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Transcriber's Office

Floor Debate
January 29, 2019

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FOLEY: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the fourteenth day of the One Hundred Sixth Legislature, First Session. Our chaplain for today is the Reverend Chris Jorgensen from the Hanscom Park United Methodist Church in Omaha, Nebraska, Senator Howard's district. Please rise.

REVEREND JORGENSEN: (Prayer offered.)

FOLEY: Thank you. I call to order the fourteenth day of the One Hundred Sixth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

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

FOLEY: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

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

CLERK: Mr. President, your Committee on Enrollment and Review reports LB77 and LB49 to Select File. Confirmation hearing reports on the General Affairs Committee; those reports signed by Senator Briese as Chair. Hearing notices from the Health and Human Services Committee, those signed by Senator Howard. And Senator Brewer offers notices of hearing from the Government, Military and Veterans Affairs Committee. That's all that I have, Mr. President.

FOLEY: Thank you, Mr. Clerk. Members, we'll now proceed to the agenda, General File. Mr. Clerk.

CLERK: Mr. President, LB33, by Senator Kolterman. (Read title.) Introduced on January 10 of this year, referred to the Retirement Systems Committee, advanced to General File. There are committee amendments pending, Mr. President.

FOLEY: Thank you, Mr. Clerk. Senator Kolterman, you're recognized to open on LB33.

KOLTERMAN: Thank you and good morning, Mr. President, and colleagues. LB33 was advanced from committee unanimously. This bill includes a number of plan administration and

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Transcriber's Office

Floor Debate
January 29, 2019

governance changes that were brought to me during the interim by various entities. It makes several changes to provisions for the Public Employees Retirement Board, the Nebraska (Public) Employees Retirement Systems, the Nebraska Investment Council, and the Class V School Employees Retirement plan. LB33 includes the following changes. It allows the Public Employees Retirement Board to grant two, three-year exemptions-- extensions of actuarial contracts instead of just one three-year extension. It also exempts legal compliance audit contracts from bidding requirements. This exemption from the bidding requirements for legal service contracts was placed in statute in 73-507. In 2003, for all other state agencies, however, the language in 84-1503 was not updated at that time. Number two, it changes the date from March 31 to April 10 beginning in 2020 for the presentation of NPERS and NIC annual reports to the Retirement Committee. The additional time ensures the Nebraska Investment Council will have adequate time to receive the calendar year investment returns data so that this information can be included in the annual reports. Number three, it inserts into the Nebraska Investment Council statutes the oversight of Achieving a Better Life Experience program that had inadvertently been left out of the list of programs which the Nebraska Investment Council members are fiduciaries. And number four, ten years ago in 2009 the PERB was granted protection under the Public Records Act for all members' information for plans administered by the PERB with just a few exceptions. The only personal member information that can be released is member's name, the date the member began participating in the plan, and the date member's participation ended. All other information is protected. LB33 would grant OSERS in OPS the same exclusion from the public records law that was placed into statute for all plans administered by the PERB. And finally, I'm proposing, excuse me, I'm proposing to increase the per diem for Public Employees Retirement Board members from \$50 to \$75, which would be equal to the per diem received by the Nebraska Investment Council members. The original \$50 per diem for PERB members was put into statute in 2005. Per diems for the members of the NIC and PERB are cash funded. We also have amendment. Should I take that now, Mr. President?

FOLEY: Senator, if you'd like to proceed with the committee amendment, you may do so.

KOLTERMAN: Thank you. The floor amendment that I introduced this amendment at the hearing when I introduced the bill. This amendment strikes obsolete capping language from the School Employees Retirement Act and adds an emergency clause to the entire bill. In addition, after consulting with the Policy Research Office and Department of Administrative Services it was determined that the proposed new language in Section 4 of LB33 is unnecessary because the legal compliance audit is professional legal services already covered under current language in 73-507. Therefore, all of Section 4 of the bill is being stricken by AM4. With that, I would try to answer any questions and appreciate your green vote on this bill.

FOLEY: Thank you, Senator Kolterman. Members, you've heard the opening on LB33 and the committee amendment. Debate is now open. Senator Groene.

