

Transcript Prepared By the Clerk of the Legislature
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Floor Debate
March 11, 2015

[LB28 LB53 LB89 LB105 LB106 LB139 LB141 LB232 LB240 LB242 LB243 LB245 LB259
LB264 LB265 LB287 LB294 LB320 LB322 LB348 LB356 LB357 LB366A LB367 LB382
LB405 LB407 LB413 LB414 LB424 LB431 LB448 LB465 LB468 LB472 LB480 LB481
LB482 LB489 LB497 LB500 LB504 LB516 LB539 LB541 LB561 LB566 LB586 LB607
LB619 LB643 LB649 LR7CA LR93 LR94 LR95 LR96 LR97 LR98 LR99 LR100 LR101
LR102 LR103 LR104 LR105 LR110 LR111 LR112]

SPEAKER HADLEY PRESIDING

SPEAKER HADLEY: GOOD MORNING, LADIES AND GENTLEMEN. WELCOME TO THE GEORGE W. NORRIS LEGISLATIVE CHAMBER FOR THE FORTY-THIRD DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, FIRST SESSION. OUR CHAPLAIN FOR TODAY IS PASTOR JON SOLBERGER, IMMANUEL LUTHERAN CHURCH IN LOUISVILLE, NEBRASKA, SENATOR KINTNER'S DISTRICT. PLEASE RISE.

PASTOR SOLBERGER: (PRAYER OFFERED.)

SPEAKER HADLEY: THANK YOU. I CALL TO ORDER THE FORTY-THIRD DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, FIRST SESSION. SENATORS, PLEASE RECORD YOUR PRESENCE. ROLL CALL. MR. CLERK, PLEASE RECORD.

ASSISTANT CLERK: THERE IS A QUORUM PRESENT, MR. PRESIDENT.

SPEAKER HADLEY: THANK YOU, MR. CLERK. ARE THERE ANY CORRECTIONS FOR THE JOURNAL?

ASSISTANT CLERK: I HAVE NO CORRECTIONS THIS MORNING.

SPEAKER HADLEY: THANK YOU. ARE THERE ANY MESSAGES, REPORTS, OR ANNOUNCEMENTS?

ASSISTANT CLERK: THERE ARE, MR. PRESIDENT. YOUR COMMITTEE ON REVENUE REPORTS LB424 TO GENERAL FILE, AND LB356 TO GENERAL FILE WITH AMENDMENTS. SERIES OF PRIORITY BILL DESIGNATIONS: LB106 BY SENATOR WATERMEIER; LB294 BY SENATOR SCHEER; BANKING HAS SELECTED LB139 AND LB348; GROENE, LB367; SENATOR CAMPBELL, LB89; SENATOR SCHILZ ANNOUNCES THAT NATURAL RESOURCES HAS SELECTED LB141; RETIREMENT, LB468 AND LB448; SENATOR GARRETT HAS SELECTED LB643; SENATOR STINNER,

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LB561. IN ADDITION TO THAT, AMENDMENT TO BE PRINTED TO LB539 BY SENATOR CRAWFORD. AND THE BUSINESS AND LABOR HAS SELECTED LB480. AN ANNOUNCEMENT THAT THE STATE-TRIBAL RELATIONS COMMITTEE WILL MEET UNDER THE NORTH BALCONY AT 9:15; THAT'S THE STATE-TRIBAL RELATIONS COMMITTEE, 9:15, UNDER THE NORTH BALCONY. AND THAT'S ALL THAT I HAVE, MR. PRESIDENT. (LEGISLATIVE JOURNAL PAGES 787-792.) [LB424 LB356 LB106 LB294 LB139 LB348 LB367 LB89 LB141 LB468 LB448 LB643 LB561 LB539 LB480]

SPEAKER HADLEY: WHILE THE LEGISLATURE IS IN SESSION AND CAPABLE OF TRANSACTING BUSINESS, I PROPOSE TO SIGN AND DO HEREBY SIGN LR93, LR94, LR95, LR96, LR97, LR98, LR99, LR100, LR101, LR102, LR103, LR104, LR105. (VISITORS INTRODUCED.) COOKIES ARE BEING HANDED OUT FOR SENATOR SEILER'S BIRTHDAY. SENATOR SEILER. A ROUND OF APPLAUSE. MR. CLERK. [LR93 LR94 LR95 LR96 LR97 LR98 LR99 LR100 LR101 LR102 LR103 LR104 LR105]

ASSISTANT CLERK: MR. PRESIDENT, MOVING TO GENERAL FILE, THE FIRST BILL THIS MORNING IS LB242, INTRODUCED BY SENATOR STINNER. (READ TITLE.) THE BILL WAS REFERRED TO THE AGRICULTURE COMMITTEE. THAT COMMITTEE PLACED THE BILL ON GENERAL FILE WITH COMMITTEE AMENDMENTS. THE BILL HAS BEEN CONSIDERED PREVIOUSLY AT WHICH TIME THE COMMITTEE AMENDMENTS WERE NOT ADOPTED. [LB242]

SPEAKER HADLEY: SENATOR STINNER, YOU'RE RECOGNIZED TO GIVE US AN OPENING ON YOUR BILL. YOU WILL HAVE 5:00. [LB242]

SENATOR STINNER: THANK YOU, MR. PRESIDENT. GOOD MORNING, MEMBERS OF THE LEGISLATURE, AND GOOD MORNING, NEBRASKA. ON BEHALF OF THE DRY BEAN GROWERS ASSOCIATION, IT IS MY PRIVILEGE TO PRESENT LB242. DRY EDIBLE BEANS ARE A VERY IMPORTANT AGRICULTURAL COMMODITY GROWN IN MY DISTRICT AND THE DISTRICTS OF SENATOR SCHILZ, HUGHES, DAVIS, GROENE, AND LARSON. APPROXIMATELY 500 FARMERS AND 15 DIFFERENT PROCESSORS ARE INVOLVED IN THE BEAN INDUSTRY. NEBRASKA RANKS THIRD IN COMMERCIAL DRY BEAN PRODUCTION AND ACCOUNTS FOR 11 PERCENT OF THE U.S. DRY BEAN CROP. IN 2012, NEBRASKA HARVESTED DRY BEANS VALUED AT \$117,700. THIS BILL IS A CULMINATION OF OVER A YEAR'S WORTH OF WORK BY THE COMMISSION AND THE DRY BEAN GROWERS ASSOCIATION. IN BRIEF, LB242 PROPOSES THE FOLLOWING: THE CHECKOFF TO BE RAISED FROM...THE CURRENT MAXIMUM ALLOWED OF 10 CENTS PER HUNDREDWEIGHT TO 15 CENTS PER HUNDREDWEIGHT AS OF AUGUST 1, 2015, WITH THE AUTHORITY FOR THE

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COMMISSION TO ADJUST THE ASSESSMENT WITHIN A 24-CENT MAXIMUM. IT PROPOSES THE REPEAL OF THE REFUND PROVISION WHICH WILL HARMONIZE DRY BEANS WITH WHEAT, CORN GROWERS, AND OTHER AGRICULTURAL GROUPS. IT AMENDS THE LAW REGARDING THE PUBLICATION OF ANNUAL REPORTS AND ITS CONTENTS. AND IT AMENDS THE PROVISION OF THE COMMISSION'S CASH FUND AND SPECIFIES RECEIPTS TO BE CREDITED TO THE FUND, INCLUDING LICENSE FEES, ROYALTIES, AND REPAYMENTS. I WOULD ALSO LIKE TO MAKE ADDITIONAL COMMENTS FOR THE RECORD. IT'S BEEN CONTENDED BY SENATOR LARSON THAT NONREFUNDABILITY EQUATES TO TAXATION WITHOUT REPRESENTATION. I BELIEVE THAT PREMISE IS MISGUIDED, AND LET ME TRY TO EXPLAIN. FIRST, FROM THE TAX ASPECT, THIS IS AN EXCISE TAX, NOT AN INCOME TAX, NOT A PROPERTY TAX, NOT A SALES TAX. IT'S A TAX FOR A SERVICE TO BE RENDERED ON BEHALF OF THE DRY BEAN GROWERS. THE SECOND ISSUE IS NONREFUNDABILITY. FIRST, NONREFUNDABILITY CLAUSE WILL BRING THE DRY BEAN GROWERS INTO PARITY WITH SIMILAR AGRICULTURAL ORGANIZATIONS. AND YOU MAY ASK, WHY NONREFUNDABILITY? THESE COMMISSIONS BY STATUTE ARE DIRECTED TO INVEST IN RESEARCH, DEVELOPMENT, MARKETING, AND EDUCATION, WHICH MEANS THAT MANY TIMES THEY HAVE TO ENTER INTO LONG-TERM CONTRACTS. AND WHEN YOU ENTER INTO LONG-TERM CONTRACTS, I THINK EVERYBODY KNOWS THAT YOU NEED A VERY STABLE INCOME SOURCE IN ORDER TO PROVIDE THE...IN ORDER TO PROVIDE THE SUPPORT THAT'S IMPORTANT FOR THIS FUNCTION. CONCERNING REPRESENTATION, I WENT BACK AND READ THE DRY BEAN RESOURCES ACT OF 1987 THIS LAST WEEKEND. THE ACT STARTS OUT WITH SECTION 2-3736, PURPOSE OF THE ACT. AND LET ME READ THAT TO YOU. THE PURPOSE OF THE ACT: THE LEGISLATURE FINDS AND DECLARES THAT IT IS IN THE PUBLIC WELFARE OF THE STATE OF NEBRASKA THAT GROWERS AND PROCESSORS OF DRY BEANS BE PERMITTED AND ENCOURAGED TO DEVELOP, CARRY OUT, AND PARTICIPATE IN PROGRAMS OF RESEARCH, EDUCATION, AND PROMOTION OF DRY BEANS AND DRY BEAN PRODUCTS. IT IS THE PURPOSE OF THE DRY BEAN RESOURCES ACT TO PROVIDE THE AUTHORIZATION AND NECESSARY PROCEDURES BY WHICH DRY BEAN GROWERS AND PROCESSORS IN THIS STATE MAY FINANCE PROGRAMS TO ACHIEVE THE PURPOSE EXPRESSED IN THIS SECTION. [LB242]

SPEAKER HADLEY: ONE MINUTE. [LB242]

SENATOR STINNER: THANK YOU. LET ME GO ON WITH THE ACT AND THE PARTS OF THE ACT. THE DRY BEAN RESOURCES ACT OF 1987 CALLS FOR A NINE-MEMBER BOARD APPOINTED BY THE GOVERNOR OF THE STATE OF NEBRASKA.

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AND THE LAST TIME I LOOKED, THE GOVERNOR WAS APPOINTED BY VOTE OF THE PEOPLE. THE BOARD IS MADE UP OF FOUR GROWERS, THREE PROCESSORS, AND TWO AT-LARGE GROWERS. THE REGIONS ARE DIVIDED INTO DISTRICTS BASED ON PRODUCTION WITH EACH DISTRICT GETTING ONE APPOINTED GROWER REPRESENTATIVE. ALSO DISTRICT ONE AND TWO GET AN AT-LARGE AND DISTRICT THREE AND FOUR GET AN AT-LARGE REPRESENTATIVE. ADDITIONALLY, THE ACT CALLS FOR THE DIRECTOR OF THE UNIVERSITY OF NEBRASKA PANHANDLE RESEARCH AND EXTENSION CENTER TO BE AN EX OFFICIO MEMBER. THIS IS THE PROCESS THAT YOU MUST GO THROUGH TO GET PLACED ON THE BALLOT. SECTION... [LB242]

SPEAKER HADLEY: TIME, SENATOR. [LB242]

SENATOR STINNER: ...2-3747, NEBRASKA STATUTE SAYS, AND I QUOTE, ANY... [LB242]

SPEAKER HADLEY: TIME, SENATOR. MR. CLERK. [LB242]

ASSISTANT CLERK: MR. PRESIDENT, THE FIRST ITEM FOR CONSIDERATION IS A PRIORITY MOTION. SENATOR LARSON WOULD MOVE TO BRACKET THE BILL UNTIL MAY 31. [LB242]

SPEAKER HADLEY: SENATOR LARSON, YOU'RE RECOGNIZED TO OPEN ON YOUR BRACKET MOTION. [LB242]

SENATOR LARSON: THANK YOU, MR. PRESIDENT. I BELIEVE THAT WAS A UNANIMOUS CONSENT MOTION? [LB242]

SPEAKER HADLEY: SO ORDERED. [LB242]

SENATOR LARSON: DO I STILL OPEN ON THAT? [LB242]

SPEAKER HADLEY: OKAY. THERE IS...BEEN ASKED FOR UNANIMOUS CONSENT TO BRACKET. IS THERE AN OBJECTION? THERE HAS BEEN AN OBJECTION. [LB242]

SENATOR LARSON: COME ON, ERNIE. [LB242]

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SPEAKER HADLEY: SENATOR LARSON. [LB242]

SENATOR LARSON: THERE'S AN OBJECTION. THEREFORE, THE MOTION FAILS, CORRECT? [LB242]

CLERK: SENATOR, THERE WAS A UNANIMOUS CONSENT REQUEST THAT WAS...THERE WAS AN OBJECTION FILED. IT IS NOW YOUR OPTION TO OFFER IT AS A MOTION, OR WE MOVE ON TO THE NEXT AMENDMENT. [LB242]

SENATOR LARSON: I'LL MOVE ON. [LB242]

CLERK: MOVE ON TO THE NEXT AMENDMENT, YES, SIR. MR. PRESIDENT, SENATOR LARSON WOULD MOVE TO AMEND WITH AM701. [LB242]

SENATOR LARSON: I'D MOVE THAT WE PASS OVER AM701 AND AM702 FOR SENATOR BLOOMFIELD'S AMENDMENT FIRST. [LB242]

SPEAKER HADLEY: ORDERED. [LB242]

CLERK: SO YOU WANT TO PASS OVER AM701 AND AM702, SENATOR. IS THAT RIGHT? [LB242]

SENATOR LARSON: YES. SENATOR BLOOMFIELD CAN DO HIS AMENDMENT FIRST. [LB242]

CLERK: SENATOR BLOOMFIELD IS GOING TO OFFER HIS AMENDMENT ON SELECT FILE, SENATOR LARSON. SO I'M BACK NOW TO SENATOR STINNER, YOUR AMENDMENT, SENATOR, AM748. (LEGISLATIVE JOURNAL PAGES 793-794.) [LB242]

SPEAKER HADLEY: SENATOR STINNER, YOU'RE RECOGNIZED TO OPEN ON AM748. [LB242]

SENATOR STINNER: THANK YOU, MR. PRESIDENT. MEMBERS OF THE LEGISLATURE, AM748 IS AN AMENDMENT INTENDED TO ADDRESS THE LEGAL AND PERHAPS CONSTITUTIONAL ISSUES THAT HAVE BEEN RAISED IN THE DEBATE. ITS LANGUAGE IS TO PRODUCE...IS A PRODUCT OF DISCUSSION WITH SENATOR SCHUMACHER AND THE STAFF OF THE AGRICULTURE COMMITTEE.

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WHAT AM748 DOES IS THE FOLLOWING: IT LOWERS THE AMOUNT THE DRY BEAN COMMISSION MAY EXPEND TO INFLUENCE FEDERAL LEGISLATION FROM 25 (PERCENT) TO 15 PERCENT. THE DRY BEAN GROWERS ASSOCIATION, THE FARM BUREAU, AND I HAVE AGREED TO THIS CHANGE. THIS CHANGE WAS ADOPTED BY THE AGRICULTURE COMMITTEE AND WAS A PART OF THE COMMITTEE AMENDMENT. THIS CHANGE SHOULD BE ADOPTED AND HAS MY SUPPORT. IT ADDS IMPORTANT CLARIFYING LANGUAGE AS FOLLOWS: THE PURPOSE OF SUCH EXPENDITURES OF FEDERAL LOBBYING ACTIVITIES SHALL BE LIMITED TO ACTIVITY SUPPORTING THE UNDERLYING OBJECTIVE OF THE DRY BEAN PROGRAM RELATED TO MARKETING...MARKET DEVELOPMENT, EDUCATION, AND RESEARCH. I DO NOT CLAIM TO BE AN ATTORNEY, BUT LEGAL COUNSEL ADDED THIS ADDITIONAL LANGUAGE THAT WILL CLARIFY THE FEDERAL STATUTES THAT ARE GERMANE TO THE PURPOSE, HELP TO JUSTIFY THE GOVERNMENT'S ROLE TO FACILITATE PRODUCER ORGANIZATIONS. IN PRACTICE, THE DRY BEAN COMMISSION HAS ONLY MADE EXPENDITURES THAT ARE GERMANE TO THE PURPOSE AND THIS LANGUAGE WOULD MAKE IT ABSOLUTELY CLEAR. THANK YOU. [LB242]

SPEAKER HADLEY: SENATOR STINNER, YOU'RE RECOGNIZED. SENATOR STINNER, YOU'RE NEXT IN THE QUEUE AND RECOGNIZED. [LB242]

SENATOR STINNER: THANK YOU, MR. PRESIDENT. I WILL CONCLUDE, THIS...AS I WAS TRYING TO STATE THE LAST TIME I WAS HERE, I WAS TRYING TO STATE THE CASE AND BRING EVERYBODY UP TO SPEED WITH THE REGULATION AND WHAT THE REGULATION WAS TRYING TO DO FOR THE DRY BEAN GROWERS AND CERTAINLY FOR THE STATE OF NEBRASKA. THE PROCESS IN WHICH A GROWER MUST GO THROUGH TO GET PLACED ON A BALLOT IS EMBEDDED IN SECTION 2-3747 OF THE NEBRASKA STATUTES, WHICH SAYS, AND I QUOTE: ANY GROWER MAY PLACE HIS OR HER NAME ON THE CANDIDACY LIST FOR APPOINTMENT AS A GROWER MEMBER OF THE COMMISSION BY FILING A PETITION SIGNED BY AT LEAST TEN RESIDENT BEAN GROWERS FROM THE DISTRICT HE OR SHE RESIDES IN. QUALIFICATIONS ARE: THE COMMISSION MEMBERS ARE APPOINTED ON A NONPARTISAN BASIS. GROWER REPRESENTATIVES SHALL BE GROWERS WHO ARE CITIZENS OF THE STATE OF NEBRASKA, ARE AT LEAST 21 YEARS OF AGE. THREE, YOU MUST ACTUALLY HAVE BEEN ENGAGED IN GROWING DRY BEANS IN THE STATE FOR AT LEAST THREE YEARS, AND DERIVE A SUBSTANTIAL PORTION OF THEIR INCOME FROM GROWING DRY BEANS. A CANDIDACY'S PETITION MUST CARRY THE SIGNATURES OF AT LEAST TEN DRY BEAN GROWERS IN REPRESENTED COUNTIES AND ACCOMPANY THE GROWER REPRESENTED APPLICATION. THIS ACTUALLY WAS AN ARTICLE THAT I USED OUT OF THE...OR

