IS ACTUALLY INNOCENT IN THOSE PROCEEDINGS. [LB188]

SENATOR PANSING BROOKS: SO A 17-YEAR-OLD THAT IS...COULD BE ARRESTED FOR A STATUS OFFENSE LIKE TRUANCY OR THINGS LIKE THAT, FALLS WITHIN THIS TERM BECAUSE IT SAYS, IS ENGAGED IN ANY ILLEGAL ACTIVITY WHICH WOULD ITSELF GIVE RISE TO AN ARREST. [LB188]

SENATOR WATERMEIER: THE AMENDMENT DIRECTS IT BACK TO A FELONY. IT HAS TO BE A FELONY. [LB188]

SENATOR PANSING BROOKS: AGAIN, THAT'S QUESTIONABLE UNDER HOW CHILDREN ARE CHARGED WITHIN THE JUVENILE COURT. SO, AGAIN, IT RAISES ALL SORTS OF QUESTIONS. THE SUPREME COURT...THANK YOU, SENATOR WATERMEIER. AND I JUST WANTED TO POINT OUT THAT--I THINK SENATOR CHAMBERS WAS TALKING ABOUT IT--BUT THE SUPREME COURT DID JUST RULE IN WERNER THAT...THE QUOTE IS: BUT THE PHRASE "INNOCENT THIRD PARTY" IS A TERM OF ART UNDER THE STATUTE AND THE ORDINARY MEANING OF INNOCENT DOES NOT APPLY. INSTEAD WE HAVE DEFINED AN INNOCENT THIRD PARTY AS A PERSON THAT WAS NOT SOUGHT TO BE APPREHENDED BY THE PURSUING OFFICER AND AS A PERSON WHO DID NOT PROMOTE, PROVOKE, OR PERSUADE THE DRIVER TO FLEE. AGAIN, I HAVE CONCERNS ABOUT HOW MUCH CONTROL. WHAT IS CONTROL? SENATOR WATERMEIER, COULD YOU ANSWER ANOTHER QUESTION, PLEASE? [LB188]

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SENATOR SCHEER: SENATOR WATERMEIER, WILL YOU YIELD, PLEASE? [LB188]

SENATOR WATERMEIER: I'LL TRY BETTER ON THIS ONE. [LB188]

SENATOR PANSING BROOKS: OKAY. DO YOU HAVE AN UNDERSTANDING OF WHAT WOULD CONSTITUTE REASONABLE STEPS TO PERSUADE A...THE DRIVER TO STOP? [LB188]

SENATOR WATERMEIER: I DO NOT, BUT LET ME JUST GET BACK TO THE BILL. WHAT THE BILL DOES IS NOT NECESSARILY SAY THIS PERSON IS GOING TO BE INNOCENT. WHAT THE BILL DOES IS, IN THE REALM OF THE COURT CASE, IT AT LEAST ALLOWS THE PROSECUTOR TO HAVE THAT AS A TOOL. THE WAY IT IS TODAY, THEY ARE AUTOMATICALLY EXCLUDED. THEY'RE JUST CONSIDERED INNOCENT. [LB188]

SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR PANSING BROOKS: SO I'M JUST TRYING TO FIGURE OUT WHAT...HOW AN INNOCENT THIRD PERSON WOULD PROVE THAT THEY HAD TAKEN REASONABLE STEPS. IS THERE ANY DISCUSSION OF THAT OR ANY KIND OF...THIS IS JUST AT THE WHIM OF THE PROSECUTORS, BASICALLY? [LB188]

