

CLERK: Mr. President, the next amendment I have would be then from Senator Vard Johnson. Senator Johnson would move to amend LB 548 by striking claim 181 found at lines 20-24 of the committee amendments.

SENATOR V. JOHNSON: Mr. Speaker, members of the body, the particular claim that I am seeking to strike is the claim of Warden Parratt and Deputy Warden Nance for \$2,903 to cover the judgement that they now have to pay out of their own pocket. When they got sued by Booker Robinson in the United States District Court for the District of Nebraska for failing to honor Booker Robinson's rights, constitutionally protected rights while Mr. Robinson was an inmate in the Nebraska penitentiary. I have placed on your desks a copy of Judge Schatz's decision in that case. Judge Schatz held that our state warden and our state deputy warden were guilty of deliberate indifference to the rights of Mr. Robinson and as a result of their indifference, their deliberate indifference to his rights, he had sustained constitutional denials and damages. The court entered a judgement against the two individual defendants for seven hundred and some odd dollars for the damage issue and in addition require the two defendants to pay the attorney fees and courts costs of the plaintiff. Now, I offered a similar amendment to this bill on General File and when I offered that amendment I did it very hastily because I had only had an opportunity a few minutes earlier to even note that this was in the claim matter. Since that time I have had occasion to do a little more research on this case to understand precisely what is at issue here. What very simply we have is we have two state employees charged with the responsibility of caring for one of our inmates who the court said were not just negligent in the way they cared for that inmate but were deliberately indifferent to the rights of the inmate and the inmate exercised his constitutional right by going to the United States District Court in Omaha, incidentally, before a very tough judge and the judge said without any question, this inmate spent twenty-eight days, he spent more time than that, but twenty-eight days in the "hole" when the warden and the deputy warden were aware of his condition. They failed to take any action to rectify his condition and they knew better and their conduct amounted to deliberate indifference of the right of that plaintiff and so the judge found for the plaintiff. Now, when that happens in one of these cases, the plaintiff under federal law is entitled to his attorney's fee. So what happens is that our Attorney General who defends the defendants comes into the court and says, see, judge, keep that attorney fee really low because in the end these two defendants have got to pay that fee out of their own pockets since the state doesn't have any reimbursement policy. So the judge takes that into consideration and keeps the fee at a very nominal level and then in this case, in this case, the Attorney