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OUT OF THE SCOTTSBLUFF STAR-HERALD. THEY'RE ASKING FOR ADDITIONAL CANDIDATES IN DISTRICT ONE AND I BELIEVE DISTRICT TWO OR THREE. ALSO, IN THE LEGISLATOR'S GUIDE TO NEBRASKA STATE AGENCIES, PAGE 483, AGENCY 86, DRY BEAN COMMISSION, PROGRAM 137, IT STATES, "PROGRAM OBJECTIVES-- TO FOSTER COOPERATION WITH AND PARTICIPATE IN ORGANIZATIONS OF DRY BEAN PRODUCING AREAS." AND SINCE WESTERN NEBRASKA IS THE ONLY AREA IN THE STATE, IT'S REFERRING TO WORKING WITH THE DRY BEAN GROWERS ASSOCIATION, SO YOU HAVE THAT DIRECT TIE. "TO SERVE AS A FORUM FOR AND TO SOLICIT INPUT FROM PRODUCERS AND PROCESSORS OF DRY BEANS." ITEM (6) IN SECTION 2-3753, THE...IT STATES POWERS AND DUTIES UNDER NUMBER (6), "TO ESTABLISH A MEANS WHEREBY THE GROWER AND PROCESSOR OF DRY BEANS HAS THE OPPORTUNITY AT LEAST ANNUALLY TO OFFER HIS OR HER IDEAS AND SUGGESTIONS RELATIVE TO COMMISSION POLICY FOR THE COMING YEAR." THAT'S TO ESTABLISH AND SOLICIT A FORUM FOR EACH INDIVIDUAL PERSON TO REGISTER THEIR CONCERNS. ADDITIONAL LANGUAGE I THOUGHT WAS FAIRLY INTERESTING AND RESTRICTIVE, SECTION 2-3764, NUMBER THREE: THE COMMISSION SHALL NOT SET UP RESEARCH AND DEVELOPMENT UNITS OR AGENCIES OF THEIR OWN BUT SHALL LIMIT THE ACTIVITIES TO COOPERATION WITH THE UNIVERSITY OF NEBRASKA INSTITUTE OF AGRICULTURE AND NATURAL RESOURCES AND OTHER LOCAL, STATE, AND NATIONAL ORGANIZATIONS, PUBLIC AND PRIVATE, IN CARRYING OUT THE PURPOSE OF THE DRY BEAN RESOURCES ACT. IN OTHER WORDS, COMMISSION, USE WHAT'S ON THE GROUND TODAY AND INTERFACE WITH THAT IN ORDER TO CARRY OUT YOUR MISSION. SO THE ACT HAS BEEN CAREFULLY CRAFTED TO PROVIDE FOR GROWER REPRESENTATION AND PARTICIPATION AND DIRECTS THE COMMISSION TO UTILIZE RESOURCES THAT ARE ALREADY DEVELOPED, I.E., PANHANDLE EXTENSION DIVISION AND THE NEBRASKA BEAN GROWERS ASSOCIATION. IN CONCLUSION, SENATOR LARSON'S CONTENTION OF TAXATION WITHOUT REPRESENTATION IS FLAWED. THERE ARE NUMEROUS EXAMPLES OF TAXATION WITHOUT REPRESENTATION. TAKE THE ABSENTEE LANDOWNER IN A SCHOOL DISTRICT. DID THEY GET TO VOTE IN THE LAST... [LB242]

SPEAKER HADLEY: ONE MINUTE. [LB242]

SENATOR STINNER: ...BOND ISSUE? NO. DID THE DEVELOPER THAT MUST COMPLY WITH THE CITY RULES AND REGULATIONS, EVEN THOUGH HE IS IN A TWO-MILE RADIUS OUTSIDE OF A CITY, DID HE GET THE OPPORTUNITY TO ELECT COUNCILMEN? NO. THESE ARE JUST TWO EXAMPLES OF WHERE PEOPLE HAVE TO COMPLY, THEY DON'T HAVE A VOTE, AND THEY STILL HAVE TO PAY TAXES. THANK YOU. [LB242]

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SPEAKER HADLEY: (DOCTOR OF THE DAY INTRODUCED.) SENATOR LARSON, YOU'RE RECOGNIZED. [LB242]

SENATOR LARSON: THANK YOU, COLLEAGUES. AM748 DOESN'T FIX THE CONSTITUTIONAL CONCERNS THAT ARE UNDERPINNING LB242, ESPECIALLY CONCERNING THE...AS WE LOOK AT WHAT THE SUPREME COURT DID WITH THE LAUTENBAUGH DECISION. IT MAKES IT SOMEWHAT BETTER, BUT IT IS STILL FACING CERTAIN CONSTITUTIONAL ISSUES. WOULD SENATOR SCHUMACHER YIELD TO A QUESTION? [LB242]

SPEAKER HADLEY: WOULD SENATOR SCHUMACHER YIELD? [LB242]

SENATOR SCHUMACHER: YES. [LB242]

SENATOR LARSON: SENATOR SCHUMACHER, SPECIFICALLY CONCERNING WHAT THE LAUTENBAUGH DECISION WAS, AND HOW WE CAN LOOK INTO IT, AND OBVIOUSLY THE COURTS WILL HAVE THE LAST SAY, BUT AM748 MAKES IT MAYBE A LITTLE MORE PALATABLE THAN MOVING FROM 25 (PERCENT) TO 15 (PERCENT), BUT IT DOESN'T DEAL WITH THE REPRESENTATION ISSUE AND THE VOTING ISSUE AND BEING ABLE TO HAVE TRUE REPRESENTATION ON THE BOARD, DOES IT? [LB242]

SENATOR SCHUMACHER: AS I READ THE AMENDMENT, THAT ISSUE IS NOT ADDRESSED BY IT. [LB242]

SENATOR LARSON: ALL RIGHT. THANK YOU. SO, COLLEAGUES, HEREIN LIES THE ISSUE THAT YOU HEAR FROM SENATOR STINNER THAT THIS TAKES CARE OF THE CONSTITUTIONAL CONCERNS, YET IT DOESN'T. WILL SENATOR STINNER YIELD TO A QUESTION? [LB242]

SPEAKER HADLEY: SENATOR STINNER, WILL YOU YIELD TO A QUESTION? [LB242]

SENATOR LARSON: YES? [LB242]

SPEAKER HADLEY: I ASKED IF SENATOR STINNER WOULD YIELD TO A QUESTION? [LB242]

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SENATOR STINNER: I'M HERE. YES. [LB242]

SENATOR LARSON: OKAY. THANK YOU, SENATOR STINNER. I UNDERSTAND...I UNDERSTAND THE CONCEPT THAT YOU'RE TRYING TO PULL THIS DOWN IN TERMS OF WANTING TO MAKE IT MORE CONSTITUTIONAL AND, YOU KNOW, I HEAR THE ARGUMENT ABOUT THE SCHOOL BONDS. YOU KNOW, I OWN PROPERTY IN A CERTAIN SCHOOL DISTRICT. BUT THOSE INDIVIDUALS STILL VOTE IN OTHER SCHOOL DISTRICTS WHERE THEIR ACTUAL VOTING RESIDENCE IS. WITH THE DRY BEAN COMMISSION, THEY'RE NEVER ACTUALLY...THEY NEVER ACTUALLY HAVE THE ABILITY TO VOTE OR OBJECT TO ANY REPRESENTATIVE AS AN INDIVIDUAL, DO YOU? [LB242]

SENATOR STINNER: YOU KNOW, I DO BELIEVE THAT, AS I READ THE STATUTES, THEY TOOK CARE TO SAY THIS PERSON HAS TO HAVE...EVERYBODY HAS TO HAVE AND THE COMMISSION NEEDS TO PUT TOGETHER A FORUM SO EVERYBODY CAN HAVE THEIR OPPORTUNITY TO EITHER PROTEST A PERSON, PROTEST A DECISION, OR AGREE, OR TO ADD ON AND SAY WE NEED TO DO SOMETHING. SO IT IS PRETTY REPRESENTATIVE. [LB242]

SENATOR LARSON: BUT IN THE END... [LB242]

SENATOR STINNER: IT WAS VERY CAREFULLY CRAFTED TO ALLOW FOR REPRESENTATION. [LB242]

SENATOR LARSON: SENATOR STINNER, BUT IN THE END... [LB242]

SENATOR STINNER: AND IT'S VERY EASY...CRAFTED TO MAKE SURE THAT WE'RE USING EVERYTHING THAT'S ON THE GROUND. [LB242]

SENATOR LARSON: SENATOR STINNER, THIS IS MY TIME. SENATOR STINNER, THIS IS MY TIME. BUT IN THE END, THAT YOU...THEY HAVE NO...THEY HAVE THE ABILITY TO PROTEST, BUT THEY CAN'T ESSENTIALLY HAVE ANY VOICE. THEY CAN'T GET RID OF A BOARD MEMBER. THEY CAN'T, ONLY THE GOVERNOR CAN DO THAT. THE GOVERNOR MAY NOT BE ABLE TO REAPPOINT THAT BOARD MEMBER. IN THE END A DRY BEAN GROWER DOES NOT HAVE THE FINAL VOICE ON WHAT THE DRY BEAN COMMISSION DOES AND THEY HAVE NO WAY TO PROTEST IN A MEANINGFUL WAY, BECAUSE THEY DO NOT HAVE PURE REPRESENTATION ON THIS ISSUE. THEY MAY BE ABLE TO GO AND SAY, HEY, WE

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DISAGREE WITH THIS, BUT THEY DON'T GET A VOTE ON THE DRY BEAN MEMBERS. THEY MIGHT BE ABLE TO SAY, WE DISAGREE WITH X, BUT THE DRY BEAN MEMBERS DO WHATEVER THEY WANT AND THEY HAVE NO REPERCUSSIONS FROM INDIVIDUALS. THIS IS A TAXATION WITHOUT REPRESENTATION. [LB242]

SPEAKER HADLEY: ONE MINUTE. [LB242]

SENATOR LARSON: AND THEREIN LIES THE KEY DIFFERENCE. WE HEAR ABOUT MAYBE THE CONCEPT OF, AGAIN, BEING AN ABSENTEE LANDOWNER, BUT THAT INDIVIDUAL DOES HAVE THE OPPORTUNITY TO VOTE FOR A SCHOOL BOARD MEMBER, OR THEIR BOND ISSUES, WHERE THEY ARE REGISTERED TO VOTE. THERE IS NO MECHANISM AND THEY WILL NEVER HAVE AN OPPORTUNITY TO VOTE OR HAVE A SAY IN WHO REPRESENTS THEM ON THE DRY BEAN BOARD. I UNDERSTAND THAT THEY MAY HAVE TO COLLECT SIGNATURES, BUT ONCE THOSE SIGNATURES ARE COLLECTED, THAT THEY CAN MOVE FORWARD. SO HEREIN LIES THE ISSUE THAT THIS IS A TAX INCREASE, BECAUSE THIS IS A TAX, THAT IS TAKING AWAY AN INDIVIDUAL'S RIGHT TO REQUEST A REFUND BECAUSE THEY DON'T HAVE AN ELECTED BOARD MEMBER. [LB242]

SPEAKER HADLEY: TIME, SENATOR. [LB242]

SENATOR LARSON: THANK YOU. [LB242]

SPEAKER HADLEY: SENATOR HUGHES, YOU'RE RECOGNIZED. [LB242]

SENATOR HUGHES: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. I RISE IN SUPPORT OF AM748. THIS IS A COMPROMISE THAT I'M WILLING TO MAKE ON THIS BILL. I DID NOT LIKE THIS PART OF THE COMMITTEE AMENDMENT, THERE WERE TWO PARTS TO THAT. IN AN EFFORT TO MAKE SURE THAT THIS BILL DOESN'T TAKE UP AN INORDINATE AMOUNT OF TIME FOR THE BODY, THIS IS ONE THAT I'M WILLING TO ACCEPT. I WOULD URGE MY COLLEAGUES TO VOTE IN FAVOR OF THIS, AND ULTIMATELY PASS LB242 ON TO SELECT. THANK YOU. [LB242]

SPEAKER HADLEY: SENATOR SCHUMACHER, YOU ARE RECOGNIZED. [LB242]

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SENATOR SCHUMACHER: THANK YOU, MR. SPEAKER AND MEMBERS OF THE BODY. I THINK THE INCORPORATION OF MUCH OF SENATOR LARSON'S AMENDMENT IN RESPECT TO WHAT NOW APPEARS IN AM748 ACCOMPLISHES A LOT. SENATOR LARSON IS CORRECT IN SAYING IT DOESN'T ADDRESS THE PARTICULAR ISSUE OF ELECTABILITY, OR WHETHER OR NOT THE BOARD SHOULD BE ELECTED BY POPULAR VOTE OR BY REPRESENTATION OR APPOINTED. AND INITIALLY, WHEN I LOOKED AT THIS, THIS SEEMED TO LOOK A LOT LIKE THE LAUTENBAUGH CASE. AND THE LAUTENBAUGH CASE WAS RECENT AND ON MY MIND. WENT BACK AND WE DID SOME RESEARCH, AND THERE'S EARLIER CASES IN KIND OF SIMILAR AREAS WHICH SEEMED TO SUGGEST THAT THE BILL WOULD BE CONSTITUTIONAL. QUITE FRANKLY, WE ARE NOT IN THE POSITION TO DO CONSTITUTIONAL RESEARCH ON BOTH SIDES, NOR ARE WE OF THE PAY GRADE TO MAKE A DECISION. THAT'S LEFT TO THE COURTS. AND I WOULD SUGGEST AT THIS TIME AS FAR AS THE CONSTITUTIONALITY OF THE ELECTION MECHANISM OR APPOINTMENT MECHANISM IS CONCERNED, WE USE THE RULE THAT A STATUTE IS CONSTITUTIONAL UNTIL THE COURT SAYS OTHERWISE, IT'S PRESUMED TO BE CONSTITUTIONAL, AND LET THE COURTS DO THEIR JOB AND THE LAWYERS DO THEIR JOB, AND IF SOMEBODY FEELS PUT OUT BY THE FACT THAT THEY COULD NOT VOTE ON THE ISSUE, THE DOOR TO THE COURTROOM IS OPEN AND THEY CAN PLEAD THEIR CASE TO THE COURTS. MEANWHILE, I THINK IT'S PRETTY EVIDENT, EXCEPT FOR THE ELECTION ISSUE, THAT THIS A GOOD PIECE OF LEGISLATION. AND I WOULD SUGGEST THAT WE LET THE CONSTITUTIONAL ISSUE UP TO THE COURTS, IF INDEED SOMEBODY EVEN CARES TO RAISE IT. THANK YOU. [LB242]

SPEAKER HADLEY: SENATOR LARSON, YOU'RE RECOGNIZED. [LB242]

SENATOR LARSON: THANK YOU, MR. PRESIDENT. I'LL BE MORE THAN HAPPY TO RAISE THE CONSTITUTIONAL CONCERN. AS A MATTER OF FACT, THIS WEEKEND ON MY WAY BACK TO O'NEILL I STOPPED AT SAM'S CLUB IN GRAND ISLAND AND I'M WALKING THROUGH, PICKING UP SOME ITEMS FOR MY WIFE. AND THERE I SAW A 5 BY 5 RAISED GARDEN BED EXACTLY LIKE THE ONE THAT I BOUGHT FOR HER TWO YEARS AGO. AND SHE HAD BEEN SAYING THAT SHE WANTED MORE SPACE. SO I INVESTED THAT \$35 IN AN EXTRA 5 BY 5 RAISED GARDEN BED. I'M PRETTY SURE THAT IN AT LEAST ONE OF THOSE QUADRANTS OF THAT NEW 5 BY 5 RAISED GARDEN BED THERE WILL BE SOME DRY BEANS. AND I WILL SELL THOSE DRY BEANS. AND I WILL PAY MAYBE MY 1 OR 2 PENNIES WORTH OF CHECKOFF AND I WILL TAKE STANDING. AND ONCE I'VE PAID MY 1 OR 2 CENTS OF CHECKOFF AND TAKE STANDING, ALL OF A SUDDEN I THINK WE'LL HAVE AN ISSUE. AND WITH THAT ISSUE, WE WILL HAVE A CASE. AND I WILL BE EXCITED

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TO TAKE A LESSON IN LEGAL FRAMEWORK ON HOW TO DO THIS WITHOUT A LAW DEGREE. AND WE'RE GOING TO WANT TO BE CAREFUL ON THIS SUBJECT BECAUSE IF THIS DOES GET STRUCK DOWN AS UNCONSTITUTIONAL, WHICH I BELIEVE IT WILL, THE CORN BOARD WILL AUTOMATICALLY BE UNCONSTITUTIONAL AS WELL. AND THAT'S NOT JUST \$300,000. THAT'S GOING TO BE CLOSE TO \$2 (MILLION) OR \$3 MILLION AUTOMATICALLY. SO ARE WE WILLING, AS A BODY, AND IT LOOKS AS THOUGH WE MIGHT BE, TO TAKE THAT RISK OF PASSING SOMETHING THAT WE, AT THIS POINT, PROBABLY KNOW WILL BE CHALLENGED AND RISK TWO COMMODITY CHECKOFF PROGRAMS FOR 2 PERCENT OF DRY BEAN PEOPLE THAT DON'T WANT TO PAY IT, BECAUSE THEY DON'T FEEL THAT WHAT IS HAPPENING IS RIGHT, OR WHAT THE BOARD IS DOING IS RIGHT? JUST BECAUSE A MAJORITY OF PEOPLE WANT TO FORCE THEM, BECAUSE THEY DON'T THINK IT'S RIGHT THAT THEY DON'T PAY, AND THEY CAN CALL IT THE TRAGEDY OF THE COMMONS OR WHATEVER ELSE THEY WANT TO, BUT THIS IS A TYRANNY OF THE MAJORITY, PURE AND SIMPLE. THIS IS A TAX INCREASE AND YOU'RE TAKING AWAY AN INDIVIDUAL'S RIGHT TO VOICE DISSENT WITH THAT TAX INCREASE. YOU KNOW, WHEN THIS BILL CAME THROUGH THE AG COMMITTEE, WE WERE TOLD, DO WHATEVER IT TAKES TO GET IT OUT, WE'LL SUPPORT IT; WHATEVER THE COMMITTEE COMES UP WITH AND AGREES TO, WE'LL SUPPORT IT. AND THEN WHEN IT GETS HERE, THAT DOESN'T HAPPEN. TO ME THAT'S AN ISSUE. WE TALK ABOUT INTEGRITY WITHIN THE BODY AND KEEPING YOUR WORD, AND HEREIN LIES THAT ISSUE. [LB242]