SENATOR WATERMEIER: NO, I WOULD NOT SAY THAT IT'S AT THE WHIM OF THE PROSECUTORS. THAT'S WHAT THEY DO. THEY SORT THAT OUT BEHIND THE SCENES. THAT'S WHAT MY BELIEF IS AND THE WAY I SEE IT. THEY'RE GOING TO SORT THAT OUT. KEEP THIS IN MIND. THIS IS NOT NECESSARILY SAYING YOU'RE AUTOMATICALLY INNOCENT. IT GIVES...OR GUILTY. YOU'RE JUST GIVEN THE...THE PROSECUTORS ARE GIVEN THIS TOOL IN THE PROCESS OF INVESTIGATING WHAT GOES ON THAT THERE'S A POTENTIAL THERE. THAT'S ALL WE'RE DOING. AND IT'S CONFINED TO THE PERSON IN THE FLEEING VEHICLE. LET'S KEEP THE FOCUS OF THIS CONVERSATION RIGHT WHERE IT IS, RIGHT IN THE FLEEING VEHICLE. [LB188]

SENATOR PANSING BROOKS: YES, THAT'S WHAT I'M TRYING TO DO. I'M TALKING ABOUT AN INNOCENT PERSON IN THE VEHICLE THAT IS...SO IF THE PERSON SAYS, QUIT DRIVING FAST, STOP, IS THAT ENOUGH? AND HOW DOES THAT PERSON PROVE THAT THEY SAID THAT? [LB188]

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SENATOR WATERMEIER: WE'VE HAD LOTS OF CONVERSATIONS ABOUT THAT BEHIND THE MIKE. [LB188]

SENATOR SCHEER: TIME, SENATORS. [LB188]

SENATOR PANSING BROOKS: THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR WATERMEIER AND SENATOR PANSING BROOKS. SENATOR SCHUMACHER, YOU'RE RECOGNIZED. [LB188]

SENATOR SCHUMACHER: THANK YOU, MR. PRESIDENT, MEMBERS OF THE BODY. AS WE HAVE BEEN TOLD SO MANY, MANY TIMES BY SENATOR CHAMBERS, WORDS HAVE MEANING. SO WOULD SENATOR WATERMEIER ANSWER A COUPLE QUESTIONS HERE? [LB188]

SENATOR SCHEER: SENATOR WATERMEIER, WILL YOU PLEASE YIELD? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR SCHUMACHER: THANK YOU, SENATOR WATERMEIER. AS THE COMMITTEE AMENDMENT WOULD PROPOSE TO AMEND YOUR BILL, YOU CEASE TO BECOME AN INNOCENT PARTY AND UNDER THE LAW IF YOU HAVE ENGAGED IN CONDUCT, CHARGEABLE AS, OR AMOUNTING TO, A FELONY WHILE IN OR ON, OR PRIOR TO ENTRY INTO OR ONTO, THE FLEEING VEHICLE. SO THE FIRST QUESTION IS, IF YOU CHEATED ON YOUR TAXES 20 YEARS AGO, ARE YOU EXCLUDED? [LB188]

SENATOR WATERMEIER: I DON'T KNOW THE DEFINITION OF FELONY TO BE HONEST. [LB188]

SENATOR SCHUMACHER: LET'S ASSUME... [LB188]

SENATOR WATERMEIER: OKAY, IF YOU ASSUME THAT'S A FELONY? [LB188]

SENATOR SCHUMACHER: ...THAT IT'S A BIG, BIG CHEAT. [LB188]

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SENATOR WATERMEIER: I WOULD SAY IF YOU WANTED TO GET TO THE LETTER OF THE LAW, I WOULD SAY YOU WOULD PROBABLY NOT BE EXCLUDED. BUT KEEP IN MIND WE'RE LEAVING THIS OPTION OPEN IN THAT DISCUSSION. [LB188]

SENATOR SCHUMACHER: AN OPTION FOR WHO? [LB188]

SENATOR WATERMEIER: WELL, FOR THE PROSECUTORS IN THAT PROCESS TO DETERMINE... [LB188]

SENATOR SCHUMACHER: WHAT DOES A PROSECUTOR HAVE TO DO WITH THIS? THIS IS A CIVIL CASE. [LB188]

SENATOR WATERMEIER: BECAUSE...AND I APOLOGIZE. YOU'RE THE ATTORNEY, AND THERE'S A HALF DOZEN IN THE BUILDING HERE. BUT WHAT WE'RE TRYING TO DO IS TO MAKE SURE THEY'RE NOT AUTOMATICALLY EXCLUDED FROM BEING CONSIDERED. [LB188]

