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based on constitutional requirements at that level, in the best judgment of all those people you had gathered to talk about this.

SENATOR BRASHEAR: Yes. And to answer your question, we're at 132 percent of system capacity now.

SENATOR BEUTLER: Right now. Okay. Now, you could have said in that provision that when the director certified this level, that he would simply give that certification to the parole board and they'd do their thing. Or at least I assume you could have had that option. Why is the Governor injected into this process?

SENATOR BRASHEAR: I think because the Department of Correctional Services falls under the executive branch of the government, and the Governor is the head of the executive branch of government. And this is an important...there's an important...

SPEAKER BROMM: One minute.

SENATOR BRASHEAR: ...consequence to the declaration of an emergency. And so I think we believed that it should be at the highest level of responsibility to the people.

SENATOR BEUTLER: But you don't intend the Governor to second-guess all these opinions of people that you've gathered that indicate 140 percent is the level at which we should do something. I mean, that's not...we're putting that into statute, which I assume means you intend that to be the judgment that should be functional here.

SENATOR BRASHEAR: Yes, sir.

SENATOR BEUTLER: But if that's the case, why would you put the Governor in a position...first of all, why have the Governor there? Well, you've explained that, I guess, in part. But what bothers me a little bit is that you're putting the Governor in the position of second-guessing that judgment with regard to the 140 percent of designed capacity, because you're saying the Governor "may" declare the emergency at that point, but...