SPEAKER HADLEY: ONE MINUTE. [LB242]

SENATOR LARSON: THERE IS A TAX INCREASE IN THIS, SAY WHAT YOU WANT, BUT IT'S A TAX INCREASE AND YOU'RE TAKING AWAY AN INDIVIDUAL'S RIGHT TO DISSENT. THIS IS UNFORTUNATE, IT IS WRONG, AND IT'S SOMETHING THAT I HEAVILY BELIEVE THIS ON PRINCIPLE. THIS IS SOMETHING THAT I'M PASSIONATE ABOUT. UNFORTUNATELY, THIS ISN'T...AM748 ISN'T A COMPROMISE AND HASN'T BEEN APPROACHED AS A COMPROMISE. I WILL CONTINUE TO DO RESEARCH BETWEEN GENERAL AND SELECT, RESEARCHING COURT CASES AND THE NECESSARY STEPS I HAVE TO... [LB242]

SPEAKER HADLEY: TIME, SENATOR. [LB242]

SENATOR LARSON: THANK YOU. [LB242]

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SPEAKER HADLEY: (VISITORS INTRODUCED.) SENATOR JOHNSON, YOU ARE RECOGNIZED. [LB242]

SENATOR JOHNSON: THANK YOU, MR. SPEAKER. AS CHAIR OF THE AG COMMITTEE, I WANT TO GO BACK A LITTLE BIT IN OUR DISCUSSION. AND THE AMENDMENT THAT WAS INTRODUCED WAS TO, YES, HELP ASSIST, GET THE BILL OUT OF COMMITTEE. AND THERE WAS DISCUSSION IN IT, BUT I WANT TO EMPHASIZE SOME THINGS THAT I'VE SAID ON THIS FLOOR IN THE LAST TWO OR THREE TIMES WE'VE DISCUSSED THIS IN OUR CONTINUING DEBATE. WE WILL HAVE AN INTERIM STUDY THIS SUMMER, OR WHEN THE SESSION IS OVER, TO DISCUSS ALL OF THE CHECKOFF BILLS...OR PROGRAMS TO SEE IF THERE'S ANY CONFLICTS, TO SEE IF THERE CAN BE ANY HARMONY IN HOW DIFFERENT ONES ARE FUNCTIONING. AND WE WILL PROBABLY FIND OUT THAT THERE ARE SOME INCONSISTENCIES. I THINK THAT'S A BETTER ROUTE AND MAYBE A QUICKER SOLUTION TO RESOLVING THE CONSTITUTIONALITY OF SOME OF THESE ISSUES. IF THE AG COMMITTEE HAS THIS INTERIM STUDY, SENATOR LARSON SITS ON THAT AG COMMITTEE. HE WILL BE PART OF THAT DISCUSSION. HE WILL BE PART OF THAT STUDY. I BELIEVE AM748, WHICH IS PART OF THE COMMITTEE AMENDMENT, IS A GREAT COMPROMISE MADE BY REPRESENTATIVES THAT SUPPORT THE DRY BEAN COMMISSION. I DEFINITELY SUPPORT AM748 AND WILL SUPPORT LB242, AND I BELIEVE WE WILL HAVE DISCUSSION BETWEEN NOW AND SELECT. I DON'T KNOW WHETHER SENATOR LARSON'S APPROACH NOW, SINCE HE'S GOING TO BE A SELLER OF BEANS AND TAKES THAT TO MAYBE A HIGHER COURT, IF THAT WILL COME FIRST OR IF WE WILL BE ABLE TO RESOLVE THIS IN THE INTERIM STUDY. I BELIEVE WE SHOULD BE ABLE TO MOVE ON. LET'S LOOK AT THE INTERIM STUDY, GET THOSE ANSWERS, GET THE QUESTIONS OUT THERE, ALL OF THEM, GET THE ANSWERS OUT THERE, AND HOPEFULLY BE ABLE TO MOVE ON. WE WILL NOT HAVE THAT COMPLETED BY SELECT FILE, BUT WE WILL HAVE THAT COMPLETED BY THE TIME WE COME BACK NEXT YEAR, AND MAYBE NEED TO LOOK AT MORE OF THE CHECKOFF PROGRAMS IN ORDER TO DEVELOP HARMONY AMONGST ALL OF THEM. AGAIN, I SUPPORT AM748 AND WILL SUPPORT LB242. THANK YOU, MR. SPEAKER. [LB242]

SPEAKER HADLEY: SENATOR LARSON, YOU'RE RECOGNIZED AND THIS IS YOUR THIRD TIME. [LB242]

SENATOR LARSON: THANK YOU, MR. PRESIDENT. YES, THE AG COMMITTEE MIGHT DO AN INTERIM STUDY. BUT IT APPEARS, AND AS SENATOR JOHNSON SAID, THINGS WERE SAID TO GET THIS BILL OUT OF COMMITTEE. THERE IS A COMMITTEE AMENDMENT THAT I DON'T THINK THIS BILL COMES OUT OF

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COMMITTEE WITHOUT THAT COMMITTEE AMENDMENT. THERE WERE...PEOPLE SAID CERTAIN THINGS AND THEN GO BACK ON THEM, AND THAT'S AN ISSUE TO ME. AND WHEN I DISAGREE WITH SOMETHING, I'M GOING TO COME AT IT HEAD ON. SOME PEOPLE MIGHT NOT LIKE THAT APPROACH, MORE THE SLEDGEHAMMER APPROACH, BUT THAT'S THE WAY THAT I AM. AND I WILL ALWAYS STICK UP FOR WHAT I'VE SAID, ESPECIALLY IF IT'S TO GET A BILL OUT. THIS LB242 STILL DOES HAVE SERIOUS CONSTITUTIONAL CONCERNS. SENATOR STINNER MAY DISAGREE, AND WE'LL FIND OUT, AND I'M EXCITED TO BE ABLE TO LEARN ABOUT THE COURT PROCESS THAT'S GOING TO BREAK DOWN. THE ISSUE HERE IS, AGAIN, NOT ONLY WERE THINGS SAID TO GET THIS OUT, BUT I DO FUNDAMENTALLY DISAGREE WITH THE CONCEPT OF NO REPRESENTATION. A GOVERNOR APPOINTEE, WHO MAY OR MAY NOT HAVE BEEN BIG DONORS TO ANY GOVERNOR OR BE INVOLVED IN SOME WAY OR ANOTHER, DISENFRANCHISES OTHER INDIVIDUALS. WE TALK ABOUT THE SANCTITY OF VOTING OR THE ABILITY FOR THE...TO HAVE THE RIGHT OF DISSENT, AND THAT IS WHAT WE'RE TAKING AWAY HERE. THE REFUND PROVISION IS THE ABILITY TO DISSENT WITH A GOVERNMENT TAX, A TAX THAT WE ARE INCREASING 33 PERCENT. SO TO INCREASE A TAX AND TAKE AWAY DISSENT IS AN ISSUE THAT I DON'T LIKE. AND WE HAVE TO CONTINUE TO WORK ON THIS. AND IT SOUNDS LIKE THEY'RE WILLING, OVER 2 PERCENT OF THE PEOPLE THAT DON'T PAY THIS, THAT MAY HAVE A DISAGREEMENT WITH THE DRY BEAN BOARD ON HOW THEY'RE SPENDING FUNDS, THEY'RE WILLING TO PUT THEIR FEET DOWN, FORCE THEM TO PAY THIS TAX, AND RISK A LAWSUIT, AND A LAWSUIT THAT COULD COST THEM THEIR ENTIRE YEAR'S BUDGET AND WOULD COST THE CORN BOARD AS WELL. BECAUSE IF THIS GETS STRUCK DOWN, THE CORN CHECKOFF GOES WITH IT. NOW THAT MIGHT NOT WORRY SOME PEOPLE, BUT IT'S AN ISSUE TO ME BECAUSE I DON'T DISAGREE THAT THESE CHECKOFFS SERVE GOOD FUNCTIONS. I THINK 98 PERCENT OF THE PEOPLE THAT ARE DRY BEAN PRODUCERS WOULD AGREE THAT THEY SERVE GOOD FUNCTIONS BECAUSE THAT'S THE PERCENTAGE OF PEOPLE THAT PAY... [LB242]

SPEAKER HADLEY: ONE MINUTE. [LB242]

SENATOR LARSON: ...THE CHECKOFF. WE'RE GOING TO TALK ABOUT TAXES, AND THIS IS A TAX INCREASE, AND TAKING AWAY THE RIGHT TO VOTE, OR DISSENT, I SHOULD SAY. THEY HAVEN'T EVER HAD THE RIGHT TO VOTE FOR THEIR REPRESENTATIVES. AND TO SAY THAT WE'RE GOING TO DO A STUDY IN THE INTERIM IS JUST MEANING, WELL, IT'S OKAY IF WE DISENFRANCHISE THEM UNTIL THEN, BUT THAT'S WHAT WE'RE GOING TO DO. THIS WEEKEND IS GOING

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TO BE A GREAT WEEKEND. I'M GOING TO HAVE TO ASK SENATOR HUGHES WHERE I CAN GO BUY SOME DRY BEAN SEED. [LB242]

SPEAKER HADLEY: TIME. SENATOR STINNER, YOU'RE RECOGNIZED TO CLOSE ON YOUR AMENDMENT. [LB242]

SENATOR STINNER: THANK YOU, MR. PRESIDENT. I'D LIKE A CALL TO THE HOUSE, PLEASE. [LB242]

SPEAKER HADLEY: THERE'S BEEN A REQUEST FOR A CALL OF THE HOUSE. THE QUESTION IS, SHALL THE HOUSE GO UNDER CALL? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB242]

ASSISTANT CLERK: 27 AYES, 0 NAYS TO GO UNDER CALL, MR. PRESIDENT. [LB242]

SPEAKER HADLEY: THE HOUSE IS UNDER CALL. SENATORS, PLEASE RECORD YOUR PRESENCE. THOSE UNEXCUSED SENATORS OUTSIDE THE CHAMBER PLEASE RETURN TO THE CHAMBER AND RECORD YOUR PRESENCE. ALL UNAUTHORIZED PERSONNEL MAY LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. SENATOR STINNER, YOU MAY CONTINUE WITH YOUR CLOSE. [LB242]

SENATOR STINNER: THANK YOU, MR. PRESIDENT. AM748 IS A COMPROMISE BRINGING THE AMOUNT, THE CAP, ON WHAT WE CAN DO IN THE DRY BEAN COMMISSION AS IT RELATES TO LOBBY. WE'VE TRIED TO GET SOME CONFORMING LANGUAGE THAT WOULD MAKE THE BILL SQUARE WITH THE LANGUAGE THAT WE NEED TO, AS SENATOR SCHUMACHER BROUGHT OUT. SO I WOULD ASK EVERYBODY FOR A AYE VOTE, A GREEN VOTE ON AM748. CERTAINLY, THE FARM BUREAU ENDORSES THIS, THE DRY BEAN GROWERS, AND MYSELF. SO THANK YOU. [LB242]

SPEAKER HADLEY: THE HOUSE IS UNDER CALL. WOULD SENATORS KEN HAAR, SENATOR COOK, SENATOR GLOOR, SENATOR HILKEMANN, SENATOR SCHILZ, SENATOR KINTNER, PLEASE REPORT TO THE CHAMBER. KEN HAAR. SENATOR SCHILZ, SENATOR KINTNER PLEASE REPORT TO THE CHAMBER. THE HOUSE IS UNDER CALL. WE WILL NOW PROCEED. SENATOR STINNER, HOW WOULD YOU CARE TO PROCEED? MACHINE VOTE. THE QUESTION IS, SHALL AM748 PASS? ALL IN FAVOR SIGNIFY BY VOTING AYE; OPPOSED, NAY. HAVE ALL VOTED THAT WISH TO? RECORD, MR. CLERK. [LB242]

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ASSISTANT CLERK: 44 AYES, 0 NAYS ON THE ADOPTION OF SENATOR STINNER'S AMENDMENT. [LB242]

SPEAKER HADLEY: THE AMENDMENT IS ADOPTED. MR. CLERK. RAISE THE CALL. [LB242]

ASSISTANT CLERK: MR. PRESIDENT, I NOW HAVE A PRIORITY MOTION. SENATOR LARSON WOULD MOVE TO RECONSIDER THE VOTE JUST TAKEN. [LB242]

SPEAKER HADLEY: SENATOR LARSON, YOU ARE RECOGNIZED TO OPEN ON YOUR MOTION TO RECONSIDER THE VOTE. [LB242]

SENATOR LARSON: THANK YOU, MR. PRESIDENT. WELL, WE MADE IT A LITTLE BETTER. WE ADOPTED HALF OF WHAT THE COMMITTEE AMENDMENT THAT WAS AGREED TO, TO GET THE BILL OUT OF COMMITTEE. SO WE'VE GOTTEN HALFWAY TO THE AGREEMENT THAT WAS MADE. HEREIN LIES THE ISSUE, THAT IT'S STILL TAKING AWAY AN INDIVIDUAL'S RIGHT TO DISSENT WHILE INCREASING A TAX. AND I CAN TELL YOU, NOT EVERY DRY BEAN PRODUCER, AS HAS BEEN AS ADVERTISED, WILL SAY, SUPPORT LB242. AS WE CONTINUE TO MOVE FORWARD-- AND MAYBE LB242 GOES TODAY; MAYBE IT DOESN'T--WE HAVE TO ASK OURSELVES, ARE WE COMFORTABLE TAKING AWAY AN INDIVIDUAL'S RIGHT TO DISSENT. SOME PEOPLE ARE. SOME PEOPLE ARE OKAY WITH THE CONCEPT OF TAXATION WITHOUT REPRESENTATION, REGARDLESS OF IF YOU WANT TO SAY THAT THERE ARE BOARD MEMBERS THAT REPRESENT WHERE I LIVE, AND IF I GROW A DRY BEAN, I DON'T GET A CHOICE IN WHO THAT BOARD MEMBER IS. AND IF I DISAGREE WITH WHAT THAT BOARD MEMBER IS DOING, I HAVE NO WAY, NO RECOURSE TO, ONE, GET HIM OFF THE BOARD, OR DISSENT ON HOW THE BOARD IS SPENDING MY MONEY. AND TO ME, THAT'S AN IMPORTANT POINT. IF WE DON'T HAVE THE OPPORTUNITY TO DISSENT, THIS IS GOVERNMENT TAKING MORE AND MORE CONTROL. AND FOR SOME PEOPLE, THAT'S OKAY. THIS IS A MANDATE TO INDIVIDUALS, SPECIFICALLY 2 PERCENT OF INDIVIDUALS THAT CURRENTLY DISSENT FROM THE DRY BEAN BOARD THAT WE WANT...OR SOME PEOPLE WANT TO PUNISH BECAUSE THEY DON'T PAY THAT PERCENTAGE. SO WE WILL RENEGE ON ANYTHING THAT IT TOOK TO GET THIS BILL OUT AND PUNISH THEM. AND WE WILL GO THROUGH A COURT CASE FOR THIS PURPOSE. THE ATTORNEY GENERAL WILL BE HIRED AND WE'LL CONTINUE TO MOVE FORWARD. THIS, AT ITS HEART, IS A TAX INCREASE. AND WE'RE GOING TO CONTINUE TO TALK ABOUT TAX INCREASES. WE'RE GOING TO TALK ABOUT TAX DECREASES. AND AS THIS CONTINUES TO MOVE FORWARD BETWEEN GENERAL AND SELECT,