SENATOR SCHUMACHER: SO IT'S YOUR INTENT THAT EVEN THOUGH THIS FELONY OF TRYING TO AVOID YOUR INCOME TAXES 20 YEARS AGO, A FELONY, HAS NOTHING TO DO WITH THE PARTICULAR INCIDENT, THAT YOU ARE EXCLUDED? [LB188]

SENATOR WATERMEIER: YES, YOU COULD COME UP WITH ALL KINDS OF... [LB188]

SENATOR SCHUMACHER: OKAY, IS THE ANSWER YES? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR SCHUMACHER: OKAY. WHAT ABOUT IF THE...YOU DID A FELONY, BUT THE STATUTE OF LIMITATIONS IS LONG EXPIRED. CAN'T BE PROSECUTED FOR IT ANYMORE BUT, IN FACT, AT ONE TIME IN YOUR YOUTH, YOU DID ENGAGE IN BEHAVIOR AMOUNTING TO A FELONY, ENGAGING CONDUCT IS THE WORDS. ARE YOU IN OR OUT? [LB188]

SENATOR WATERMEIER: I CAN'T ANSWER THAT, BUT I CAN GET TO IT. [LB188]

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SENATOR SCHUMACHER: WELL, THE PROBLEM IS, WE HAVE TO ANSWER THIS OR WE'RE BACK IN THE SOUP WITH THE COURT. WE HAVE TO SAY WHAT WE MEAN. AND AS THE AMENDMENT IS WORDED, AS THE GIST OF THIS BILL IS, WE ARE SAYING, YOU KNOW, WE'RE GOING TO LOOK FOR THE DIRTY PERSON: THE GUY WHO IS A MEMBER OF THE TAX PROTESTER GROUP AND REFUSED TO FILE HIS INCOME TAXES, THE GUY WHO WAS A KID AND DID SOMETHING AS A FELONY. NOW THAT'S, I GUESS, A PART OF THE INQUIRY IN A CIVIL CASE: SON, YOU WERE IN THE VEHICLE. DID YOU EVER DO ANYTHING REALLY BAD? I DON'T KNOW. I GUESS MAYBE WHEN I WAS 20, I DID HAVE A LITTLE DRUGS. AHA! THAT HAS NOTHING TO DO WITH THE CHASE. NOTHING TO DO WITH THE CRIME. WE'VE NOW, GO INTO THE WORLD OF EXAMINING THE DIRTINESS OF A PERSON'S MIND AND CLASSIFYING HIM WHETHER HE'S IN OR OUT FOR BEING ABLE TO SUE A MUNICIPALITY. HOWEVER YOU FEEL ON WHETHER OR NOT IT SHOULD BE IN OR WHETHER IT'S A GOOD IDEA TO HAVE THE PEOPLE WHO ARE RUNNING FROM THE COPS, THE RIGHT OF SUING THE MUNICIPALITY, THIS IS NOT A WAY THAT YOU DIFFERENTIATE BETWEEN PEOPLE. [LB188]

SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR SCHUMACHER: AND FOR THAT REASON, SENATOR CHAMBERS TOOK A SHOT AT WHAT PROBABLY WAS A GOOD AMENDMENT AND IF IT WASN'T, SOMETHING LIKE IT NEEDS TO BE ADOPTED. SURELY, TO BE EXCLUDED FROM THE ABILITY TO BE AN INNOCENT PARTY UNDER THIS LAW, IT SHOULD HAVE SOMETHING TO DO IN A RATHER IMMEDIATE WAY WITH WHAT'S GOING ON WITH THE CHASE, SO THAT YOU AREN'T PUT IN A DEPOSITION AND HAVE TO GO TO CONFESSION OF EVERY BAD THING YOU EVER DID IN YOUR YOUTH. AND THAT'S THE WAY IT'S WORDED RIGHT NOW IN THE AMENDMENT AND IT WAS EVEN WORSE BEFORE THE AMENDMENT. SO THIS THING IS GOING TO NEED WORK. WHETHER IT'S A GOOD OR BAD IDEA, I RESERVE JUDGMENT ON, BUT IT CERTAINLY NEEDS WORK. THANK YOU. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR SCHUMACHER. SENATOR WATERMEIER, YOU'RE RECOGNIZED. [LB188]

