

PRESIDENT: Senator Chambers, are you going to write this out right now? If you want to, we will be at ease until you get the amendment up on the desk. While we are doing that, the Chair will take this opportunity to introduce, I believe, the 39 fourth graders and four adults from Oakdale School, District #66 in Omaha, who are just coming in the North balcony. They are from the Districts of Senator Koch and Senator Wiitala with teachers, Miss Betty Jantz, Miss Deborah Bolay, Miss Trudy Breitag, the teachers. They are in the North balcony. Would you welcome the students and adults from Oakdale School District? Welcome to your Legislature.

PRESIDENT: Senator Chambers, do you wish to elaborate on your amendment? Read the amendment.

CLEKK: Mr. President, Senator Chambers moves to amend the Lamb amendment: Disobedience to unambiguous statutory provisions shall not be deemed reasonable or good faith action by a public official or employee.

SENATOR CHAMBERS: Mr. Chairman and members of the Legislature, the purpose of this amendment, I say again, is to take away from a public official or employee the unencumbered discretion to obey or disobey a statutory requirement. If we do not put in the amendment that I am offering, then any employee or official can simply disregard any statute he or she chooses, and if a citizen files a mandamus action and recovers, then the state or any other political subdivision is going to be compelled to pay the cost of that action. So by drafting the language to say "unambiguous statutory provision", it means that if a legitimate question exists relative to what the statute means, then in good faith and acting reasonably an employee or official may not act in the way that an aggrieved citizen feels he or she ought to act. But where we have a clear statutory duty placed on a public official that duty ought to be carried out, and if the official being aware of that duty chooses not to carry it out, there ought to be personal liability on such official or employee who does not act in accord with the unambiguous requirement of the statute. I ask that you accept this amendment to Senator Lamb's amendment, and if you do, the amendment in toto would indicate that only in the case of where unreasonableness or bad faith is shown will the official or employee be personally liable. In all other cases, the political subdivision would pay the costs.

PRESIDENT: The Chair recognizes Senator Lamb.