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WE'LL DO A LOT OF RESEARCH, TRY TO FIND CASES THAT WE'LL CALL RESEMBLE THIS, BESIDES THE LAUTENBAUGH DECISION WHICH, OBVIOUSLY, DOES RESEMBLE THIS, AND WE CAN GO FORWARD. THE LAUTENBAUGH DECISION WAS CLEAR. THE BAR ASSOCIATION PLAYS A FUNCTION WITHIN...HOW DO I WANT TO SAY THIS, YOU COULD CALL IT POLICING AND KEEPING TRACK OF CERTAIN LAWYERS AND DEALING JUDGMENT AND, THEREFORE, IT WAS RULED THAT THEY HAVE TO PAY A MINIMUM FEE TO THE BAR. BUT THEY DON'T HAVE TO PAY THE ENTIRE FEE TO THE BAR IF THEY CHOOSE NOT SO. I'M PRETTY SURE THAT THE DRY BEAN COMMISSION DOESN'T REGULATE OR PASS, WE'LL CALL IT, JUDGMENTS OR POSSESS AUTHORITY OVER OTHER DRY BEAN FARMERS IN WHAT THEY CAN AND CAN'T DO, THIS IS STRICTLY PROMOTION. AND WHEN WE COMPARE IT TO OTHER CHECKOFF PROGRAMS, SPECIFICALLY THE ONE THAT WENT TO THE U.S. SUPREME COURT THAT SPECIFICALLY SAID THAT CHECKOFFS ARE GOVERNMENT SPEECH, THERE WAS A KEY DIFFERENCE IN THAT. ONE, THAT CHECKOFF BOARD WAS ELECTED. AND I BELIEVE CONGRESS SETS THE CHECKOFFS, NOT THE BOARD. HERE, WE HAVE THE LEGISLATURE THAT DELEGATES THE AUTHORITY TO A NONELECTED BOARD TO LEVY A TAX BETWEEN A CERTAIN AMOUNT THAT WE DO SET, BUT WE GIVE THEM AUTHORITY TO RAISE AND LOWER IT, AND THEY HAVE NO OPPORTUNITY OF DISSENT. AN INDIVIDUAL HAS NO OPPORTUNITY FOR DISSENT. HEREIN LIES MY PROBLEM. IF WE CONTINUE TO TAKE FREEDOMS AWAY FROM INDIVIDUALS, ONE BY ONE, WHETHER IT'S DRY BEANS OR CORN BOARD OR ANYTHING ELSE, IT'S JUST STEP BY STEP BY STEP THAT WE'RE WALKING DOWN THAT IS DANGEROUS. I'M NOT SURE WHO AM748 WAS A COMPROMISE WITH. MAYBE IT WAS A COMPROMISE WITH FARM BUREAU WHO DID SUPPORT LOWERING IT FROM 25 (PERCENT) TO 15 (PERCENT). BUT THEY ALSO SUPPORTED KEEPING THE REFUND PROVISION BECAUSE THEY BELIEVE THAT IT IS IMPORTANT THAT INDIVIDUALS HAVE THE OPPORTUNITY TO DISSENT AND MOVE FORWARD WHEN THEY DISAGREE WITH WHAT IS HAPPENING WITH THE COMMODITY CHECKOFF. SO AS WE CONTINUE TO ASK OURSELVES WHAT IS APPROPRIATE, AND IT DOES LOOK LIKE WE'RE...I'M SURE THE VOTES WILL BE THERE IN THE END FOR CLOTURE TO DO WHATEVER THE DRY BEAN BOARD WANTS, WHETHER THAT CLOTURE IS ON GENERAL OR SELECT OR FINAL READING OR ALL THREE, WE'LL TALK ABOUT IT. AND IF WE, AS I SAID, ARE WILLING TO PAY THE PRICE OF 2 PERCENT OF THE INDIVIDUALS THAT DON'T WANT TO PAY THIS, WE'RE WILLING TO GO THROUGH THE COURT CHALLENGE FOR THAT, TO TAKE AWAY THEIR ABILITY TO DISSENT IS A PROBLEM. BECAUSE I'M SURE THAT'S EXACTLY WHAT OUR NEW ATTORNEY GENERAL WANTS TO DO, IS DEFEND THIS LAW AND TAKE THIS ONE THROUGH THE COURT SYSTEM. AND IF THE SUPREME RULES IT CONSTITUTIONAL, THEN THEY'LL BE GOING... [LB242]

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SPEAKER HADLEY: ONE MINUTE. [LB242]

SENATOR LARSON: ...AGAINST, OR NOT IN THE SAME DIRECTION THAT THEY HAVE ALREADY WITH OTHER SIMILAR CASES, THIS SPECIFIC COURT. I UNDERSTAND THAT PAST COURTS MAKE CERTAIN DECISIONS THAT ARE ANTIQUATED AND OUT-OF-DATE. I DON'T EXPECT THIS COURT TO MAKE THE SAME DECISION ON AN EXACT ISSUE THAT A COURT IN THE 1950s OR '60s MADE, TO BE COMPLETELY FRANK. I THINK THIS COURT WOULD CHANGE A NUMBER OF ISSUES THAT MIGHT HAVE BEEN MADE PREVIOUSLY. BUT WE KNOW WHO IS ON THIS COURT AND WE KNOW WHAT THEY HAVE DECIDED ON ISSUES SIMILAR TO THIS. I'VE NEVER BEEN THAT BIG OF A GREEN THUMB. I'M ACTUALLY, PROBABLY SENATOR HUGHES AND I MAY BE ON OPPOSITE SIDES OF THIS ISSUE, BUT I'M GOING TO HAVE TO ASK... [LB242]

SPEAKER HADLEY: TIME. [LB242]

SENATOR LARSON: THANK YOU. [LB242]

SPEAKER HADLEY: SENATOR BLOOMFIELD, YOU'RE RECOGNIZED. [LB242]

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. SENATOR LARSON HAS SPENT THIS MORNING AND A GOOD SHARE OF THE WEEK TALKING ABOUT APPOINTED COMMITTEES, APPOINTED BOARDS, AND HOW EFFECTIVE OR INEFFECTIVE, OR HOW UNREPRESENTATIVE OF THE PEOPLE THEY MAY BE. I TRULY HOPE THAT WHEN ANOTHER BILL THAT IS GOING TO TAKE A LOT OF TIME ON THE FLOOR, LB106 COMES TO THE FLOOR, THAT HE REMEMBERS HOW UNELECTED BOARDS CAN AFFECT THE PEOPLE OF NEBRASKA. LB106, AS IT CAME OUT OF COMMITTEE, WILL ALLOW A NONELECTED BOARD TO OVERRIDE THE COUNTY ZONING DECISION. AND THE COUNTIES THAT AREN'T ZONED WOULD PROBABLY OVERRIDE THE COUNTY COMMISSIONERS. SO WE WILL HAVE, UNDER LB106, IF IT PASSES AS IT CURRENTLY STANDS, ANOTHER NONAPPOINTED BOARD THAT CAN OVERRULE ELECTED OFFICIALS ON THE LOCAL BASIS. SO IF WE WANT TO TALK ABOUT LOCAL CONTROL, I HOPE WE REMEMBER THAT WHEN WE COME TO LB106. THANK YOU, MR. PRESIDENT. [LB242 LB106]

SPEAKER HADLEY: SENATOR LARSON, YOU'RE RECOGNIZED. [LB242]

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SENATOR LARSON: THANK YOU, MR. PRESIDENT. WHAT SENATOR BLOOMFIELD FAILED TO MENTION IN LB106 IS THAT ANY INDIVIDUAL THAT DISAGREES OR A COUNTY THAT DISAGREES WITH A DECISION THAT MAY OR MAY NOT HAVE BEEN MADE CAN APPEAL TO THE DISTRICT COURT. THEY HAVE A WAY TO DISSENT. SO LB106 AND LB242 DO NOT MATCH UP AS SENATOR BLOOMFIELD ATTEMPTED TO TELL YOU. BECAUSE IF AN INDIVIDUAL HAS THE RIGHT TO DISSENT OR HAS A METHOD IN WHICH THEY CAN DISSENT, WHETHER IT'S THROUGH THE COURT SYSTEM, A REFUND, OR ELECTIONS, THERE IS AN OPPORTUNITY. IN LB242, THERE IS NO OPPORTUNITY FOR DISSENT. SO IF HE WANTS TO TALK ABOUT, OH, WE'RE GOING TO CREATE ANOTHER UNELECTED BOARD THAT CAN OVERRULE PEOPLE, WE NEED TO MENTION THE WHOLE TRUTH AND UNDERSTAND WHAT WE'RE SAYING. WE WILL TALK ABOUT LB106 IF IT GETS A PRIORITY, AND THERE ARE OBVIOUS CONCERNS WITH LB106. BUT IT HAS A MECHANISM FOR DISSENT, LB242 DOESN'T. VERY FEW BOARDS DON'T HAVE OPPORTUNITIES FOR THE INDIVIDUALS, THAT THEY EITHER TAX OR REGULATE, TO DISSENT IN SOME MANNER. AND TO ME, THAT'S IMPORTANT. SO IF WE'RE GOING TO CONTINUE TO MOVE FORWARD, AS I SAID, I'M GOING TO HAVE TO TALK TO SENATOR HUGHES, GET SOME DRY BEAN SEED--HOPEFULLY, I DON'T HAVE TO BUY A WHOLE BAG, THAT WILL PLANT WAY MORE THAN I NEED--AND LEARN HOW TO DO IT. AND I'M EXCITED. MY GREEN THUMB WILL REALLY BE ABLE TO SHOW UP. I HEARD THEY GROW IN MORE DRY AND LESS FERTILE LAND. SO I WON'T PUT THE GOOD CLODDING SOIL IN THAT QUADRANT, JUST USE THE NOT-SO-GOOD DIRT. WE'VE GOT PLENTY OF THAT SOUTH OF THE ELKHORN RIVER, MORE JUST SAND. HOPEFULLY IT GROWS IN SAND. BUT THE ISSUE REMAINS OF WHAT ARE WE WILLING TO DO TO ENSURE THAT 2 PERCENT OF THE PEOPLE--WE'RE TALKING \$6,000 TO \$10,000. THAT'S WHAT WE'RE FIGHTING OVER, MANDATING THE INDIVIDUALS THAT DISAGREE WITH THE BOARD'S DECISION HAVE TO PAY \$6,000 TO \$10,000, MAYBE \$15,000 IF WE'RE GETTING REALLY BIG, MANDATING THAT THEY HAVE TO PAY THAT MONEY. AND I GUESS, FROM THE DRY BEAN BOARD, \$6,000 TO \$10,000 IS WORTH A STATE LAWSUIT AND IT'S WORTH THEM GOING TO COURT,... [LB242 LB106]

SPEAKER HADLEY: ONE MINUTE. [LB242]

SENATOR LARSON: ...POSSIBLY TAKING MONEY OUT OF THEIR BUDGET TO DO THAT. I DON'T UNDERSTAND THE RATIONALE OF DICTATING TO A SMALL MODICUM OF PEOPLE WHAT THEY DO AND DON'T HAVE TO DO FOR THAT AMOUNT OF MONEY. AS WE CONTINUE TO MOVE FORWARD, THE BODY, AS I'M SURE ARE ALREADY GROWING PAINFULLY TIRED OF HEARING ME THIS WEEK, WILL GET TO CONTINUE TO HEAR ABOUT THIS ISSUE. [LB242]

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SPEAKER HADLEY: TIME, SENATOR. THERE'S NO ONE ELSE IN THE QUEUE, YOU'RE RECOGNIZED...SENATOR LARSON, YOU'RE RECOGNIZED. [LB242]

SENATOR LARSON: THANK YOU. [LB242]

SPEAKER HADLEY: SENATOR LARSON, YOU'RE RECOGNIZED. [LB242]

SENATOR LARSON: THANK YOU. WHEN WE CONTINUE TO MOVE FORWARD ON A NUMBER OF THESE IN WHICH WE ARE INCREASING TAXES ON A SMALL SELECT GROUP OF PEOPLE THAT NOT EVERYBODY, AS HAS BEEN PITCHED TO US, AGREES WITH, BUT BECAUSE WE WANT TO PUNISH CERTAIN PEOPLE BECAUSE THEY MAY HAVE ASKED FOR REFUNDABILITY IN THE PAST, AND WE WANT THEM TO PAY THEIR FAIR SHARE EVEN THOUGH THEY DON'T GET TO ELECT THE BOARD MEMBERS THAT DECIDE HOW TO PAY IT, OR HOW TO SPEND THAT MONEY, THERE'S AN ISSUE. WE'RE GOING TO CONTINUE ON A NUMBER OF BILLS, AS I SAID, THAT MAY OR MAY NOT BE CALLED CONSTITUTIONAL. I'M SURE I HAVE ONE THAT A NUMBER OF PEOPLE ARE GOING TO TRY TO SAY IS UNCONSTITUTIONAL, AND THEY'RE GOING TO HARKEN BACK TO A SUPREME COURT CASE IN THE 1950s SAYING IT'S UNCONSTITUTIONAL. AS I'VE SAID, THIS COURT IS MUCH DIFFERENT THAN THAT COURT. I'VE SEEN HOW THE COURT HAS RULED ON THAT ISSUE IN RECENT YEARS, AND I CAN ASSUME SAFELY THAT THEY WOULD FOLLOW THEIR LOGIC ON THAT RULING. WE CAN FOLLOW THE LOGIC ON RECENT RULINGS THAT ARE SIMILAR TO LB242 IN THE CONSTITUTIONAL CONCERNS THAT ARE GOING TO BE RAISED, AND IT WILL BE STRUCK DOWN. AND WITH IT, THE CORN BOARD WILL BE STRUCK DOWN. IN A SWIFT STROKE OF THE PEN, THE DEPARTMENT OF AG WILL NO LONGER BE ABLE TO ENFORCE THE CORN PROMOTION ACT. WILL SENATOR FRIESEN YIELD TO A QUESTION? [LB242]

SPEAKER HADLEY: DID YOU SAY SENATOR FRIESEN? [LB242]

SENATOR LARSON: YES. [LB242]

SPEAKER HADLEY: SENATOR FRIESEN, WOULD YOU YIELD TO A QUESTION? [LB242]

SENATOR FRIESEN: YES, I WOULD. [LB242]

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SENATOR LARSON: SENATOR FRIESEN, WHAT'S THE ANNUAL BUDGET OF THE NEBRASKA CORN BOARD, ROUGHLY? [LB242]

SENATOR FRIESEN: AROUND \$7 (MILLION) TO \$8 MILLION, I THINK. [LB242]

SENATOR LARSON: SEVEN TO EIGHT MILLION. THANK YOU, SENATOR FRIESEN. I ASKED SENATOR FRIESEN BECAUSE HE'S A FORMER MEMBER OF THE NEBRASKA CORN BOARD AND I WASN'T QUITE SURE. I WAS ONLY GOING TO PUT IT AT \$3 (MILLION) TO \$4 MILLION. I WAS ABOUT HALF OF WHERE I THOUGHT IT WAS OR WHERE IT ACTUALLY IS, I SHOULD SAY. IT'S \$6,000 TO \$10,000 MANDATORY TO MAKE THESE DRY BEAN PRODUCERS PAY THE CHECKOFF AND NOT BE ABLE TO HAVE THE OPPORTUNITY OF A REFUND, WORTH NOT ONLY POSSIBLY CAUSING THE STATE SIGNIFICANT AMOUNTS OF MONEY FOR A LAWSUIT TO PROTECT THIS, BUT IF IT IS RULED UNCONSTITUTIONAL, THE NEBRASKA CORN BOARD LOSING THEIR \$7 (MILLION) TO \$8 MILLION. IS THAT WORTH IT? DRY BEANS, \$6,000 TO \$10,000. WE KNOW THERE'S CONSTITUTIONAL CONCERNS. WE KNOW THERE'S A POSSIBILITY OF AN ISSUE HERE. [LB242]

SPEAKER HADLEY: ONE MINUTE. [LB242]

SENATOR LARSON: I DON'T THINK ANY OF US WANT THE \$7 (MILLION) TO \$8 MILLION THAT THE CORN BOARD BRINGS IN TO DISAPPEAR. AND THE CORN BOARD, IN MY ESTIMATION, HAS BEEN LUCKY THAT NO ONE HAS CHALLENGED THE CONSTITUTIONALITY OF THE CORN BOARD BECAUSE IT IS UNELECTED AND NONREFUNDABLE CHECKOFFS. BUT IS IT WORTH THE CONCEPT OF GOING DOWN THAT ROAD OVER \$6,000, \$10,000, \$15,000? TO ME, ABSOLUTELY NOT, WHETHER IT'S ME CHALLENGING IT OR ANY OTHER DRY BEAN PRODUCER. OR ANY CORN FARMER, FOR THAT MATTER, IF THEY WANT TO CHALLENGE THE CORN PROMOTION ACT, THEY COULD. IT JUST HASN'T BEEN DONE. BUT IS IT WORTH THE RISK? [LB242]

SPEAKER HADLEY: TIME, SENATOR. [LB242]

SENATOR LARSON: THANK YOU. [LB242]

SPEAKER HADLEY: AND YOU'RE RECOGNIZED TO CLOSE ON YOUR MOTION. [LB242]

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SENATOR LARSON: THANK YOU, MR. PRESIDENT. I DON'T THINK IT'S WORTH THAT RISK. AND IT'S SOMETHING THAT IS INTERESTING. I KNOW THE ATTORNEY GENERAL'S OFFICE WILL BE ASKING FOR MORE MONEY, PUTTING A STRAIN ON SENATOR MELLO, AS IF HE DIDN'T HAVE ENOUGH STRAIN ALREADY. WE SEE HIM WALKING AROUND. SPEND STATE RESOURCES FOR \$6,000 TO \$10,000, A TAX INCREASE AND TAKING AWAY REFUNDABILITY FOR \$6,000 TO \$10,000, AND JEOPARDIZING \$7 (MILLION) TO \$8 MILLION FOR THE CORN BOARD. WE ARE GOING TO DO THAT WITH LB242. THEN TIE...BECAUSE IF THAT ONE GETS STRUCK DOWN, CORN GOES DOWN WITH IT. AND MAYBE IT'S WORTH THAT RISK, BECAUSE IT IS A RISK THAT WE'RE TAKING: THE HOPE THAT MAYBE NO ONE CHALLENGES IT, AND IF SOMEONE DOES CHALLENGE IT THAT IT WILL BE RULED CONSTITUTIONAL. AS A FORMER MEMBER OF THE CORN BOARD, I KNOW SENATOR FRIESEN IS VERY PROTECTIVE OF IT, AS HE SHOULD BE. HE'S IN THE BREADBASKET OF NEBRASKA WHEN IT COMES TO CORN PRODUCTION AND HE WAS A GREAT MEMBER OF THE CORN BOARD. I WORKED WITH SENATOR FRIESEN TWO YEARS AGO ON ATTEMPTING TO REFORM THE CORN BOARD, AND HE WAS GREAT TO WORK WITH. HE WAS A MEMBER OF THE CORN BOARD AT THAT POINT, NOT A SENATOR, AND I HOPE THAT WE CAN CONTINUE TO WORK TO REFORM THE CORN BOARD. BUT THIS SETS THE WRONG PRECEDENT. AND IF IT IS RULED UNCONSTITUTIONAL, SPECIFICALLY, LET'S SAY IN MAY OF SOME YEAR, THAT'S WHEN THE JUDGMENT CAME DOWN, THEY WOULD NOT BE ABLE TO COLLECT ANY CHECKOFF DOLLARS FOR AN ENTIRE GROWING SEASON. SO NOT ONLY WOULD THEY NOT BE ABLE TO DO THAT, THEN THEY'D HAVE TO COME BACK TO THE LEGISLATURE AND TRY TO FIX THE ISSUE. THE TWO ARE VERY MUCH RELATED. AND THE CORN BOARD PROVIDES GREAT RESEARCH DOLLARS, INVESTMENT DOLLARS, PROMOTION DOLLARS TO PROMOTE THINGS LIKE DISTILLERS GRAIN, OUR CORN ACROSS THE WORLD, AND EVERYTHING ELSE THAT WE NEED TO BE COMPETITIVE. I DON'T WANT TO JEOPARDIZE THE CORN BOARD. AND I THINK A MAJORITY OF CORN FARMERS DON'T HAVE A PROBLEM WITH PAYING THE CHECKOFF BECAUSE THEY BELIEVE IN WHAT IS HAPPENING. BUT DO WE WANT TO SET THE PRECEDENT AND RISK A LAWSUIT FOR \$6,000 TO \$10,000 FOR SOME DRY BEAN GUYS THAT MEMBERS OF THE ASSOCIATION, OR MEMBERS OF THE BOARD, ARE MAD AT BECAUSE THEY DISAGREE WITH WHAT THE BOARD IS ACTUALLY DOING? THEY MAY DISAGREE WITH THE WAY THE BOARD IS SPENDING SOME FUNDS. IT SOUNDS LIKE WE ARE. AND I HOPE, BETWEEN NOW AND SELECT, MEMBERS REALIZE... [LB242]