SENATOR WATERMEIER: I APPRECIATE THE DISCUSSION, I REALLY DO. AND THIS IS THE ARGUMENT, AND THIS IS THE DISCUSSION I'VE HAD OVER THE LAST THREE YEARS ON THIS BILL. WE'RE TRYING TO MICROMANAGE THIS DOWN TO EVERY DETAIL. KEEP YOUR FOCUS ON THIS BILL. THIS IS THE THIRD TIME WE'VE HAD A DISCUSSION ON THIS BILL. I INTRODUCED IT THREE YEARS AGO; IT

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DIDN'T GET OUT OF COMMITTEE. I REINTRODUCED IT TWO YEARS AGO; IT CAME OUT OF COMMITTEE. AND NOW ON ITS THIRD YEAR, WE ACTUALLY GET A CHANCE TO VISIT ABOUT THIS. ALL WE ARE TRYING TO DO IS LB188 GIVES THE COURTS A MECHANISM, OR SOME SORT OF GUIDANCE, TO USE IN THESE CASES. DEFENSE BRINGS FORWARD TO THE COURT AND HAS TO PROVE THE FLIGHT WAS A RESULT OF THIS ACTIVITY. THERE'S BEEN ARGUMENTS ABOUT YOUTH. THERE'S BEEN ARGUMENTS ABOUT IS IT INVOLVED WITH THE NEXUS OF THIS CHASE. THAT'S IMMATERIAL AS FAR AS I'M CONCERNED. COME BACK TO WHAT IS CONSIDERED AN INNOCENT THIRD PARTY. AND SENATOR CHAMBERS IS CORRECT. WE DON'T HAVE TO TAKE THE MANDATE FROM THE COURT AND SAY, BY GOD, WE HAVE TO COME UP WITH A DEFINITION. WE CAN DO NOTHING, AND WE'VE DONE NOTHING FOR 30 YEARS. SO I WOULD INVITE US TO VOTE RED ON THE RECONSIDER OF SENATOR CHAMBERS' MOTION, AND VOTE RED ON THE FLOOR AMENDMENT, AND GREEN ON EVERYTHING AFTER THAT. THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR WATERMEIER. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB188]

SENATOR CHAMBERS: MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, SENATOR WATERMEIER JUST EXPLAINED AND SHOWED WHY I FIND MY JOB SO HARD. I TAKE SERIOUSLY WHAT WE'RE DOING. THE SERIOUS ISSUES THAT WERE RAISED, HE SAID, THAT MEANS NOTHING. THAT'S IRRELEVANT. THAT MEANS NOTHING. STAY FOCUSED ON THE BILL. THAT'S WHAT I'VE BEEN, FOCUSED ON THE BILL. HE DOES NOT KNOW WHAT HE IS TALKING ABOUT, AND HE HASN'T GOTTEN HIS ORDERS. SENATOR SCHUMACHER ASKED HIM A BASIC QUESTION, AND WHAT DID HE SAY? I DON'T KNOW THE ANSWER TO THAT. GOT TO CHECK THAT OUT. WITH WHOM? HE DOESN'T KNOW WHAT HE'S TALKING ABOUT BECAUSE THEY BRING THIS TRASH LEGISLATION, AND YOU ALL GO ALONG WITH IT. A FAVOR TO HIM? I'M NOT DOING FAVORS. I'M A PART OF THIS LEGISLATURE. OUR WORK SHOULD REACH A CERTAIN LEVEL OF QUALITY AND EXCELLENCE. AND BECAUSE OF THAT, I'LL FIGHT THIS TRASH LEGISLATION. YOU ALL DON'T HAVE ANY RESPECT FOR THIS BODY. YOU DON'T UNDERSTAND THE BILL. THE ONE WHO BRINGS IT DOESN'T UNDERSTAND. THEN YOU GET MAD AT ME FOR POINTING OUT THAT HE DOESN'T KNOW WHAT HE'S TALKING ABOUT. YOU KNOW WHAT SHOWS HE DOESN'T KNOW WHAT HE'S TALKING ABOUT? THE WORDS THAT COME OUT OF HIS MOUTH. AND I'M SUPPOSED TO STAND HERE AND ACT LIKE HE'S MAKING SENSE? THAT IS NONSENSE. PHILOSOPHERS WOULD LABEL WHAT HE SAID AS BEING UNINTELLIGIBLE BECAUSE IT IS NOT RATIONAL, IT IS NOT LOGICAL. B DOES NOT FOLLOW A. C DOES NOT FOLLOW B. NOW, HE'S

