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FLOOR DEBATE

February 13, 2003 LB 218  
LR 16

LB 218 by Senator Quandahl to be printed. (Legislative Journal pages 511-513.)

SENATOR CUDABACK: Move to General File.

CLERK: Mr. President, LR 16CA offered by Senator McDonald, it's a proposed constitutional amendment to Article IV, Section 1. Resolution was introduced on January 15, referred to the Government, Military and Veterans Affairs Committee for public hearing. The resolution was advanced to General File. I have no amendments at this time, Mr. President.

SENATOR CUDABACK: Senator McDonald, to open on LR 16CA.

SENATOR McDONALD: Mr. President and members, LR 16CA amends Article IV, Section 1 of the Nebraska Constitution. It clarifies that employees of political subdivisions who do not hold elective office are not executive officers of the state. Most of you are familiar with the 1991 Nebraska Supreme Court decision in Spire v. Conway. In that case, the Supreme Court determined that state colleges were part of executive branch. The court also said that an employee of a state college was a member of the executive branch within the scope of Article II of the Nebraska Constitution. As a result, employees from state colleges were not eligible to serve in the Legislature. The 5-2 decision resulted in Senator Gerald Conway giving up his assistant professorship at the Wayne State College but remaining in the Legislature. In Spire v. Conway, the court discussed a New Mexico appellate court decision that New Mexico's constitutional separation of powers did not prohibit certain political subdivision employees from serving in the New Mexico Legislature. The Supreme Court said Article II of the Nebraska Constitution, our separation of power provisions, are broader than the Nebraska provisions. Therefore, the New Mexico appellate court decision allowing certain political subdivision employees to serve in the Legislature did not apply to our constitution. LR 16CA amends Article IV, Section 1, to state that employees of political subdivisions who do not hold elective office are not members of the executive branch for purposes of Article II. LR 16CA, if LR 16CA were adopted by the voters, political subdivision employees could run for the