SPEAKER HADLEY: ONE MINUTE. [LB242]

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SENATOR LARSON: ...WHAT THE POSSIBILITY IS, THE POSSIBILITY OF DRAGGING A LOT OF COMMODITY BOARDS INTO THIS FIGHT. AND IT WILL BE A LOT MORE THAN \$300,000 TO \$400,000. I DON'T UNDERSTAND WHY WE WOULD WANT TO RISK THAT OR WHY INDIVIDUALS WOULD WANT TO RISK THAT CONCEPT. WE NEED TO PROMOTE AND INCENTIVIZE AGRICULTURE BUT NOT AT THE HANDS OF A TYRANNICAL ACTION BY THE GOVERNMENT, WHICH THIS IS. [LB242]

SPEAKER HADLEY: TIME, SENATOR. [LB242]

SENATOR LARSON: I'LL WITHDRAW THE MOTION. [LB242]

SPEAKER HADLEY: IS THERE ANY OBJECTIONS? SEEING NONE, THE MOTION IS WITHDRAWN. MR. CLERK, ITEMS? [LB242]

ASSISTANT CLERK: THANK YOU, MR. PRESIDENT. A SERIES OF PRIORITY BILL DESIGNATIONS: THE EXECUTIVE BOARD HAS CHOSEN LR7CA; SENATOR McCOY, LB649; HEALTH AND HUMAN SERVICES, LB472, AS WELL AS LB320; SENATOR SMITH HAS SELECTED LB357; SENATOR KOLTERMAN, LB232; SENATOR PANSING BROOKS, LB586; NATURAL RESOURCES HAS SELECTED LB413; JUDICIARY, LB482, AS WELL AS LB265; SENATOR BURKE HARR HAS SELECTED LB414. IN ADDITION TO THAT I HAVE AN APPOINTMENT LETTER FOR THE STATE BOARD OF HEALTH. AND NEW RESOLUTION LR110 BY SENATOR McCOLLISTER, THAT WILL BE LAID OVER. COMMITTEE ON EDUCATION REPORTS LB489 TO GENERAL FILE, AND LB382 TO GENERAL FILE WITH AMENDMENTS. THAT'S ALL I HAVE AT THIS TIME. (LEGISLATIVE JOURNAL PAGES 794-796.) [LR7CA LB649 LB472 LB320 LB357 LB232 LB586 LB413 LB482 LB265 LB414 LR110 LB489 LB382]

SPEAKER HADLEY: (VISITORS INTRODUCED.) WE WILL NOW RETURN TO DEBATE ON LB242. SENATOR LARSON, YOU'RE RECOGNIZED. MR. CLERK. [LB242]

CLERK: THANK YOU, MR. PRESIDENT. SENATOR LARSON, I HAVE IN FRONT OF ME AM701. I MIGHT JUST INDICATE TO THE MEMBERS WE'RE HAVING A BIT OF TROUBLE WITH THE VOTING SYSTEM SO THAT THE STATUS BOARDS ARE NOT GOING TO BE ACCURATE RIGHT NOW. WHAT YOU WILL BE DISCUSSING WHEN SENATOR LARSON OPENS IS AMENDMENT AM701 AS AN AMENDMENT TO THE BILL. (LEGISLATIVE JOURNAL PAGE 754.) [LB242]

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

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SPEAKER HADLEY: OKAY, SENATOR LARSON, YOU'RE RECOGNIZED TO OPEN ON AM701. [LB242]

SENATOR LARSON: I HAD A NOTE THAT I WANTED TO SUBSTITUTE AM701 THAT I TURNED IN. [LB242]

SPEAKER HADLEY: SORRY, WOULD YOU SAY AGAIN? [LB242]

SENATOR LARSON: I HAD A NOTE THAT I WANTED TO SUBSTITUTE AM701. [LB242]

ASSISTANT CLERK: SENATOR LARSON, IF I UNDERSTAND, YOU WANT TO SUBSTITUTE AM794 FOR AM701. [LB242]

SENATOR LARSON: YES. [LB242]

SPEAKER HADLEY: ANY OBJECTIONS? SO ORDERED. [LB242]

ASSISTANT CLERK: SENATOR LARSON, AM794 IS BEFORE US. (LEGISLATIVE JOURNAL PAGES 796-797.) [LB242]

SPEAKER HADLEY: SENATOR LARSON, YOU ARE RECOGNIZED. [LB242]

SENATOR LARSON: THANK YOU, MR. PRESIDENT. WE'VE ONLY GONE AN HOUR TODAY. IT'S GETTING EXCITING. I CAN TELL HOW MESMERIZED THE REST OF THE BODY IS LISTENING TO MY DULL DRONE, AND I'M GUESSING THAT WE CAN LISTEN TO IT FOR A LITTLE BIT LONGER. AND I'M SURE THERE WILL BE OTHER TIMES THROUGHOUT THE YEAR THAT I'LL WANT TO TALK ABOUT EDUCATION AGAIN OR OTHER THINGS. BUT THIS ISSUE IS, AS WELL, VERY IMPORTANT TO ME. AND THE PRINCIPLE OF THE MATTER IS, I DO NOT BELIEVE THAT SOMEONE SHOULD BE FORCIBLY COMPELLED TO PAY A TAX WHEN THEY DO NOT HAVE CLEAR REPRESENTATION. AND THAT IS WHAT IS HAPPENING--A TAX INCREASE AND THEN FORCIBLY COMPELLING INDIVIDUALS TO PAY FOR THAT WHEN SOME DISAGREE WITH WHAT IS HAPPENING AND THEY HAVE NO RIGHT OR NO WAY TO DISSENT. WE HEARD, AS I SAID, SENATOR BLOOMFIELD TALKED ABOUT LB106 AND HOW THAT WAS TAKING AWAY LOCAL CONTROL AND MANDATING FROM THE STATE. AS LONG AS THE INDIVIDUAL HAS A WAY OF DISSENSION, WHETHER THAT'S THROUGH THE COURT SYSTEM, THE BALLOT BOX, OR REFUNDABILITY, THEY HAVE AN OPTION TO PROTEST AND DISSENT AND ACTUALLY HAVE THEIR

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VOICE HEARD. LB242 DOES NOT GIVE THEM THAT OPTION. THE AMENDMENT WE ADOPTED DID NOT MAKE THIS BILL CONSTITUTIONAL. IT MADE IT A LITTLE MORE PALATABLE THAT THEY CAN ONLY USE 15 PERCENT OF YOUR MONEY THAT THEY WILL FORCIBLY TAKE FROM YOU TO LOBBY THE FEDERAL GOVERNMENT, WHETHER OR NOT YOU AGREE WITH THE POLICY THEY ARE LOBBYING. AND YOU DON'T GET A VOICE IN WHO YOUR BOARD MEMBER IS THAT MAKES THAT DECISION OF HOW THEY'RE GOING TO USE YOUR MONEY TO LOBBY THE FEDERAL GOVERNMENT. IT IS A TAX. LB242 IS A TAX AND A TAX INCREASE WITH NO OPPORTUNITY FOR ANYBODY TO DISSENT, AND I HAVE AN ISSUE WITH THAT. MAKE THE BOARD ELECTED. SENATOR JOHNSON TALKS ABOUT HAVING AN INTERIM STUDY TO STUDY ALL OF THIS. BUT WE'RE WILLING IN THE MEANTIME, WHILE WE'RE HAVING THAT INTERIM STUDY, TO FORCE EVERY INDIVIDUAL TO PAY A TAX WITHOUT REPRESENTATION. AND THIS IS AN ISSUE THAT I CARE ABOUT. DO WE WANT TO SET A PRECEDENT THIS TIME? DO WE WANT TO SET A PRECEDENT NEXT TIME? AND AS WE'VE HEARD FROM SOME INDIVIDUALS, ALL OF THE DRY BEAN PRODUCERS WANT THIS. WELL, THAT'S NOT NECESSARILY THE CASE. WELL, THE ASSOCIATION WANTS THIS. WELL, NOT EVERY MEMBER IS A MEMBER OF THE ASSOCIATION OR PAYS DUES. SO YOU HAVE A SELECT MODICUM OF PEOPLE THAT WANT IT BUT DON'T NECESSARILY REPRESENT THE ENTIRE POPULATION OF PEOPLE THAT ARE PAYING IT. SO WE'LL MOVE FORWARD WITH THIS ONE AND WE'LL CONTINUE TO TALK ABOUT ISSUES AS A WHOLE THAT DEAL WITH THIS. AND WHEN IT COMES BACK UP ON SELECT, WE'LL GET TO HAVE A LONG CONVERSATION, I'M SURE, AGAIN, ON HOW THIS IS A TAX INCREASE, WILL BE CHALLENGED IN COURT FOR \$6,000 TO \$10,000, MAYBE \$15,000. MAYBE SENATOR STINNER COULD GET ME THE EXACT NUMBERS OF HOW MUCH MONEY IS REFUNDED RIGHT NOW. AND IT WILL JEOPARDIZE ALL OF THE DRY BEAN BOARD'S MONEY, AND IT WILL JEOPARDIZE THE CORN BOARD'S MONEY. SEVEN (MILLION DOLLARS) TO EIGHT MILLION DOLLARS OF CORN BOARD FUNDS, IF THIS GOES DOWN, GOES DOWN WITH IT. IS IT WORTH THE RISK? IS IT WORTH THAT POSSIBILITY? I WOULD THINK NOT. I DON'T WANT TO JEOPARDIZE THAT MUCH CORN BOARD MONEY BECAUSE THEY HAVEN'T BEEN CHALLENGED YET. AS MUCH AS I DISAGREE WITH HOW THE CORN BOARD HAS NO REFUNDABILITY AND NONELECTED MEMBERS, IN TALKING WITH PAST MEMBERS OF THE CORN BOARD, THEY WISH THEY WERE ELECTED. IT WOULD MAKE THEM...IT WOULD TAKE AWAY THE IDEA THAT THE ONLY REASON THEY WERE APPOINTED WAS BECAUSE THEY WERE CLOSE TO THE GOVERNOR. THEY WANT TO BE ELECTED. AND AT THAT POINT, I HAVE NO PROBLEM WITH THE MANDATORY CHECKOFF IF A BOARD IS ELECTED. WHEN WE ELECT INDIVIDUALS, YOU HAVE THE OPPORTUNITY TO PROVIDE DISSENT. AND WHEN YOU'RE NOT ELECTED IT DOESN'T MATTER WHAT ANYONE THINKS, ESPECIALLY

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IN THE DISTRICT YOU REPRESENT. THE ONLY PERSON THAT MATTERS IS THE PERSON THAT SITS IN THE NORTHEAST CORNER OF THE STATE CAPITOL BUILDING, REGARDLESS OF WHO IT IS. WHETHER IT WAS BOB KERREY, BEN NELSON, DAVE HEINEMAN, MIKE JOHANNIS, OR PETE RICKETTS, THOSE ARE THE ONLY PEOPLE THAT MATTER WHEN IT COMES TO SELECTING WHO SITS ON THESE BOARDS, PURE AND SIMPLE. YOU NEED ONE VOTE AND IT'S FROM THE CORNER OFFICE. AND IF YOU DON'T DO WHAT THE CORNER OFFICE WANTS, YOU WILL LOSE THAT VOTE. IT DOESN'T MATTER WHAT EVERY OTHER PRODUCER THAT YOU MAY BE REPRESENTING CARES ABOUT, BECAUSE THE ONLY PERSON THAT MATTERS IS THE ONE THAT SITS IN THE CORNER OFFICE. AND TO ME, THAT'S WRONG. AND AN INDIVIDUAL OR A PRODUCER THAT WANTS OR DOES DISAGREE WITH SOMETHING THAT THE BOARD MAY OR MAY NOT BE DOING SHOULD BE ABLE TO HAVE A VOICE. [LB242 LB106]

SENATOR KRIST PRESIDING

SENATOR KRIST: ONE MINUTE. [LB242]

SENATOR LARSON: AND YOU'RE TAKING AWAY THEIR VOICE WITH LB242. THE ONLY VOICE THAT WILL MATTER IS WHAT THE GOVERNOR WANTS. AND I TRUST OUR CURRENT GOVERNOR. I LIKE OUR CURRENT GOVERNOR AND I DON'T THINK OUR CURRENT GOVERNOR WOULD GO AWRY ON AN ISSUE SUCH AS THIS; I WOULD SURE HOPE NOT. BUT I AM NOT WILLING TO TAKE THE RISK NOT KNOWING WHAT FUTURE GOVERNORS MAY BE. I WOULD RATHER PUT THE RESPONSIBILITY BACK IN THE HANDS OF THE PEOPLE TO DECIDE WHO THEY WANT TO REPRESENT THEM. AND IF THAT IS NOT AN OPPORTUNITY, THEY SHOULD HAVE THE OPPORTUNITY TO NOT PAY THE CHECKOFF WHEN THEY DISAGREE. [LB242]

SENATOR KRIST: TIME, SENATOR. AND YOU'RE NEXT IN THE QUEUE. [LB242]

SENATOR LARSON: THANK YOU, MR. PRESIDENT. AS WE MOVE FORWARD, I'M GOING TO TALK ABOUT THE SAME THING OVER AND OVER: TAX INCREASE; TAKING AWAY AN INDIVIDUAL'S RIGHT TO DISSENT; \$6,000 TO \$10,000 THAT THE DRY BEAN BOARD IS LOSING; THE POSSIBILITY OF A EXPENSIVE LAWSUIT TO THE STATE OF NEBRASKA, AND JUDGING BY RECENT COURT DECISIONS HAS A, I'D SAY AT THE VERY LEAST, A FIFTY-FIFTY SHOT AT SUCCEEDING, MAYBE HIGHER. THAT WOULD WIPE OUT THE CORN BOARD AS WELL. THAT IS NOT GOOD. THE OBSTINANCE THAT IS DISPLAYED OVER THAT SMALL AMOUNT OF

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MONEY WITH THE AMOUNT OF RISK THAT IT CREATES IS UNNERVING, ESPECIALLY WHEN LB242 I DON'T THINK EVER MAKES IT OUT OF COMMITTEE WITHOUT A COMMITTEE AMENDMENT THAT WAS AGREED TO AND THEN TAKEN AWAY. DO WE REALLY WANT TO INCREASE TAXES; MANDATE IT; TAKE AWAY AN INDIVIDUAL'S RIGHT OF DISSENT; RISK A SUPREME COURT CASE; RISK THE LOSS OF ALL OF THE COMMODITY FUND DOLLARS, BECAUSE OF A SMALL AMOUNT OF MONEY AND THE WANT--IF YOU WANT TO SAY, FOR THE LACK OF A BETTER WORD--JUST TO WIN ON THE FLOOR BECAUSE THIS IS WHAT YOU WANT? IT'S SHORTSIGHTED AND UNWISE AND IT'S SOMETHING THAT WE ARE GOING TO HAVE TO CONTEMPLATE, WE'RE GOING TO HAVE TO WORK FOR ON WHAT THE BODY IS WILLING TO DO. I KNOW WHAT I'M WILLING TO DO. I KNOW WHAT I'M READY TO DO. AND IT'S FRANKLY NOT THAT DIFFICULT TO STAND UP HERE. I WATCH ERNIE. HE'S 50 YEARS ALMOST MY SENIOR. I HOPE BETWEEN NOW AND SELECT FILE WHEN THIS GOES, THE BODY CAN REALLY THINK ABOUT THE REPERCUSSIONS THAT COULD HAPPEN,... [LB242]

SENATOR KRIST: ONE MINUTE. [LB242]

SENATOR LARSON: ...REALLY THINK ABOUT WHAT THE POSSIBILITIES ARE, BECAUSE THERE ARE A LOT OF POSSIBILITIES HERE THAT COULD MAKE THIS GO EXTREMELY WRONG, EXTREMELY WRONG, OVER A SMALL AMOUNT OF MONEY. AND IT'S NOT WORTH IT TO ME. THAT SMALL AMOUNT OF MONEY AND THE POSSIBILITY OF LOSING TWO COMMODITY CHECKOFF PROGRAMS THAT ARE IMPORTANT TO THOSE PRODUCERS IS NOT WORTH IT. I CARE ABOUT THOSE COMMODITY PROGRAMS AND I THINK THEY DO GREAT WORK. AND I DON'T WANT TO JEOPARDIZE THOSE COMMODITY PROGRAMS. BUT ABOVE THAT, I DON'T WANT TO TAKE AWAY ANY INDIVIDUAL'S RIGHT TO DISSENT FROM GOVERNMENT... [LB242]

SENATOR KRIST: TIME, SENATOR. AND YOU'RE NEXT IN THE QUEUE. [LB242]

SENATOR LARSON: THANK YOU...BECAUSE WHEN WE TAKE AWAY AN INDIVIDUAL'S RIGHT TO DISSENT FROM THE GOVERNMENT THAT IS IN PLACE, WE HAVE AN ISSUE. SHOOT, IF LB242 HAD THE ABILITY TO SOMEHOW TAKE THIS TO DISTRICT COURT OR COUNTY COURT OR WHATEVER ELSE, THAT WOULD BE AN OPPORTUNITY OF DISSENT, AS LB106 HAS. THIS IS A GRAB FOR POWER BY THE STATE GOVERNMENT TO MANDATE TO INDIVIDUALS THAT THEY HAVE TO PAY A TAX. AND THIS DOESN'T HAVE TO DO WITH A MANDATE OF SAFETY. AND FOR THE RECORD, I DISAGREE WITH THE SEAT BELT AND HELMET LAWS. THIS