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GETTING COUNSEL WHO'S GOING TO EXPLAIN THE LAW TO HIM. TWEEDLEDEE, TWEEDLEDUM, AND "TWEEDLE DUMBER." WE ARE TALKING ABOUT THE LAW, NOT FAVORS. AND THIS NONSENSE, NOW HE'LL BE LABELING PEOPLE LIBERALS. YOU KNOW WHY YOU'RE A LIBERAL? BECAUSE YOU WANT EXPLANATIONS. YOU RESPECT THE LAW. AND WHEN THEY HAVE NO STATEMENT THEY CAN MAKE THAT HAS A BEARING ON WHAT WE'RE TALKING ABOUT, THEN THEY GO INTO WHAT RUSS LIMBAUGH HAS TOLD THEM, OR SOME OF THESE OTHER PEOPLE ON FOX--WELL, THAT'S THE LIBERALS HERE. CALL ME ANYTHING YOU WANT TO. BUT I AM GOING TO STAND AGAINST THIS TRASH LEGISLATION, AND I'M GOING TO DO EVERYTHING TO SHOW HOW DUMB THE PEOPLE ARE WHO SUPPORT IT. AND HE'S ALREADY HAD SOME PEOPLE VOTE AGAINST MY AMENDMENT, AND THE ONES VOTING AGAINST MY AMENDMENT DON'T EVEN KNOW WHAT THE COMMITTEE AMENDMENT THAT I'M TRYING TO AMEND IS SAYING. THEY HAVEN'T READ THE COMMITTEE AMENDMENT. THAT'S A REFLEX ACTION. YOU KNOW WHY I KNOW WHAT TO EXPECT FROM THIS LEGISLATURE? I'M NOT AN EXPERT ON PAVLOV OR PAVLOVIAN EXPERIMENTS, BUT IT HAS SOMETHING TO DO WITH EVERY TIME A BELL RANG, A CREATURE HAD BEEN CONDITIONED TO ASSOCIATE SOMETHING WITH THAT BELL RINGING. AND THERE WAS A PHYSIOLOGICAL RESPONSE IN THAT ANIMAL WHEN THE ANIMAL HEARD THE BELL RING. AND THAT'S WHAT YOU ALL HEAR WHEN YOU GO RUNNING OUT THERE. SOMEBODY GIVES YOU A NOTE. YOU COME RUNNING BACK IN HERE, AND THEN YOU FOLLOW. YOU FOLLOW, DON'T EVEN KNOW WHAT YOU'RE TALKING ABOUT. AND IF I DON'T KNOW WHAT I'M TALKING ABOUT, ASK ME QUESTIONS AS SENATOR SCHNOOR DID. I WON'T DO LIKE SENATOR KINTNER OR SENATOR McCOY AND SAY I REFUSE TO ANSWER. I WANT TO BE CHALLENGED SO WE CAN GET A COMPLETE RECORD OF WHAT IT IS WE'RE TALKING ABOUT. AND THIS NONSENSE THAT IS IN THE LAW, THAT MY AMENDMENT DOESN'T TOUCH, I HAVE AMENDMENTS TO STRIP THAT OUT TOO. WE ARE NOT, WHEN WE LOOK AT THIS LEGISLATION, DOING WHAT THE SUPREME COURT SAID NEEDS TO BE DONE. [LB188]

SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR CHAMBERS: THE ONLY STATEMENT THAT CAN BE TRACED DIRECTLY TO A SUPREME COURT DECISION IS ON PAGE 3, IN THIS LANGUAGE, STARTING IN LINE 27. FAILS TO TAKE REASONABLE...NO, NO, BELOW THAT, STARTING IN LINE 29: IF YOU PROMOTE, PROVOKE, OR PERSUADE THE DRIVER TO ENGAGE IN FLIGHT FROM LAW ENFORCEMENT PERSONNEL. WHAT MORE DO YOU NEED THAN THAT? THAT SAYS IT ALL, AND THE SUPREME COURT SAID IT. THIS TRASH THAT YOU'VE GOT WAS PRODUCED BY VALENTINO. HE IS A LOBBYIST AND HE

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GETS PAID TO MAKE FOOLS OUT OF THE LEGISLATORS. THAT'S WHAT HE IS. HE IS A FOOL MAKER AND I AM THE FOOL KILLER. I'M GOING TO SAVE THIS LEGISLATURE FROM ITSELF WHETHER IT WANTS TO BE SAVED OR NOT. AND I WANT TO MAKE IT SO CLEAR THAT THE PEOPLE WATCHING US WILL SAY, WHAT ARE THOSE IDIOTIC PEOPLE DOING DOWN THERE? [LB188]

SENATOR SCHEER: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: FOR JELL-O? THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR CHAMBERS. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED. [LB188]

SENATOR PANSING BROOKS: THANK YOU, MR. PRESIDENT. SENATOR WATERMEIER, MAY I JUST ASK YOU A QUESTION? [LB188]

SENATOR SCHEER: SENATOR WATERMEIER, WILL YOU YIELD, PLEASE? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR PANSING BROOKS: THANK YOU. AS I'M LOOKING AT THE BILL FROM...I'M CONCERNED WITH LINES 22 THROUGH 31 ON PAGE 3, AND THEN 1 THROUGH 3 ON PAGE 4. AND WHEN I LOOK AT THAT, CAN YOU EXPLAIN TO ME IF...THAT FOR PURPOSES OF THIS SECTION THEY WILL NOT BE AN INNOCENT THIRD PARTY IF...DOES (a), (b), (c), AND (d), DO THEY HAVE TO MEET EVERY ONE OF THOSE THINGS OR ONE OF THOSE THINGS? [LB188]

SENATOR WATERMEIER: NO, THEY DO NOT HAVE TO MEET THEM ALL; IT'S ONE OF THEM. AND I CAN GIVE A LITTLE HISTORY ON EACH OF THEM IF YOU LIKE. [LB188]

SENATOR PANSING BROOKS: WELL, NO THANKS, I JUST...MAYBE IN A MINUTE. BUT I JUST...SO THEY JUST HAVE TO MEET ONE OF THOSE THINGS AND THEN THEY'RE NO LONGER AN INNOCENT THIRD PARTY. IS THAT CORRECT? [LB188]

SENATOR WATERMEIER: YES. [LB188]

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SENATOR PANSING BROOKS: SO LITERALLY, IF THEY ENTER INTO A VEHICLE WITHOUT COERCION OR REASONABLE BELIEF THAT THE DRIVER IS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS, THEN THAT ALONE MAKES THEM A...IF THEY DON'T DO THAT, THEN THEY ARE NOT AN INNOCENT PERSON. [LB188]

SENATOR WATERMEIER: CORRECT. [LB188]

SENATOR PANSING BROOKS: SO DO YOU THINK THAT MOST PEOPLE KNOW WHETHER OR NOT SOMEBODY HAS HAD TOO MUCH TO DRINK OR NOT, I MEAN, AMONG YOUR FRIENDS, WITHOUT TAKING A BREATHALYZER TEST? HOW DOES A PERSON KNOW THAT? [LB188]