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

Floor Debate
January 29, 2019

GROENE: Thank you, Mr. President. I just wanted to make a comment. I voted it out because Senator Kolterman and Kate did a good job cleaning up language. But as all of you know, I'm a huge, huge proponent of transparency, and there's a section in here that bothered me. And it's not picking on the Class 5 schools or their retirement plan, which is OPS, but at the exact time we have a lot of problems with OSERS and a paper in the press has done a lot of research into that problems with that retirement plan at that exact time we are going to give them an exemption to the public records law. The you or I, the press, could not ask questions like how many of your employees, retirees, are paid over \$100,000 a year? How many individuals, what's the average cost of your payout? What's the average age of your payout? We're going to take transparency out of this retirement program even though the state employees, retirement is off the public records, so is the education, the school retirement plan for the rest of the state has been already taken off the public records for transparency. And the purpose was we forget them when we worry about one problem we take away rights from others. With technology nowadays, marketing groups would blast, would send a public FOIA request to a retirement plan to find out the information, who these retirees are, and then send them advertising. You're retiring, retired to the Ozarks to get a lot better tax cuts or life insurance plans, whatever. And they were getting very expensive, these FOIAs were. So what did we do? We took away the rights of the individual taxpayer to find out information about these retirement plans. We went too broad, as far as I'm concerned, and transparency is the heart of democracy. So I have a real concern about that, but I voted it out of committee because everybody else is already exempt. So thank you for the time.

FOLEY: Thank you, Senator Groene. Is there further discussion on the bill or the committee amendment? Senator Kolterman, you're recognized to close on AM4, committee amendment.

KOLTERMAN: Thank you again, Mr. President. I understand Senator Groene's concerns about privacy and transparency. I will say that what we're intending to do with this bill is to bring it into the same compliance that we have currently with all the state plans. We have been working very closely with OPS and OSERS on their plan. We understand the challenge that they have, and we're trying to help them address some of those issues. But I will tell you that this-- the only information that will be available if we pass this law again is the personal member information that can be released in the member is the member's name, the date the member began participating in the plan and the date the members participation ended. We don't-- you know, as a person that's worked in this arena for many years, there's certain things that we think ought to be privileged information. And I, as a committee member, working on a bill, can find out some of this information because it's important if we look at different legislation and how we're going to change their plan. But one of the problems that we had going back to when it was put into place for the PERB and all those plans was, we had agents that were reaching out to the PERB and asking all of this information so that they could contact the individuals and in turn try and sell them something. That's one of the reasons that it was changed. The other reason it was changed was simply because it is protected information, and that's-- I mean, you don't want your personal

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

Floor Debate
January 29, 2019

information changed if you have a personal pension plan, so why should we as a state allow that to happen to employees that work for us? So with that, I understand his concerns. I appreciate his position on this. We've had good dialogue on it in committee as well as now on the floor, and I'd appreciate a green light on this vote. Thank you.

FOLEY: Thank you, Senator Kolterman. Members, you've heard the debate on AM4, committee amendment. Those in favor of the committee amendment vote aye; those opposed vote nay. Have you all voted who care to? Record, please.

CLERK: 40 ayes, 1 nay on the adoption of committee amendments.

FOLEY: Committee amendments are adopted. Debate is now open on LB33 as amended. Senator Chambers.