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DOESN'T DEAL WITH PUBLIC SAFETY. THIS ISN'T CARBON MONOXIDE OR CARBON DIOXIDE OR RADON DETECTORS IN HOMES, WHICH I MAY DISAGREE WITH THOSE MANDATES AS WELL BUT I CAN UNDERSTAND THOSE TO A CERTAIN EXTENT. AND INDIVIDUALS THAT MAY DISAGREE WITH THOSE DO HAVE THE OPPORTUNITY TO ELECT OFFICIALS THAT DO DISAGREE WITH THEM. THEY HAVE A CHANCE TO CHANGE THE POLICY. BUT RIGHT NOW WHAT LB242 DOES IS TAKES AWAY THAT AND THAT'S AN ISSUE. IF SENATOR HUGHES WAS HERE, I'D ASK HIM WHERE I CAN GET SOME DRY BEAN SEEDS BECAUSE THIS SUMMER I HAVE TO LEARN HOW TO GROW DRY BEANS. GREW UP ON A RANCH. WE HAVE ALFALFA, WE HAY, BUT WE'RE NOT IN THE PRODUCTION SIDE OF THINGS. I CAN TELL YOU HOW TO WORK A COW AND WHAT THAT TAKES, BUT I'VE NEVER REALLY BEEN ON THE FARMING SIDE OF THINGS, JUST THE RANCHING SIDE OF THINGS. SO IT WILL TAKE A LITTLE BIT OF LEARNING ON MY PART AND, HOPEFULLY, SENATOR HUGHES IS KIND ENOUGH TO TEACH ME. I'M SURE HE WILL BE. I'LL PAY MY 1 (CENT) OR 2 CENTS IN CHECKOFF DOLLARS, LITERALLY, 1 (CENT) TO 2 CENTS PROBABLY AFTER MY LITTLE QUADRANT OF DRY BEANS IS DONE. AND I'LL LEARN THE LEGAL SYSTEM. I HAD A DECENT EDUCATION MY FIRST TWO YEARS IN THE BODY AS A MEMBER OF THE JUDICIARY COMMITTEE, WHICH WAS INTERESTING COMING IN AT THE AGE OF 24. I WOULDN'T HAVE EVEN BEEN OUT OF LAW SCHOOL YET AND I WAS SITTING ON THE JUDICIARY COMMITTEE, RIGHT BY SENATOR COASH, ACTUALLY. HE TAUGHT ME A LOT ABOUT THE JUDICIARY COMMITTEE. SO I'M EXCITED TO BE ABLE TO HOPEFULLY EXPAND SOME OF THOSE SKILLS, GO THROUGH AN EXERCISE IN EXPANDING MY HORIZONS OVER 1 (CENT) OR 2 CENTS. BUT I WILL PAY THAT CHECKOFF... [LB242 LB106]

SENATOR KRIST: ONE MINUTE. [LB242]

SENATOR LARSON: ...THAT THE GOVERNMENT WILL MANDATE ME TO PAY, EVEN THOUGH I MAY DISAGREE WITH WHAT IS HAPPENING ON THE DRY BEAN COMMISSION, AND MOVE FORWARD. WILL SENATOR HUGHES YIELD TO A QUESTION? [LB242]

SENATOR KRIST: SENATOR HUGHES, WILL YOU YIELD TO A QUESTION FROM SENATOR LARSON? [LB242]

SENATOR LARSON: I SAW YOU WALKING UP, SO I FIGURED I'VE BEEN... [LB242]

SENATOR HUGHES: ABSOLUTELY. [LB242]

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SENATOR LARSON: THANK YOU, SENATOR HUGHES. WILL YOU HELP ME THIS SUMMER AND TEACH ME HOW TO GROW DRY BEANS IN MY LITTLE QUADRANT? [LB242]

SENATOR HUGHES: ABSOLUTELY. [LB242]

SENATOR LARSON: I APPRECIATE THAT. WILL I HAVE TO BUY AN ENTIRE BAG OF SEED OR CAN I JUST GET A LITTLE BIT? LIKE I SAID, I'M MORE IN THE RANCHING SIDE OF THINGS, SO. [LB242]

SENATOR HUGHES: I COULD PROBABLY GET YOU ENOUGH SEED TO PLANT YOUR PLOT. [LB242]

SENATOR LARSON: MY QUADRANT IN MY 5 BY 5? [LB242]

SENATOR HUGHES: YES, YOUR 5 BY 5, YES. I WOULD DONATE THAT TO YOU. [LB242]

SENATOR LARSON: WELL, I DON'T NEED YOU TO DONATE THAT. [LB242]

SENATOR KRIST: SORRY. TIME, SENATORS. BUT, SENATOR LARSON, YOU'RE NEXT IF YOU WOULD LIKE TO CONTINUE THE QUESTIONING. [LB242]

SENATOR LARSON: IF SENATOR HUGHES WOULD STILL CONTINUE I'D APPRECIATE IT. [LB242]

SENATOR HUGHES: ABSOLUTELY. [LB242]

SENATOR LARSON: DOES...IS THERE A SPECIFIC TYPE OF SOIL THAT I'LL NEED OR IS REGULAR GARDEN SOIL GOING TO WORK FOR ME? OR DO I NEED TO HAVE IT A LITTLE MORE DRY LIKE YOU GUYS HAVE IN THE SOUTHWEST PART OF THE STATE? [LB242]

SENATOR HUGHES: THEY'LL GROW IN ABOUT ANY SOIL. [LB242]

SENATOR LARSON: THEY'LL GROW IN ABOUT ANY. [LB242]

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SENATOR HUGHES: YOU NEED SOME WATER. THE KEY IS A DRY FALL. [LB242]

SENATOR KRIST: AND, SENATOR LARSON, I FORGOT TO MENTION THIS IS YOUR CLOSING. [LB242]

SENATOR LARSON: OKAY. THEY'LL GROW IN WHAT? I MISSED THAT. [LB242]

SENATOR HUGHES: THEY'LL GROW IN ABOUT ANY SOIL. [LB242]

SENATOR LARSON: AND THEY JUST NEED A LITTLE WATER AND... [LB242]

SENATOR HUGHES: YES. [LB242]

SENATOR LARSON: LUCKILY, I LIVE KIND OF ON THE HOT BED OF THE OGALLALA AQUIFER SO I THINK I GOT PLENTY OF WATER. THERE'S NO PLACE LIKE O'NEILL WATER, I CAN GUARANTEE THAT. IT'S ABSOLUTELY WONDERFUL. I GO TO OMAHA, I CAN'T EVEN TASTE THEIR WATER, IT'S JUST SO...BUT IT WAS RANKED ONE OF THE TEN WORST WATERS IN THE NATION, ACTUALLY, SO THAT'S UNFORTUNATE. BUT I APPRECIATE YOUR WILLINGNESS TO TEACH ME HOW TO GROW A FEW DRY BEANS AND I THINK IT WILL BE AN INTERESTING EXPERIENCE. THANK YOU, I APPRECIATE IT. [LB242]

SENATOR HUGHES: SURE. [LB242]

SENATOR LARSON: WELL, I'M ANOTHER STEP CLOSER, ANOTHER STEP CLOSER TO BEING A DRY BEAN FARMER MYSELF, AND IT'S GOING TO BE INTERESTING. IT'LL BE MY...BESIDES OUR REGULAR GARDEN VEGETABLES THAT WE HAVE-- AND MY WIFE MAKES A WICKED SALSA--THIS WILL BE OUR FIRST ADVENTURE INTO THIS. I MAY EVEN ASK MY NEIGHBOR, WHO HAS A BIG GARDEN, TO GROW DRY BEANS FOR ME AND HE CAN PAY IT TOO. HE'S A GREAT GUY, DOES A LOT. ACTUALLY HIS SON WAS JUST THE FIRST STATE QUALIFIER AND THE FIRST STATE MEDALIST FOR ST. MARY'S HIGH SCHOOL. COLLEAGUES, WE ARE GOING HAVE TO ASK OURSELVES, WHAT IS LB242 WORTH? IS IT WORTH THE CONSEQUENCES THAT WILL HAPPEN? IS IT WORTH THE RISK OF THE COURT POSSIBLY SAYING IT'S UNCONSTITUTIONAL AND TAKING AWAY NOT ONLY ALL OF THEIR FUNDS BUT THE CORN BOARD'S AS WELL? TO ME, IT'S NOT. I KNOW SENATOR HUGHES HAS NO PROBLEM PAYING THE CHECKOFF, HE SUPPORTS IT. BUT IT DOESN'T MAKE WHAT IS HAPPENING RIGHT. AND WE HAVE TO CONTINUE TO WORK TO PROTECT

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AGRICULTURE, NOT DIVIDE AGRICULTURE. BUT WE DON'T DO THAT THROUGH TAKING AWAY AN INDIVIDUAL'S RIGHT OF REPRESENTATION OR DISSENT. THAT IS NOT HOW WE DO THIS. YOU PROTECT AGRICULTURE IF YOU WANT TO SUPPORT THE RAISE IN THE CHECKOFF IN LB242. YOU PROTECT AGRICULTURE... [LB242]

SENATOR KRIST: ONE MINUTE. [LB242]

SENATOR LARSON: ...BY UNDERSTANDING THE GOOD THINGS THAT COMMODITY BOARDS DO FOR INDIVIDUALS AND THE INDUSTRY AS A WHOLE, BECAUSE THEY DO. YOU PROTECT AGRICULTURE BY STANDING TOGETHER. BUT THERE ARE VERY FEW THINGS THAT I WILL STAND UP AND FIGHT WHEN IT COMES TO THINGS IN THE NATURE OF AG. BUT OFTENTIMES IT'S NOT AGRICULTURE LOOKING TO TAKE AWAY SOMEONE'S OPPORTUNITY OF DISSENT. SO WE HAVE TO ASK OURSELVES, SHOULD WE BE ABLE TO TAKE THE RIGHT OF DISSENT AWAY FROM AN INDIVIDUAL? [LB242]

SENATOR KRIST: TIME, SENATOR. [LB242]

SENATOR LARSON: THANK YOU. [LB242]

SENATOR KRIST: COLLEAGUES, YOU'VE HEARD THE DISCUSSION ON AM794. THE QUESTION IS, SHALL AM794 BE AMENDED TO LB242? ALL THOSE IN FAVOR SAY AYE...VOTE AYE; OPPOSED, NAY. PLEASE RECORD, MR. CLERK. [LB242]

ASSISTANT CLERK: 0 AYES, 21 NAYS ON THE ADOPTION OF THE AMENDMENT, MR. PRESIDENT. [LB242]

SENATOR KRIST: THE ADOPTION FAILS. NEXT ITEM. [LB242]

ASSISTANT CLERK: MR. PRESIDENT, I HAVE A PRIORITY MOTION. SENATOR LARSON WOULD MOVE TO RECONSIDER THE VOTE JUST TAKEN. [LB242]

SENATOR KRIST: SENATOR LARSON, YOU'RE RECOGNIZED. [LB242]

SENATOR LARSON: THANK YOU. I APPRECIATE THE RED ON THAT VOTE. IT WASN'T A VERY GOOD AMENDMENT. I DON'T AGREE WITH IT; I VOTED RED EVEN.

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IT INCREASED THE LOBBYING PERCENTAGE THAT THEY COULD USE. I DON'T THINK THAT'S A GOOD IDEA. BUT I HAVE A RECONSIDERATION MOTION NOW AND I'D URGE MY COLLEAGUES TO VOTE RED ON THE RECONSIDERATION MOTION BECAUSE WHAT AM794 DOES DOESN'T MAKE LB242 BETTER. WHAT DOES MAKE LB242 BETTER WAS IN THE COMMITTEE AMENDMENT, WAS AGREED TO AND THEN NO LONGER AGREED TO. WHAT MAKES LB242 BETTER IS GIVING THE INDIVIDUALS THE RIGHT TO EITHER HAVE ELECTED BOARD MEMBERS-- WHICH MAY NOT HAPPEN THIS YEAR--OR GIVE THEM THE RIGHT TO DISSENT THROUGH A REFUND PROVISION. THAT'S WHAT MAKES THIS NOT ONLY CONSTITUTIONAL...GUARANTEED CONSTITUTIONAL...IT'S A GUARANTEED CONSTITUTIONAL...THE REFUND PROVISION MAKES THIS A GUARANTEED CONSTITUTIONAL BILL. OTHERWISE, WE WON'T KNOW TILL IT GOES THROUGH THE COURT SYSTEM. SO WE CAN HAVE GUARANTEED CONSTITUTIONALITY AND THE DRY BEAN BOARD CAN LOSE \$6,000 TO \$10,000 BY PEOPLE THAT ASK FOR REFUNDS BECAUSE THEY DISAGREE WITH HOW THE DRY BEAN BOARD IS...WHAT THEY'RE DOING AND THEIR UNELECTED MEMBERS. OR WE CAN RUN THE RISK OF HAVING THIS DECLARED NOT ONLY UNCONSTITUTIONAL BUT THE CORN BOARD GOING WITH IT. AND I DON'T THINK THERE ARE VERY FEW MEMBERS OF THIS BODY THAT WANT THAT TO HAPPEN. I THINK SENATOR CHAMBERS IS THE ONLY INDIVIDUAL THAT HAS OPENLY SAID THAT HE OPPOSES THE CHECKOFF PROGRAM. AND THAT'S AN ISSUE THAT WE CAN DISCUSS ON WHETHER OR NOT CHECKOFF PROGRAMS ARE WORKING. HOWEVER, THIS BILL WANTS TO RAISE A TAX, TAKE AWAY AN INDIVIDUAL'S RIGHT TO DISSENT, AND MANDATE SOMETHING THAT SOME PEOPLE MIGHT NOT AGREE WITH. AND TO ME THAT'S IMPORTANT. IT IS IMPORTANT THAT PEOPLE STAND UP AGAINST THE SMALL OVERREACHES OF OUR GOVERNMENT, WHICH LB242 IS IN ITS CURRENT FORM. IT'S NOT A MASSIVE OVERREACH BY ANY MEANS. IT IS A SMALL OVERREACH IN WHAT WE'RE DOING AND THAT OVERREACH WILL CONTINUE TO CAUSE PROBLEMS DOWN THE ROAD. AS WE CONTINUE TO MOVE FORWARD...AS I SAID, I'M GOING TO HAVE A WONDERFUL WEEKEND. IF SENATOR HUGHES WAS HERE I'D ASK HIM WHAT TIME OF THE YEAR I NEED TO PLANT MY DRY BEANS, WHEN THEY NEED TO GO IN AND WHEN I CAN...WHEN THEY HIT MATURITY AND WHEN I CAN TAKE THEM AND SELL THEM. I'M GENUINELY EXCITED ABOUT THIS NOW. WHO WOULD HAVE THOUGHT THAT AT SOME POINT IN THIS SESSION I WOULD BE GENUINELY EXCITED ABOUT GROWING DRY BEANS? IT'S NOW A PASSION OF MINE. DEFINITELY NOT SOMETHING THAT I WOULD HAVE THOUGHT OF AT THE BEGINNING OF THE YEAR THAT I WAS GOING TO HAVE THIS PASSION OR THE WANT TO EVER GROW A DRY BEAN, BUT I DO NOW. AND LIKE ANYTHING ELSE, I WANT TO LEARN AND I WANT TO DO IT RIGHT, GET AS GREAT OF A YIELD IN MY 5 BY 5 RAISED GARDEN BED AS I CAN, SELL MY DRY BEANS, PAY THE 2 (CENTS), 1

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(CENT) TO 2 (CENTS), MAYBE 3 CENTS IN CHECKOFF SO I HAVE STANDING, AND TEST THE CONSTITUTIONALITY OF LB242. BECAUSE WHEN GOVERNMENT TAKES AWAY AN INDIVIDUAL'S RIGHT TO DISSENT, THAT IS NOT ACCEPTABLE. AND I WOULD LIKE TO DISSENT. IT IS NOT RIGHT THAT WE MANDATE A TAX AND WE DO NOT HAVE A WAY TO EITHER ELECT OR REFUND. IF WE WANT TO GO OFF ON THE TANGENT OF WHY THIS COUNTRY WAS FOUNDED, IT WAS FOUNDED ON THIS PRINCIPLE. WE HAD THE HISTORY LESSON LAST WEEK AND HOW QUICKLY WE FORGET THAT HISTORY. LITERALLY, THE STAMP ACT OF 1765, WHEN KING GEORGE III INSTITUTED THAT TAX, WAS THE BEGINNING OF THE AMERICAN REVOLUTION--THE SIMPLE CONCEPT OF TAXATION WITHOUT REPRESENTATION. AND REGARDLESS OF WHAT THE INTRODUCER MAY SAY THAT THEY ARE REPRESENTED, THEY ARE NOT. THEY ARE REPRESENTED BY AN INDIVIDUAL THAT MAY LIVE IN THE GENERAL VICINITY THAT THEY LIVE IN AS WELL. HOWEVER, THAT INDIVIDUAL ONLY OWES ALLEGIANCE TO ONE PERSON AND THAT'S THE GOVERNOR, NOT THE INDIVIDUALS THAT THEY'RE SUPPOSED TO REPRESENT, BECAUSE IT'S THE GOVERNOR THAT DECIDES WHO GOES THERE. AND I EVEN SAID I TRUST OUR CURRENT GOVERNOR. I THINK HE'S PROBABLY GOING TO DO A GREAT JOB IN APPOINTING THE DRY BEAN COMMISSION MEMBERS. I DON'T THINK WE'RE GOING TO HAVE AN ISSUE WITH HIM, PROBABLY. BUT I DON'T KNOW, WHEN WE'RE SETTING POLICY FOR GENERATIONS TO COME, WHAT'S GOING TO HAPPEN. AND IT IS IMPORTANT THAT WE DON'T TAKE SMALL LIBERTIES AWAY FROM INDIVIDUALS. IT IS IMPORTANT THAT WE DON'T OVERSTEP OUR BOUNDS AND WE UNDERSTAND WHERE WE CAME FROM AND WHY WE CAME FROM THERE AND HOW THIS PLACE STARTED, THE NATION THAT WE LIVE IN, HOW THIS PLACE STARTED. KING GEORGE DIDN'T THINK THAT THE STAMP ACT WAS THAT BIG OF A DEAL. IT WAS A TAX ON PAPER, NEWSPAPERS, PLAYING CARDS, SMALL THINGS. GREAT BRITAIN NEEDED TO RAISE A LITTLE BIT OF MONEY AND THERE WAS A LITTLE BIT OF DISCONTENT IN THE COLONIES. [LB242]

