

April 16, 1982

LB 404

Board of Health into a department is as close as you possibly could come to LB 404 where the Commission on Aging is being changed to a department. Now if we are going to say that everytime we reorganize the executive division, I will contend again that commissions, boards, committees are executive according to Nebraska case law, if everytime we reorganize, simply change responsibilities, move one division to another, move responsibilities, change a title, we are saying that is the creation of a new state executive office and we are going to require 33 votes to change any of the structure of the executive branch. If this ruling stands, a small minority of this Legislature will be able to freeze the executive division of state government into its current form. I think the implications of that for this Governor and all future Governors of the State of Nebraska who wish to reorganize should be very clear to all of us here. I do not think that this constitutional provision applies in this case. I would argue that on the basis of Nebraska case law, on the basis of the precedent that I have seen in this Legislature. I think that this bill is being selected out for an application of the Constitution that has not been applied to other bills and I would urge again that you read the title of LB 404 and note the word that says "replacement" Commission on Aging with the Department on Aging. It did not take 33 votes to do this with the Department of Health. I cannot see how suddenly we need 33 votes to do it with the Commission on Aging.

SENATOR LAMB: Senator Cullan.

SENATOR CULLAN: Mr. President, I would urge the Chair to change its position. I think even though I am definitely going to vote against LB 404A I think the Chair is definitely incorrect. If you do remember the Department of Health issue last year, I think this is a very exactly an analogous situation. The Department exists whether you call it a commission or a department. We are simply changing the structure of it and I think that is not the intention of the restriction as far as the two-thirds vote is concerned. So I would urge the Chair to change its position so that we can take a vote on the issue at this time.

SENATOR LAMB: Senator Newell.

SENATOR NEWELL: Mr. President, how many more lights are on?

SENATOR LAMB: Just one more, Senator.

SENATOR NEWELL: Then let me speak very briefly. Mr. President, I can appreciate the difficulty of making that decision in such a brief period of time but it seems to me that had