CHAMBERS: Thank you. Mr. President and members of the Legislature, things that happen here as far as I'm concerned are like a seamless web. Things carry over from day-to-day, week to week, month to month, session to session. I have often mentioned, because I make very critical comments and remarks about individuals, political parties, ideologies, religions, and so forth. Yesterday I failed to mention, but it ought to be clear to people, I'm a hat maker. If your size comes up and you put it on your head, that's on you, not me. If I don't call you by name I'm not talking about you. If you have some sneaking suspicions about yourself, a guilty conscience needs no accuser. If I make comments about women in general, black people in general, Catholics, especially priests in general, those to whom the words apply will screech, just as I usually say. If I throw a rock among jackasses, the only one that goes heehaw is the one that was hit. And I'm going to continue doing just as I do. There are rural people in the past who are offended that I would take the lead in pushing for programs in the rural area and they would tell me, you don't even live out here. I say, look, I don't have to live out there. I don't have to have a car run over my foot to know that your foot hurts if a car runs over you. I am not as narrow in my scope, in my orientation, as other people. There was what has come to be known the March on Washington involving black people. Supposedly, Martin Luther King gave what was called an "I have a dream" speech. I was very critical of it. Extremely critical, and white people don't know anything about us and our situation. That march was not originated by Martin Luther King. There were black individuals throughout the country who saw the problems that we face as black people, and the need to coalesce and all gather in Washington, D.C., from all parts of the country on a given date, and make it clear even if nobody listened, that we're aware of what is being done to us and what we can do even if it's little. We're going to do it, and we're not going to let our enemies tell us how to do it. Kennedy, who was the President, was very concerned so he contacted these so-called leaders who were put into the forefront by the white media and told, don't do this, we have some touchy days in Congress now. Stop this march. And those guys said,

Floor Debate
January 29, 2019

we didn't start it. We can't stop it. So Kennedy said, I'll tell you what I'm going to do. I'm going to put you in it. I'm going to put you at the head, and I need all of you civil rights men to stop squabbling among yourselves because you fractionate and weaken your overall effort. And the fight generally is around trying to receive money and handouts from others to support what you're doing. So I'm going to get some of my friends together, and we're going to put together a pool of several hundred thousands of dollars and you six, they were called the Big Six, will be allowed to divide it among yourselves. So they met at the Carlisle Hotel, which was a Kennedy property and came up with this deal. When the day of the march came, there were professionally prepared signs--

FOLEY: One minute.

CHAMBERS: --painted and paid for by the Kennedy and other big shot white people interests. There were black women who played a leading role in the communities in gathering people together, but when the march, as it was called, came about, black women were shunted into the background. They were not even allowed to sit in the front ranks. There was a place off to the side with a tent under which they could sit so they wouldn't get too hot. I'm going to turn on my light because I'm going to talk this morning and get some things on the record and hope I can clarify some things for these white people who don't understand things. And when you don't understand, you need to be quiet and learn what's going on. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. You may continue on your second opportunity. You may continue.

CHAMBERS: Here is what happened. They got an old white union leader to stand on the stage, an old, white preacher who wore what looked like Greek orthodox garments to stand on the stage. All of these old white men were up there, and Martin Luther King, who had been selected to do this, gave the speech. And Kennedy and the others had made it clear that by six o'clock we expect you to have all of these people off this mall and out of Washington, D.C., or on their way out. And that's what happened. That is the story, the true story behind this so-called march. Not one black woman was allowed to speak. At the state and local level black women were the ones who led out. They were the ones who showed a lack of fear. When the so-called Montgomery bus boycott took place and Martin Luther King got credit for that, black women were the backbone of that as they have been for most things in the way of organized protests and demonstrations by people in my community. And if some white women get offended at what I say, you think I care about that? If black men and women don't like what I say, you think I care about that? If they don't like what I say and the way I present it, they have a mouth. Let them speak. Let them speak, but just like I ignored those rural people-- let me give you a concrete example. When all these giveaway programs are going on and these big shot white men and their

Floor Debate
January 29, 2019

companies were getting the money, I talked to rural senators. And I said, here's what you all ought to do. Mention the depressed economic area of your region and make some money available for what you call these mom and pop stores on main street, the main streets which are shutting down, and get some of that money and I will offer the amendment. And you know what they told me? And I was angered by it. Well, we made some agreements with the people in Omaha and Lincoln not to do anything that would derail the bill. I said, what do you owe these people in Omaha and Lincoln that's more important than what you owe your own people? You're afraid to do it. I will take the flak, I will offer the amendment and I will fight for it. They said, well, Senator, we wish you wouldn't do it. So I talked about that on the floor, and I said if that's the way the rural people want it, let it be that way. But I want to publicize it so they can see the kind of people they sent down here supposedly to represent them. You think I would wait until somebody who is gay or lesbian to ask me to do what I know ought to be done to make sure they're not discriminated against because of their sexual orientation? That's not the kind of man that I am. I don't need people to come to me. And what do I care about you alls individual opinion? You are not big shots in this state. You're at the lower level of political activity. I'm going to start handing stuff out to show you that I have gotten far more national and international recognition and acclaim than anybody who has ever served not only on the floor of this Legislature but as a politician from Nebraska. An editorial was written in South Africa. The Rand Daily Mail, the biggest newspaper, alarmed that I was able to persuade the Nebraska Legislature to become the first Legislature--

FOLEY: One minute.