SENATOR KRIST: ONE MINUTE. [LB242]

SENATOR LARSON: SO HE INSTITUTED A STAMP ACT--JUST KIND OF LIKE WE'RE INSTITUTING LB242--TAKING AWAY AN INDIVIDUAL'S RIGHT TO HAVE A SAY IN A TAX THAT THEY PAY. IT IS A CONCERN. IT IS AN ISSUE. AND IT'S SOMETHING THAT WE'RE GOING TO DEFINITELY TALK ON SELECT AND FINAL READING ON. IN THE MEANTIME, I'M GOING TO TRY TO FIGURE OUT HOW TO GROW A DRY BEAN. SENATOR HUGHES TELLS ME... [LB242]

SENATOR KRIST: TIME, SENATOR. [LB242]

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SENATOR LARSON: THANK YOU. [LB242]

SENATOR KRIST: (VISITORS INTRODUCED.) SENATOR LARSON, YOU'RE RECOGNIZED. [LB242]

SENATOR LARSON: THANK YOU, MR. PRESIDENT. AND MY DRONE CONTINUES ON, MY ALL-INSPIRING AND MESMERIZING VOICE THAT WILL CONTINUE TO TALK ON ISSUES SUCH AS THIS OR EDUCATION OR OTHER THINGS THAT I FIND TO BE IMPORTANT AS WE MOVE FORWARD AND WE HAVE OUR FEET DUG IN. I'M EXCITED AND I KNOW THAT THERE WILL BE ENOUGH VOTES IN THIS BODY TO PASS THIS. I UNDERSTAND THAT THIS IS GOING TO GO. I'M UNDER NO ILLUSIONS OF THAT. BUT I'M ALSO UNDER NO ILLUSIONS OF WHAT WE'RE DOING AS A BODY AND THE DANGEROUS STEP THAT WE ARE TAKING INTO WATERS OF CONSTITUTIONALITY, THAT WE HAVE A RECENT CASE, NOT A CASE FROM THE 1950s OR '60s, A RECENT CASE TO GO BACK AND LOOK AT. LIKE I SAID, I UNDERSTAND COURTS CHANGE, DECISIONS CHANGE. AND IF THE LAUTENBAUGH CASE HAD BEEN IN 1950 OR 1960, THIS COURT MAY NOT TAKE THAT INTO EFFECT AT ALL. IN FACT, I DOUBT THEY WOULD TO A CERTAIN EXTENT. THE JUSTICES CAN ALL HAVE DIFFERENT INTERPRETATIONS OF WHAT THE CONSTITUTION SAYS, SO I WOULD UNDERSTAND THE CONCEPT FROM THE INTRODUCER SAYING THE AMENDMENT WE JUST PASSED MADE IT CONSTITUTIONAL IF THAT'S WHAT THE COURT HAD JUST RECENTLY SAID. BUT THAT ISN'T WHAT THE COURT JUST RECENTLY SAID. AND WE ARE GOING TO TAKE DOWN NOT ONLY DRY BEANS BUT CORN BOARD WITH IT. AND MAYBE THAT'S ACCEPTABLE TO SOME; IT'S WORTH THE RISK. IT'S WORTH THE RISK. THAT SMALL AMOUNT OF MONEY IS WORTH THE RISK. THE SUPPRESSION OF AN INDIVIDUAL'S RIGHT TO DISSENT IS WORTH THE RISK OF \$6,000 TO \$10,000. AS I SAID, TO ME IT'S NOT. NOBODY'S RIGHT TO DISSENT SHOULD BE INFRINGED UPON AND THAT CONCEPT IS INVALUABLE. AN INDIVIDUAL'S RIGHT TO SPEAK AGAINST THE GOVERNMENT AND HAVE A VOICE IS COMPLETELY INVALUABLE, PRICELESS I SHOULD SAY, ABSOLUTELY PRICELESS. [LB242]

SENATOR KRIST: ONE MINUTE. [LB242]

SENATOR LARSON: AND TO TAKE THAT CONCEPT AWAY FROM AN INDIVIDUAL IS WRONG. AND WHY? WHY ARE WE TAKING IT AWAY FROM THEM? LET'S TAKE...I LOOKED OVER AND I SAW SENATOR HOWARD AND IT REMINDED ME OF SOMETHING. SHE'S WORKING ON HER COMPUTER, ANSWERING E-MAILS, PLANNING WHAT'S GOING TO BE A BEAUTIFUL WEDDING, I'M SURE. AFTER

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TODAY SHE MIGHT NOT INVITE ME BECAUSE I'M ANNOYING HER. SHE TOLD ME SHE WAS STILL GOING TO; I HOPE SO. BUT IT REMINDED ME OF WHAT ONE COULD SAY IS ANOTHER UNELECTED COMMISSION... [LB242]

SENATOR KRIST: TIME, SENATOR. YOU'RE NEXT IN THE QUEUE, YOU CAN CONTINUE. [LB242]

SENATOR LARSON: THANK YOU...AND THAT'S THE LIQUOR CONTROL COMMISSION. AND SENATOR HOWARD HAD A BILL THAT DEALT WITH THE LIQUOR CONTROL COMMISSION THIS YEAR. BUT WHEN THAT BOARD MAKES A DECISION, IF YOU DISAGREE WITH WHAT THAT BOARD DOES YOU CAN APPEAL TO DISTRICT COURT, AND THAT IS AN IMPORTANT FACTOR. WHEN AN INDIVIDUAL HAS THE RIGHT TO DISSENT, IT IS ACCEPTABLE. AND IF YOU DON'T HAVE THAT OPPORTUNITY, IT IS UNACCEPTABLE. AND WE'RE GOING TO CONTINUE TO HEAR ABOUT ISSUES SUCH AS THIS THROUGHOUT THIS ENTIRE SESSION. I'M GUESSING THAT I WON'T BE THE ONLY ONE THAT TAKES UP A SIGNIFICANT AMOUNT OF TIME ON THE FLOOR ON CERTAIN THINGS. BUT AT THE SAME TIME I'M SURE THAT I'LL BE TAKING UP MY FAIR SHARE OF THE TIME. AND I UNDERSTAND THAT MEMBERS WILL GET FRUSTRATED WITH THE TIME THAT I AM TAKING BECAUSE PRIORITIES ARE GOING TO BE IN. I'LL HAVE A FEW. THEY'RE PROBABLY MOVING BACK IN THE QUEUE AS WE SPEAK OR AS I SPEAK, I SHOULD SAY, IN TERMS OF WHEN THEY COME UP. BUT TIME WILL GET SHORT, MONEY WILL GET TIGHT, AND WE'RE GOING TO CONTINUE TO JUST TAKE TIME. AND I'M EXCITED ABOUT SOME OF MY PRIORITIES. WE HAVE AN ALCOHOL OMNIBUS BILL THAT IS MUCH NEEDED IN THE STATE; HAS AN EMERGENCY CLAUSE ON IT. I'M SURE INDIVIDUALS WILL HAVE A LOT OF QUESTIONS AND CONCERNS ABOUT THAT. LUCKY ENOUGH, IT CAME OUT OF MY COMMITTEE 8-0 AND THE COMMITTEE MEMBERS GAVE ME THEIR WORD THAT THEY WOULD CONTINUE TO SUPPORT IT ON THE FLOOR AND I TAKE THEM AT THAT WORD BECAUSE THEY GAVE IT TO ME. AND I TRUST THEM WHEN THEY LOOK AT ME AND SAY, WE WILL BE THERE ON THIS BILL AS A COMMITTEE. AND I TRUST EACH ONE OF THOSE INDIVIDUALS TO STICK BY WITH WHAT THEY SAID. AND THAT'S HOW I'VE OPERATED A LOT WITHIN THIS BODY. HOWEVER, IF ONE OF THEM DOESN'T, I WILL BE UPSET, YES, BECAUSE THEY GAVE ME THEIR WORD. AND TO ME, THAT MATTERS, AS DOES MY WORD. [LB242]

SENATOR KRIST: ONE MINUTE. [LB242]

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SENATOR LARSON: WHEN I TAKE SOMETHING TO GET OUT OF COMMITTEE OR WE WORK TO GET SOMETHING OUT OF COMMITTEE, LIKE MY ALCOHOL OMNIBUS BILL, WE WORK TOGETHER AND WE'RE ALL GOING TO SUPPORT IT. SENATOR RIEPE IS ONE OF THOSE MEMBERS, SO IS SENATOR KOLTERMAN. AND THEY MIGHT NOT AGREE WITH ALL 12 THINGS WE'RE DOING IN THAT BILL, BUT WE UNDERSTAND THAT, AS A WHOLE, IT IS GOOD POLICY FOR THE STATE OF NEBRASKA AND WE'RE GOING TO CONTINUE TO FIGHT FOR THAT POLICY AS A COMMITTEE. LB242 SETS A DANGEROUS PRECEDENT IN THE STATE OF NEBRASKA. IT IS COPYING WHAT THE CORN BOARD DOES, WHICH I COMPLETELY DISAGREE WITH. IT IS RAISING A TAX MANDATING... [LB242]

SENATOR KRIST: TIME, SENATOR. [LB242]

SENATOR LARSON: WAS THAT MY CLOSING? [LB242]

SENATOR KRIST: YOU'RE RECOGNIZED TO CLOSE ON YOUR MOTION. [LB242]

SENATOR LARSON: THANK YOU, MR. PRESIDENT. LB242 SETS THAT DANGEROUS PRECEDENT OF TAKING AWAY AN INDIVIDUAL'S RIGHT OF DISSENT. THAT IS SOMETHING THAT WE SHOULD NEVER DO IN THIS BODY. AN INDIVIDUAL SHOULD ALWAYS HAVE AN AVENUE TO DISSENT, VOTE FOR, ASK FOR A REFUND, GO TO COURT. HOWEVER THAT IS, YOU SHOULD HAVE AN OPTION TO DISAGREE WITH GOVERNMENT. AND WHEN YOU TAKE AWAY AN INDIVIDUAL'S RIGHTS TO DISAGREE WITH GOVERNMENT, YOU ARE CROSSING A LINE THAT MANY PEOPLE SAY THEY WON'T CROSS. BUT IT SEEMS THAT IF ENOUGH PEOPLE ARE WILLING, A MAJORITY OF DRY BEAN PRODUCERS ARE WILLING TO LET YOU TAKE AWAY A FREEDOM, THEN THAT'S OKAY. TO ME IT'S NOT. AND AS WE CONTINUE TO MOVE FORWARD, I WILL TALK MORE ABOUT THAT CONCEPT. AS I SAID AT THE BEGINNING OF MY RECONSIDER MOTION, I WOULD ENCOURAGE EVERYBODY TO VOTE RED. AM794 IS NOT A GOOD AMENDMENT. IT RAISES THE LOBBYING PERCENTAGE THAT THEY CAN SPEND. I VOTED RED ON THE ORIGINAL, ON THE FIRST VOTE. IT IS SOMETHING THAT WE SHOULDN'T DO. BUT, AS THE RULES DICTATE, I HAVE TO STAND UP HERE AND TALK, SO I WILL. IN CLOSING, WE CONTINUE TO HAVE TO ASK OURSELVES WHAT DOES LB242 ACCOMPLISH? DOES IT DO WHAT WE WANT IT TO DO? WELL, SENATOR STINNER WANTS TO TAKE AWAY AN INDIVIDUAL'S RIGHT OF DISSENT IN THE DEMOCRATIC PROCESS. MAYBE THAT'S WHAT HE WANTS; I DON'T. BUT WE HAVE TO ASK OURSELVES, DOES LB242 DO WHAT WE WANT IT TO ACCOMPLISH AND IS IT WORTH THE PRICE THAT THE STATE WILL HAVE TO PAY ONCE IT PASSES? IS IT WORTH \$6,000 TO

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\$10,000 FOR A CONSTITUTIONAL CHALLENGE THAT I WOULD ARGUE IS GOING TO STRIKE IT DOWN AND WILL STRIKE THE CORN BOARD AND ITS \$7 (MILLION) TO \$8 MILLION WITH IT? CAN YOU ONLY IMAGINE THE PROBLEMS THAT WILL THEN BE CREATED? AND I'M GUESSING SENATOR HUGHES SUPPORTS THE CORN BOARD TREMENDOUSLY. AND HE SHAKES HIS HEAD AS HE GOES... [LB242]

SENATOR KRIST: ONE MINUTE. [LB242]

SENATOR LARSON: ...AND WHIPS VOTES TO ENSURE THAT THEY HAVE ENOUGH TO BREAK THE FILIBUSTER, WHICH I ASSURE HIM HE DOESN'T NEED TO EVEN TALK TO PEOPLE BECAUSE I'M GUESSING HE DOES. IT WON'T BE AN ISSUE BECAUSE THE VOTES ARE THERE THIS ROUND. THANK YOU, MR. PRESIDENT. [LB242]

SENATOR KRIST: THANK YOU, SENATOR LARSON. (VISITORS INTRODUCED.) COLLEAGUES, YOU'VE HEARD THE CLOSING ON THE RECONSIDER MOTION. THE QUESTION IS, SHALL WE RECONSIDER? PLEASE VOTE YEA OR NAY. HAVE ALL THOSE VOTED THAT WISH TO? PLEASE RECORD, MR. CLERK. [LB242]

ASSISTANT CLERK: 0 AYES, 21 NAYS ON THE MOTION TO RECONSIDER, MR. PRESIDENT. [LB242]

SENATOR KRIST: THE MOTION FAILS. NEXT ITEM, MR. CLERK. [LB242]

ASSISTANT CLERK: MR. PRESIDENT, THE NEXT AMENDMENT FROM SENATOR LARSON IS AM702, BUT I HAVE A NOTE HE WISHES TO WITHDRAW THAT AND SUBSTITUTE AM793. (LEGISLATIVE JOURNAL PAGES 797-798.) [LB242]

SENATOR KRIST: NO OBJECTION, SO ORDERED. SENATOR LARSON, YOU'RE RECOGNIZED TO OPEN ON YOUR AMENDMENT. [LB242]

SENATOR LARSON: THANK YOU, MR. PRESIDENT. I WOULD URGE MY COLLEAGUES TO VOTE RED ON AM793. IT, AGAIN, DOESN'T MAKE THE BILL ANY BETTER. WHEN WE MOVE FORWARD WITH THIS BILL, AS WE WILL, WHETHER I DECIDE TO TAKE IT TO A FULL CLOTURE VOTE ON GENERAL FILE IS TO BE SEEN. ASKING MYSELF IF I REALLY WANT TO. I'VE ONLY TALKED SIX HOURS ON IT SO FAR AND I HAVE A FEELING I HAVE ANOTHER SIX ON GENERAL...OR SELECT AND FINAL, SO. AND I KNOW SENATOR HUGHES HAS THE VOTES SO I'M TRYING TO

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DECIDE WHETHER I WANT TO HIT CLOTURE HERE. THE PRINCIPLE THAT IS BEING MADE OR THE POINT, I SHOULD SAY, THAT I AM TRYING TO MAKE IS BEING MADE. THOSE THAT WANT TO GET RID OF THE DEMOCRATIC PROCESS, TAKE AWAY AN INDIVIDUAL'S RIGHT TO DISSENT FROM GOVERNMENT, A GOVERNMENT THAT IS MANDATING A TAX ON THEM, IS WRONG. I DON'T HAVE A PROBLEM WITH THE IDEA OF THE TAX. AS I'VE SAID, I SUPPORT THE CHECKOFF PROGRAM. BUT IF YOU'RE NOT GOING TO ELECT THE BOARD MEMBERS, YOU HAVE TO HAVE SOME MECHANISM TO LET THEM HAVE DISSENT. AND TO TAKE AWAY THAT MECHANISM IS, FRANKLY, NOT ACCEPTABLE, UN-AMERICAN, AND UNCONSTITUTIONAL BECAUSE WE WERE FOUNDED ON THIS PRINCIPLE. IT DOESN'T MATTER HOW MANY PEOPLE WANT US TO TAKE THEIR FREEDOM; IT'S SOMETHING WE SHOULDN'T DO. AND THAT IS WHAT LB242, AS AN UNDERLYING BILL, DOES. IT TAKES AWAY INDIVIDUAL FREEDOM AND MANDATES THESE INDIVIDUALS HAVE TO DO THIS AND IT'S ALL OVER \$6,000 TO \$10,000. YET THEY'RE WILLING TO MAKE SURE THAT THOSE INDIVIDUALS ARE MANDATED; PAY THAT \$6,000 TO \$10,000 THAT THE DRY BEAN COMMISSION IS LOSING; GO THROUGH THE LAWSUIT; COST THE STATE A QUARTER OF A MILLION DOLLARS MAYBE, MAYBE MORE; RUN THE RISK OF IT BEING DECLARED UNCONSTITUTIONAL AND STRIKING IT AND THE CORN BOARD DOWN IN ONE SWIFT STROKE. THE CORN BOARD LOSES \$8 MILLION. I'M GUESSING THAT WOULD BE A BLOW AND I'M SURE SENATOR FRIESEN WOULD AGREE TO THAT, THAT IT WOULD BE A BLOW TO THE CORN BOARD IF THAT HAPPENED. BUT IT SEEMS THAT IT'S WORTH THE RISK, THAT \$6,000 TO \$10,000 THAT MEMBERS OF THE DRY BEAN COMMISSION FEEL LIKE IT IS NECESSARY FOR THEM TO COLLECT AND SUPPRESS INDIVIDUAL FREEDOM. THAT'S WHAT IT IS, A SUPPRESSION OF A PERSON'S RIGHT TO DISSENT FROM THE GOVERNMENT THAT IS CONTROLLING SO MANY ASPECTS OF THEIR LIFE ALREADY. AND IT'S FRUSTRATING THAT WE'RE WILLING TO WALK DOWN THAT PATH FOR THAT SMALL AMOUNT OF MONEY KNOWING THAT IT WILL PROBABLY BE CHALLENGED, KNOWING THE STATE IS GOING TO SPEND THE MONEY, KNOWING THAT IT HAS THE POSSIBILITY OF BEING DECLARED UNCONSTITUTIONAL, KNOWING THAT IT COULD TAKE AWAY OTHER COMMODITY PROGRAMS THAT ARE DOING GREAT THINGS AS WELL, BECAUSE, AGAIN, I THINK THE DRY BEAN COMMISSION IS DOING GOOD THINGS WITH WHAT THEY HAVE. BUT THIS IS UNACCEPTABLE. SO, MR. PRESIDENT, I'VE TAKEN TWO HOURS TODAY. I'M GUESSING I'M GOING TO HAVE ANOTHER SIX ON SELECT AND FINAL READING. AND I'LL WITHDRAW AM793. [LB242]

