

March 12, 1990

LB 1141  
LR 239

and there may be better ways of dealing with this appropriation process that are currently provided in LB 1141 or LR 239. But the appropriate spot is not to put this into the Constitution. The Constitution is forever, or at least until such time as we can go through the very cumbersome process of convincing 30 members of the Legislature and a majority of the voters that it should be changed. Keep in mind that the current interpretation of legislative authority to budget or not budget, to control university appropriations or not to control university appropriations, has been determined by a set of commas that exist in the Constitution today. The Exon decision, as I understand it, was based on punctuation of our current Constitution. Once we put something into this Constitution we, as a Legislature, lose any control over how that is interpreted in the future. That then becomes a matter of court interpretation, not a matter of Legislature coming back and fixing up its problems. If there is a need to change the way the appropriation procedure flows, vis a vis the Legislature and the Board of Regents and the various campuses, that is a debate that is appropriate for LB 1141, not a debate that ought to go into the Constitution. Because once this goes into the Constitution, it's there forever. I would strongly urge you to oppose this McFarland amendment, more strongly than I have any of the other amendments, because this is the one that really strikes at the heart of the balance of power between the university system...

PRESIDENT: One minute.

SENATOR WITHEM: ...and the Legislature.

PRESIDENT: Thank you. Senator McFarland, please, followed by Senator Crosby.

SENATOR MCFARLAND: Thank you, Mr. President. And I agree with Senator Withem, this really does, to a degree, strike at the heart of who has the final discretion on how funds are appropriated to the various institutions. And, philosophically, I think it is a crucial point, because in my view the Legislature of the State of Nebraska and the 49 members of it should not be some super board of regents, making funding decisions in final form, and thereby, in effect, governing the entire higher educational structure of our state. I think that Senator Withem may have misspoke when he said that the Legislature would not have...would be delegating the