SENATOR WATERMEIER: I MEAN, THAT'S A JUDGMENT CALL FOR EACH INDIVIDUAL. AND I'M JUST TELLING YOU THAT THAT GETS SORTED OUT. YOU'RE AN ATTORNEY. I WOULD ASSUME YOU'VE SEEN THESE CASES BEFORE. THAT GET'S SORTED OUT WHEN THEY HAVE THE DISCUSSION. BUT AT LEAST WE ARE GIVING THE PROSECUTING IN THE COURTS THAT OPTION TO EXCLUDE ONLY JUST THE DRIVER. I GUESS THE DRIVER IS OUT OF THIS. IT'S JUST THE PASSENGERS WE'RE TALKING ABOUT. [LB188]

SENATOR PANSING BROOKS: SO LITERALLY, THERE ARE FIVE THINGS THAT THEY COULD BE FOUND NOT AN INNOCENT...A THIRD PARTY ON. IS THAT CORRECT? [LB188]

SENATOR WATERMEIER: YOU SAID, OBVIOUSLY THEY COULD BE? [LB188]

SENATOR PANSING BROOKS: WELL, YEAH, BECAUSE YOU'VE GOT (a), (b), (c), (d), (e). SO YOU'VE GOT FIVE... [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR PANSING BROOKS: ...DIFFERENT TYPES OF ARRANGEMENTS WHEREBY YOU COULD BE FOUND NOT TO BE AN INNOCENT THIRD PARTY. [LB188]

SENATOR WATERMEIER: THAT'S CORRECT. [LB188]

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SENATOR PANSING BROOKS: AND I HARKEN BACK AGAIN TO MINORS. I REALLY DO NOT UNDERSTAND HOW A MINOR COULD HAVE CONTROL OF THIS. AND TO SAY THAT, WELL, THEY COULD BE 18 OR 19 AND YOU'RE NOT SURE HOW THAT FALLS IN THE LAW. WHAT IF THEY'RE 12? I MEAN, HOW DOES A MINOR... [LB188]

SENATOR WATERMEIER: I APOLOGIZE IF WE HAD THIS CONVERSATION DURING THE HEARING OR SHORTLY AFTER, AND I WILL FOLLOW UP WITH YOU THIS AFTERNOON IF YOU LIKE. I CAN GET A BETTER DETAIL OF THAT FOR YOU. [LB188]

SENATOR PANSING BROOKS: OKAY. AND SO, BASICALLY, YOU BELIEVE THAT THERE SHOULD NOT BE A NEXUS TO THE ILLEGAL ACTIVITY THAT THE POLICE OFFICERS ARE CHASING FOR? [LB188]

SENATOR WATERMEIER: I DO. CAN I EXPLAIN? [LB188]

SENATOR PANSING BROOKS: SURE. [LB188]

SENATOR WATERMEIER: THE IDEA IS IF THE PERSON IS WILLINGLY KNOWING THAT THEY HAVE EITHER COMMITTED OR BEEN CONVICTED OF A FELON, AND THEY'RE IN THIS VEHICLE, THEY MAY VERY WELL BE THE REASON FOR THE CHASE. THEY MAY TELL THE DRIVER, HEY, I'M WANTED, I WANT OUT OF HERE. AND THEN HE ACTUALLY CAUSES THE CASE...THAT CAUSES THE PURSUIT, EXCUSE ME. [LB188]

SENATOR PANSING BROOKS: OKAY. BUT, OF COURSE, WHAT IF SOMEBODY IS GOING 10 MILES OVER? IS THAT...WHAT CONSTITUTES THE CHASE? ANYTHING ABOVE THE SPEED LIMIT? [LB188]

SENATOR WATERMEIER: I DON'T KNOW. THAT'S THE...THE GOOD PART OF WHAT SENATOR CHAMBERS DONE YEARS AGO IS HE HAD NEW POLICIES IN PLACE FOR WHAT CAN BE DONE. AND ALL THOSE THINGS WE'RE NOT CHANGING, ALL THE GOOD PARTS OF THE BILL, LEGISLATION THAT HE HAD YEARS AGO. IF IT'S NOT A FELONY, IT'S NOT INVOLVED IN THIS BILL. SO THAT WOULD BE A MISDEMEANOR, A TRAFFIC INCIDENT. THAT DOESN'T PERTAIN TO THIS BILL. [LB188]

