

to Section 25-52001. The one that is on the books now is the general publication statute and what this measure puts into this section is that reference to our general statutes that say, when you use a general publication method, send that publication to known interested parties. The difference is this. If you are a known individual and are sent a copy of the notice, you have two months to comply. If you are a known individual but are not sent that notice, then you have three years to make your claim and that's appropriate. However, the current law would read...what it says, even if you are a known creditor and all that is done is the published notice method, and you are not sent a letter, you only have two months to reply. That reading of our current legislation is not only shortsighted, doesn't give creditors an appropriate form of relief, it is also unconstitutional. Our Nebraska Supreme Court, in interpreting this provision, simply missed, apparently, a U.S. Constitution, a U.S. Supreme Court decision in Tulsa Professional Collection Services v. Pope that said where you know the interested party, they must be sent notice before notice is adequate. To remedy that unconstitutional flaw, we simply reference not only the general publication notice but also the specific section now that requires known creditors to be sent letters indicating that they must make their claim. Once that is done, it will then be appropriate to use the current existing cutoff date of two months. To do so then, simply brings our current law into constitutional balance to reverse a shortsighted recent Supreme Court decision by our Nebraska Supreme Court that missed that application of this statute and to do what practitioners tell us is the minimum constitutional standard due to creditors in the administration of probates. I move the advancement of LB 95.

SPEAKER BAACK: Discussion, Senator Warner.

SENATOR WARNER: Mr. President, members of the Legislature, Senator Landis, I wonder if you'd expound a little bit on a question so I understand.

SPEAKER BAACK: Senator Landis.

SENATOR WARNER: I don't think we have clear from your explanation as to the responsibility of the personal representative in how they can find out known creditors to the estate. I mean, usually there are some obvious ones that you would know in connection with, last expenses, last illness or expenses, those kinds of things. I presume that there could be,