

April 10, 1996

LB 1076
LR 343

Attorney General together choose a party who is not in either camp, not in the Legislature's camp, not in the Governor's camp, not in the Attorney General's camp, and get some advice from that third person and, based upon that advice, decide whether to proceed or not to proceed. The matter is not abnormal. The Attorney General himself often chooses private attorneys to litigate this or that or make this or that legal decision. The Governor does the same thing. I don't think that there's anything abnormal or illegal about the process or unusual even about the process that has been chosen. That's what the amendment does. I was astounded by Senator Chambers' question because it was right on point and I was feeling bad that I had neglected to ask it, but having asked it, it seems to me that the answer to that builds a very strong case for not proceeding with this. The question he asked was, is there a statute of limitations that would apply to this? Remember, we had had all this discussion before about the fact that this could go on and on and on for 10 or 15 or 20 years. We need certainty. And I was arguing we don't need certainty if that's going to keep these people possibly from getting their benefits. Well, now we find out there's a two-year statute of limitations in LB 1076. Now there is a question still as to whether that statute of limitations can apply retroactively as well as prospectively. I think Senator Wickersham, in all fairness to Senator Wickersham, it should be said that question remains. But there is also a case to be made that once that two years expires it would apply to everything because it gives a fair two-year period for people who now know themselves or feel themselves to be slighted or treated illegally, it gives them two years to bring a case. To me, that kind of settles the matter. If two years is all you have to wait out and the danger on the other side is that the court will declare these payments illegal and dump a major problem on our heads, then I say wait out the two years. It's interesting how in this...in these arguments that we make on the floor, sometimes the same arguments, the same people will feel both ways. Senator Wehrbein, I felt that way about the arguments that you made today and I know other times I've been in the same situation. But you talk about the uncertainty of the statute of limitations and I guess I've talked about that a little bit already. You talked about the cost of a third party, a third party lawyer to make an assessment. Maybe it's three, four, five thousand dollars, something like that. But the cost of filing a lawsuit to me is a lot more and so I turn that around the other way in my own mind. And then you say the