CHAMBERS: --to call for the divestment of public funds from corporations that do business in and with South Africa. Thank you, Mr. President.

FOLEY: Senator Chambers, you may be recognized for your third opportunity.

CHAMBERS: And you all are going to hear me, and if you don't want to hear, there's the door, there's the door, there's the door. I'm not like you. You can say whatever you want to. A challenge invites a response. The material that I hand out, do I think you'll read it? Certainly not, but it will be there for you. There will be headlines, national publications. People requesting help. Farm groups around the country. Not your Governor, not your Lieutenant Governor, not any farmers in Nebraska. I had an annual invitation for as long as I was able to accept it to speak to a farm youth group at Ames, Iowa, every year. And when they found out that contrary to what they thought, I do have a birthday every year, I came and they had this big cake, and I said, what's it for? They said, look at it and they put some complimentary things on it. And they only put one candle because I was so old based on what they thought of as age, and I wasn't nearly as old as I am now, they didn't want to put all those candles on it. So I said, what is that for? They

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

Floor Debate
January 29, 2019

said, want you to blow it out. I said, now I can give you a bit more advice. Don't eat any cake when somebody has blown out the candles because more than air comes out of their mouth, so I'm going to put that candle out, but I'm not going to blow it out, and I took my thumb and my forefinger and I squeezed the wick and let it go, but it put the candle out. They said they had never thought of it but they would do it that way from then on. A point was reached where I could not make that trek every year. But these are white children, all of them white, all of them from the farm community, and they reached out to me. Why? Because somebody from Iowa had heard me say some things on the floor of the Legislature and went back to Iowa and thought it would be good if their children had a chance to hear me. And you think I'm going to be worried about some of these old mossbacks and mossback asses say about me? People from Nebraska talk about they're going to go to Washington and change Washington. They can't change the minds of the people in their own community. So don't you all get too puffed up with your own importance that you think you have. Tell somebody you're a state Senator. What is that? I even had General Binder, who just died recently, set aside a military helicopter to fly me down to the-- to Kansas where that military base is because a young black kid whose father was a sergeant at Offutt had absconded. He was stationed down there and he left, and I was asked to help. I listened to the father, the young man contacted me. I talked to General Binder and we took a helicopter from the National Guard and flew down to Kansas. Some of you all know the name of the fort. I always think of Fort Leavenworth, but that's where I think they lock people up. But at any rate-- Fort Riley. Thank you. We were walking down the company street and there were officers from the base there, regular Army officers. There was General Binder, and there I was in the middle, kind of like a box around me, and when they had lunch I went to the lunchroom and these black guys came around. They said, man, did you escape? I said, what are you talking about?

FOLEY: One minute.

CHAMBERS: They said we saw you walking down the hall, down the company street with all these big officers and we figured that somebody who was dressed like you must have been somebody who escaped and you were under arrest. I said, no, I'm not under arrest. I came down here to look into the case of this young black man, and as it turned out I was able to help him. How many of you all have been invited to a camp to do that? Then in New Jersey there was a young black female who had a problem and one of the officers from Kansas told her to write to me because he was stationed up there and all I did was wrote a letter to the military, and her case was straightened out. How many of you have ever done that? You don't even know me. Mr. President, I'm not going to take all morning, but I want to sing one line of a song. [SINGING] No, you don't know me. And you never will. You never will. You deal with--

FOLEY: It's time.

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

Floor Debate
January 29, 2019

CHAMBERS: Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Senator Kolterman, you're recognized to close on LB33. He waives closing. The question for the body is the advance of the bill. Those in favor vote aye; those opposed vote nay. Have you all voted? Record, please.

CLERK: 42 ayes, 0 nays on the advancement of LB33 to E&R Initial.

FOLEY: LB33 advances. Proceeding now to Select File, Revisor bills. Mr. Clerk.