SENATOR PANSING BROOKS: OKAY. WELL, AGAIN, I...NOT ONLY AM I WORRIED ABOUT THE...ENGAGED IN ILLEGAL ACTIVITY AT SOME POINT PRIOR TO THE

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ARREST, BUT ALSO THE FAILING TO TAKE REASONABLE STEPS TO PERSUADE IS A REALLY HIGH STANDARD, SO. [LB188]

SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR PANSING BROOKS: I'LL GIVE THE REST OF MY TIME TO SENATOR CHAMBERS. [LB188]

SENATOR SCHEER: SENATOR CHAMBERS, YOU HAVE 52 SECONDS. [LB188]

SENATOR CHAMBERS: I DIDN'T HEAR YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: YOU NOW HAVE 46 SECONDS. [LB188]

SENATOR CHAMBERS: THANK YOU. MEMBERS OF THE LEGISLATURE, I'M GOING TO SAY AGAIN, PEOPLE ON THIS FLOOR DON'T KNOW WHAT'S BEING SAID. SENATOR WATERMEIER DOESN'T KNOW WHAT HE'S TALKING ABOUT. READ THE BILL. THAT'S WHAT YOU NEED TO LOOK AT. THE BILL TELLS YOU. AND IF THERE'S A CHILD WHO'S A PASSENGER AND THAT CHILD DOESN'T DO ALL OF THESE THINGS, THAT CHILD IS NOT AN INNOCENT THIRD PARTY. AND HOW, WHEN IT COMES TO DETERMINING UNDER THE INFLUENCE, WHY DO YOU THINK COPS HAVE TO USE BREATHALYZERS? BECAUSE THEY CANNOT TELL. THEY DON'T KNOW. AND YOU'RE GOING TO PUT IN THE LAW HERE THAT A PERSON IS NOT INNOCENT BECAUSE THAT PERSON DOESN'T KNOW WHAT COPS DON'T KNOW. THIS IS INSANE. THIS IS CRAZY, BUT I'M GOING TO BE THE... [LB188]

SENATOR SCHEER: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: ...FOOL CATCHER AND THE FOOL KILLER. THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR CHAMBERS. MR. CLERK. [LB188]

CLERK: MR. PRESIDENT, YOUR COMMITTEE ON ENROLLMENT AND REVIEW REPORTS LB53 TO SELECT FILE WITH ENROLLMENT AND REVIEW AMENDMENTS ATTACHED. COMMITTEE REPORTS: THE EXECUTIVE BOARD REPORTS LB954 AND LB1016 TO GENERAL FILE; GOVERNMENT, MILITARY AND VETERANS AFFAIRS

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

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REPORTS LB718, LB753 AND LB766 TO GENERAL FILE. SENATOR COOK OFFERS A NEW A BILL. (READ LB510A BY TITLE FOR THE FIRST TIME.) SENATOR KOLTERMAN, NEW RESOLUTION, LR432. IT WILL BE LAID OVER. I HAVE AN AMENDMENT TO BE PRINTED TO LB188 BY SENATOR CHAMBERS. NAME ADDS: SENATOR COASH TO LB53; SENATOR FOX TO LR35. (LEGISLATIVE JOURNAL PAGES 504-506.) [LB53 LB954 LB1016 LB718 LB753 LB766 LB510A LR432 LB188 LR35]

AND, MR. PRESIDENT, SENATOR FOX WOULD MOVE TO ADJOURN THE BODY UNTIL FRIDAY MORNING, FEBRUARY 5, AT 9:00 A.M.

SENATOR SCHEER: THANK YOU, MR. CLERK. YOU'VE HEARD THE MOTION TO ADJOURN. ALL THOSE IN FAVOR SAY AYE. ALL OPPOSED? WE ARE ADJOURNED.