CLERK: Mr. President, first bill on Select File, LB1. Senator Slama, I have no amendments to the bill.

FOLEY: Senator Slama, you're recognized for a motion.

SLAMA: Mr. President, I move that LB1 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion. Those in favor say aye. Voice votes, members. Those in favor say aye. Those opposed say nay. LB1 advances. Next bill, Mr. Clerk.

CLERK: LB2, Mr. President. Senator Slama, I have no amendments to the bill.

SLAMA: Mr. President, I move that LB2 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance the bill. Those in favor say aye. Those opposed say nay. LB2 advances. Mr. Clerk.

CLERK: Mr. President, LB3. Senator, I do have Enrollment and Review amendments pending.

FOLEY: Senator Slama, you're recognized for a motion.

SLAMA: Mr. President, I move that the E&R amendments to LB3 be adopted.

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

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

Floor Debate
January 29, 2019

CLERK: I have nothing further on the bill, Senator.

FOLEY: Senator Slama.

SLAMA: Mr. President, I move that LB3 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB3. Those in favor say aye. Those opposed say nay. LB3 advances. Continuing with Select File. Mr. Clerk.

CLERK: LB12, Senator, I have no amendments to the bill.

FOLEY: Senator Slama for a motion.

SLAMA: Mr. President, I move that LB12 be advanced to E&R for engrossing.

FOLEY: Members, you heard the motion to advance LB12. Those in favor say aye. Those opposed say nay. LB12 advances. Next bill, Mr. Clerk.

CLERK: Mr. President, LB26. Senator, I have no amendments to the bill.

FOLEY: Senator Slama for a motion.

SLAMA: Mr. President, I move that LB26 be advanced to E&R for engrossing.

FOLEY: Senator Chambers, you're recognized.

CHAMBERS: Thank you, Mr. President. I would like to ask Senator Kolterman a question, if he would respond.

FOLEY: Senator Kolterman, would you yield, please?

KOLTERMAN: Yes, I will.

CHAMBERS: Senator Kolterman, who approached whom this morning? Did I approach you or did you approach me?

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

Floor Debate
January 29, 2019

KOLTERMAN: I approached you, Senator.

CHAMBERS: Had I said anything that would make you feel I had you in mind this morning?

KOLTERMAN: No.

CHAMBERS: But have you seen occasions when I would just be kind of minding my own business and somebody would approach me and it would stimulate me to make a comment or two?

KOLTERMAN: Absolutely.

CHAMBERS: When you came over here that was not your intention, was it?

KOLTERMAN: No, but I thought it might happen.

CHAMBERS: And here's all that I'm going to say because I forgot to mention it. Some of you may have some friends in the military. The commanding officer down there, I don't remember his first name, but it was Colonel Trail. And the reason I'll never forget his name, he had called me or I had called him. We were talking about something, and I recorded the conversation and sent him a transcript and he contacted me and said that was against the law. I said, no, in Nebraska if one party to a conversation is aware that there's taping, it can be done. So I just wanted to use this opportunity to use your bill again as I did today and day before yesterday to fill in a gap in the record. Thank you, Senator Kolterman. Thank you, Mr. President.

FOLEY: Thank you, Senator Chambers. Members, you've heard the motion to advance LB26 to E&R for engrossing. Those in favor say aye. Those opposed say nay. LB26 advances. Items for the record, Mr. Clerk.

CLERK: Mr. President, I do have a few things. Enrollment and Review reports LB67 to Select File. Your Committee on Banking, Commerce and Insurance reports LB70, LB78, and LB221 to General File without amendments. Have hearing notices from the Education Committee, the Business and Labor Committee, the Urban Affairs Committee, those all signed by their respective Chairs. Mr. President, the Revenue Committee will meet upon adjournment today in Room 2022, Revenue upon adjournment in Room 2022. Series of name adds: Senator Briese to LB139, Senator Linehan to LB378, Senator Gragert to LB424.

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

Floor Debate
January 29, 2019

Mr. President, I have a priority motion. Senator Pansing Brooks would move to adjourn the body until Wednesday, January 30 at 9:00 a.m.

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