SENATOR KRIST: SHOULD I CONSIDER THAT A CLOSING, SENATOR LARSON?
[LB242]

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SENATOR LARSON: I'M WITHDRAWING. [LB242]

SENATOR KRIST: WITHDRAWING. OKAY. WITHOUT OBJECTION, WITHDRAWN.
[LB242]

ASSISTANT CLERK: MR. PRESIDENT, IN THAT CASE, I HAVE NOTHING FURTHER
PENDING ON THE BILL. [LB242]

SENATOR KRIST: SENATOR STINNER, WOULD YOU LIKE TO CLOSE ON LB242?
[LB242]

SENATOR STINNER: THANK YOU, MR. PRESIDENT. IN CLOSING ON LB242, WE
THINK THAT IT IS A BILL THAT WAS PRESENTED BY THE DRY BEAN GROWERS
ASSOCIATION; IT'S THEIR WISHES. AND IT'S BEEN AN HONOR TO REPRESENT THE
DRY BEAN GROWERS IN THAT ENDEAVOR. WE BELIEVE THAT IT WILL PROVIDE
THE COMMISSION WITH A STABLE AMOUNT OF FUNDS, AN APPROPRIATE
AMOUNT OF FUNDS, AND THE FLEXIBILITY TO CONTINUE TO CONDUCT
BUSINESS AS PRESCRIBED BY STATUTE. SO I WOULD URGE THAT THE BODY
SUPPORTS LB242. CALL FOR THE HOUSE, PLEASE. [LB242]

SENATOR KRIST: THERE HAS BEEN A REQUEST TO PLACE THE HOUSE UNDER
CALL. THE QUESTION IS, SHALL THE HOUSE GO UNDER CALL? ALL THOSE IN
FAVOR VOTE AYE; OPPOSED, NAY. PLEASE RECORD, MR. CLERK. [LB242]

ASSISTANT CLERK: 23 AYES, 0 NAYS TO GO UNDER CALL, MR. PRESIDENT. [LB242]

SENATOR KRIST: THE HOUSE IS UNDER CALL. SENATORS, PLEASE RECORD YOUR
PRESENCE. THOSE UNEXCUSED SENATORS PLEASE RETURN TO THE CHAMBER
AND RECORD YOUR PRESENCE. ALL UNAUTHORIZED PERSONNEL PLEASE LEAVE
THE FLOOR. THE HOUSE IS UNDER CALL. SENATORS WATERMEIER, BAKER,
MORFELD, BURKE HARR, MURANTE, AND GARRETT, PLEASE RETURN TO THE
CHAMBER AND RECORD YOUR PRESENCE. THE HOUSE IS UNDER CALL. SENATOR
GARRETT, SENATOR BAKER, SENATOR WATERMEIER, PLEASE RETURN TO THE
CHAMBER. THE HOUSE IS UNDER CALL. SENATOR STINNER, WOULD YOU LIKE TO
PROCEED OR DO YOU WANT TO WAIT FOR THE CALL? PROCEED, THANK YOU.
OKAY. COLLEAGUES, THE QUESTION IS THE ADVANCEMENT OF LB242 TO E&R
INITIAL. ALL THOSE IN FAVOR VOTE AYE; OPPOSED, NAY. THERE'S BEEN A
REQUEST FOR A RECORD VOTE. PLEASE RECORD, MR. CLERK. [LB242]

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ASSISTANT CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 798.)
VOTE IS 38 AYES, 1 NAY, MR. PRESIDENT, ON THE VOTE TO ADVANCE. [LB242]

SENATOR KRIST: LB242 ADVANCES. RAISE THE CALL. NEXT ITEM, MR. CLERK.
[LB242]

CLERK: MR. PRESIDENT, WITH RESPECT TO LB245, THE FIRST THING I HAVE ARE
E&R AMENDMENTS. (ER46, LEGISLATIVE JOURNAL PAGE 732.) [LB245]

SENATOR KRIST: SENATOR HANSEN FOR A MOTION. [LB245]

SENATOR HANSEN: YES, MR. PRESIDENT. I MOVE THAT THE E&R AMENDMENTS
TO LB245 BE ADOPTED. [LB245]

SENATOR KRIST: YOU HEARD THE MOTION. ALL THOSE IN FAVOR? ALL THOSE IN
FAVOR? OPPOSED? THEY ARE ADOPTED. [LB245]

CLERK: MR. PRESIDENT, SENATOR BURKE HARR WOULD MOVE TO AMEND. (FA29,
LEGISLATIVE JOURNAL PAGE 799.) [LB245]

SENATOR KRIST: SENATOR HARR, YOU'RE RECOGNIZED. [LB245]

SENATOR HARR: THANK YOU, MR. PRESIDENT, MEMBERS OF THE BODY. I HAVE
TO ADMIT I'M NOT PREPARED AS OF YET. I HAVE LANGUAGE TO STRIKE SECTION
1 AT THIS POINT. I'M WAITING FOR LANGUAGE TO COME. I HAVE A BIT OF A
PROBLEM WITH THIS BILL AND I'LL GO INTO IT IN GREAT DETAIL AND
HOPEFULLY WE CAN GARNER SOME CONVERSATION ON THIS. THERE ARE TWO
PARTS TO THIS BILL. THERE'S THE DNA PORTION OF IT IN WHICH WE SAY, HEY, IF
NEW DNA COMES FORWARD THAT EXONERATES SOMEBODY, THEN WE
SHOULDN'T DO ANYTHING...OR, EXCUSE ME, WE SHOULD DO SOMETHING
ABOUT IT. AND I THINK THAT'S RIGHT. IF THERE'S SOMETHING OUT THERE THAT
EXONERATES SOMEBODY, WE SHOULD PROBABLY DO SOMETHING. THE SECOND
PART, WHICH WAS AMENDED INTO THE BILL, IS THE PART THAT GIVES ME THE
HEARTBURN WHERE I HAVE THE PROBLEM. AND THE ISSUE THERE IS THAT WHAT
WE SAY IS, IF THERE'S NEW EVIDENCE...RIGHT NOW YOU HAVE TO COME UP
WITH NEW EVIDENCE WITHIN TWO YEARS IN ORDER TO GET A NEW TRIAL.
WE'RE SAYING LET'S GET RID OF THAT STATUTE OF LIMITATION. WELL, FOLKS,
STATUTE OF LIMITATIONS EXIST FOR A REASON. THERE IS A STATUTE OF

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LIMITATION ON THE FRONT END OF A BILL...OR, EXCUSE ME, ON THE FRONT END OF A CRIME. SO IF I COMMIT A FELONY AND IT'S NOT ONE OF THE EXCEPTIONS--MURDER, ARSON, ONE OF...THERE, FORGERY--THERE IS A STATUTE OF LIMITATION BECAUSE WE NEED CERTAINTY IN THE LAW TO MAKE SURE SOMEONE CAN GO FORWARD WITH THEIR LIFE, ONE. TWO, EVIDENCE GROWS STALE, WITNESSES DIE, MEMORIES FADE. AND SO WE'VE SET AS A PUBLIC POLICY ON THE FRONT SIDE THAT WHEN A CRIME IS COMMITTED WE HAVE TO HAVE AN END DATE BECAUSE WE HAVE DETERMINED THAT THE EVIDENCE PROBABLY GOES BAD. WELL, NOW ON THE BACK SIDE WE'RE SAYING EVIDENCE CAN GO BAD BUT WE'RE GOING TO GIVE THEM A NEW TRIAL. AND THERE IS A...I DON'T HAVE A PROBLEM IF THE LEVEL...IF WE HAVE SPELLED OUT BETTER WHAT THOSE STANDARDS ARE. AND RIGHT NOW IN THE STATUTE, I MEAN IN THE AMENDMENT AND NOW THE LB245 IN FRONT OF YOU, IT DOESN'T DO THAT. IT'S TOO BROAD. AND ANYONE WHO SITS IN PRISON WITH NOTHING BUT TIME ON THEIR HANDS HAVE NOTHING BUT TIME ON THEIR HANDS. AND SO AS A RESULT, THEY HAVE TIME TO THINK OF NEW EVIDENCE, TO FIND NEW EVIDENCE, TO WASTE THE COURT'S TIME. THIS RIGHT HERE AS DRAFTED IS JUST AN INVITATION TO CLOG OUR COURT SYSTEMS. AND SO I'M GOING TO BE COMING WITH AN AMENDMENT HERE VERY QUICKLY THAT WILL BE MORE SPECIFIC. BUT IF ANYONE HAS ANY QUESTIONS REGARDING WHY I THINK THIS IS BAD POLICY, I'D BE MORE THAN WILLING TO ENTERTAIN ANY QUESTIONS YOU MAY HAVE. [LB245]

SENATOR KRIST: SENATOR PANSING BROOKS, YOU ARE RECOGNIZED. [LB245]

SENATOR PANSING BROOKS: THANK YOU. THANK YOU, MR. PRESIDENT. I JUST AM GOING ON RECORD TO SAY THAT I OPPOSE THE AMENDMENT AS PROPOSED BY SENATOR HARR. AGAIN, IT'S A...WE ARE...THE COMMITTEE HAD ADDED THAT AMENDMENT TO LB245 TO GET RID OF THE THREE-YEAR STATUTE OF LIMITATIONS WHICH IS A LIMITATION ON THE ABILITY TO FILE A MOTION FOR NEW TRIAL. THAT MOTION WILL BE SEEN BY A COURT OF LAW. IT WILL BE DETERMINED WHETHER OR NOT THAT MOTION IS VALID OR NOT. IT GIVES JUDICIAL DISCRETION TO THE JUDGE TO DETERMINE WHETHER OR NOT IT'S A VALID MOTION. AND, AGAIN, WE ARE ALL AWARE OF THE CASES THAT WE HAVE HAD IN NEBRASKA CONNECTED TO THE BEATRICE SIX, THAT THOSE PEOPLE WERE NOT ABLE TO FILE A MOTION FOR A NEW TRIAL. OUR STATE PAID MILLIONS OF DOLLARS. AND, AGAIN, I THINK THE COMMITTEE...I KNOW THAT THE COMMITTEE VOTED THIS AMENDMENT INTO LB245 UNANIMOUSLY. AND SO I STAND IN OPPOSITION TO SENATOR HARR'S AMENDMENT FA29. [LB245]

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SENATOR KRIST: THANK YOU, SENATOR PANSING BROOKS. (VISITORS INTRODUCED.) THOSE WISHING TO SPEAK: SENATOR CHAMBERS, SCHUMACHER, AND BURKE HARR. SENATOR CHAMBERS, YOU ARE RECOGNIZED. [LB245]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, I WOULD LIKE TO ASK SENATOR HARR A QUESTION OR TWO IF HE WILL YIELD. [LB245]

SENATOR KRIST: SENATOR HARR, WILL YOU YIELD? [LB245]

SENATOR HARR: YES. [LB245]

SENATOR CHAMBERS: SENATOR HARR, WHAT DOES YOUR AMENDMENT SAY, SPECIFICALLY? [LB245]

SENATOR HARR: RIGHT NOW, IT JUST STRIKES SECTION 1. I WILL... [LB245]

SENATOR CHAMBERS: GO AHEAD. AND WHAT WOULD THAT RESULT IN? [LB245]

SENATOR HARR: SOMETHING I WOULD NOT LIKE. I HAVE A BILL UP IN BILL DRAFTERS THAT I'M WAITING ON. SO THIS IS KIND OF TO FILL TIME AND I APOLOGIZE. IF YOU WANT ME TO GO INTO WHAT... [LB245]

SENATOR CHAMBERS: WELL, JUST TELL ME BRIEFLY WHAT YOUR AMENDMENT IS THAT YOU WANT. [LB245]

SENATOR HARR: OKAY. WHAT I WANT IS...IT'S COMING. I THINK I HAVE IT COMING RIGHT HERE. [LB245]

SENATOR CHAMBERS: YOU'RE TAKING MY TIME. [LB245]

SENATOR HARR: I APOLOGIZE. ALL RIGHT. SO WHAT THE AMENDMENT DOES, IT'S A MOTION FOR A NEW TRIAL MUST MAKE A PRIMA FACIE SHOWING THAT THE FACTS ALLEGED IN THE MOTION MATERIALLY AFFECT THE DEFENDANT'S SUBSTANTIAL RIGHTS AND THAT HE OR SHE IS ENTITLED TO A HEARING ON THE MERITS. [LB245]

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SENATOR CHAMBERS: THANK YOU, SENATOR HARR. MEMBERS OF THE LEGISLATURE, I DON'T LIKE SENATOR HARR'S AMENDMENT. I DON'T LIKE THE WAY THE SUPREME COURT DETERMINES WHETHER OR NOT SOMEBODY WILL BE GRANTED A NEW TRIAL, ESPECIALLY WHERE DNA IS CONCERNED BECAUSE THEY MAKE THE COMMENT, IS THIS SOMETHING THAT WOULD CAUSE THE JURY TO CHANGE ITS VERDICT? WHAT THEY ARE TELLING YOU THAT YOU'VE GOT TO DO IS ESTABLISH INNOCENCE BEFORE YOU CAN GET A NEW TRIAL. IF THE JURY FOUND YOU GUILTY, THE ONLY WAY THEY CAN CHANGE THE VERDICT IS TO SAY, NOT GUILTY. WELL, YOU HAVE A NEW TRIAL SO THAT THE FACTS ARE PRESENTED AND THE DECISION WILL BE BASED ON THOSE FACTS. BUT THE SUPREME COURT IS RAISING AN ALMOST IMPOSSIBLY HIGH STANDARD. WHAT SENATOR HARR IS SAYING...AND THE PROSECUTORS WANT IT. THEY COULD NOT GET THIS THE WHOLE TIME I WAS IN THE LEGISLATURE. THE SENATOR WHO WAS FROM WAHOO USED TO TRY TO DO IT--HE WAS A FORMER PROSECUTOR--VARIOUS ATTORNEYS GENERAL, AND I STOPPED IT. FIRST OF ALL, NOBODY GOES ON TRIAL UNLESS THE STATE FILES THE CHARGE. THE STATE CONTROLS EVERYTHING. AND IF THERE IS EVIDENCE THAT IS DISCOVERED THAT CAN HAVE A BEARING ON THE QUESTION OF GUILT OR INNOCENCE, THAT PERSON SHOULD BE ALLOWED TO FILE FOR A NEW TRIAL. SO NOW THAT SENATOR HARR HAS HIS AMENDMENT, I WOULD LIKE TO HEAR THE EXACT WORDING OF HIS AMENDMENT. [LB245]

SENATOR KRIST: DID YOU WANT SENATOR HARR TO READ THE AMENDMENT, SIR? [LB245]

SENATOR CHAMBERS: YES, IF HE WILL. [LB245]

SENATOR KRIST: SENATOR HARR, WOULD YOU READ THE AMENDMENT? [LB245]

SENATOR HARR: YEAH. SO WE'RE LOOKING AT PAGE 1, SECTION 2. A MOTION FOR A NEW TRIAL MUST SET FORTH ALL MATERIAL FACTS CONSTITUTING THE GROUNDS FOR RELIEF. AND THIS IS THE NEW LANGUAGE: A MOTION FOR A NEW TRIAL MUST MAKE A PRIMA FACIE SHOWING THAT THE FACTS ALLEGED IN THE MOTION MATERIALLY AFFECT THE DEFENDANT'S SUBSTANTIAL RIGHTS AND THAT HE OR SHE IS ENTITLED TO A HEARING ON THE MERITS. [LB245]

SENATOR CHAMBERS: AND WHO MAKES THAT DECISION? [LB245]

SENATOR HARR: THE JUDGE WOULD. [LB245]

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SENATOR CHAMBERS: AND WOULD IT BE WITHOUT THE PROSECUTION OFFERING ANYTHING? [LB245]

SENATOR HARR: I WOULD I ASSUME BOTH SIDES WOULD BE ALLOWED TO HAVE ABILITY TO TALK TO THE JUDGE TO MAKE THAT MOTION, YES. [LB245]

SENATOR CHAMBERS: NOW MY TIME IS RUNNING OUT, BUT YOU KNOW, SENATOR HARR, AS A LAWYER, THAT IF I MAKE A MOTION TO HAVE A SUMMARY DISMISSAL, THE COURT LOOKS AT EVERYTHING THAT IS PRESENTED AND ANYTHING THAT'S IN THE NATURE OF A FACT IS INTERPRETED TO BENEFIT THE ONE AGAINST WHOM THE MOTION IS BROUGHT? ARE YOU AWARE OF THAT? [LB245]

SENATOR HARR: THAT IS CORRECT. [LB245]

SENATOR CHAMBERS: AND THAT DOESN'T MEAN THAT THE FACTS ARE TRUE. IT JUST MEANS THAT IN GIVING THAT CONSTRUCTION, IT'S ENOUGH TO DEFEAT A MOTION FOR SUMMARY JUDGMENT. CORRECT? [LB245]

SENATOR HARR: THIS WOULDN'T BE A MOTION FOR SUMMARY JUDGMENT. [LB245]

SENATOR CHAMBERS: NO, I'M USING AN ANALOGY. [LB245]

SENATOR HARR: OH, OKAY, I'M SORRY. YES, THAT IS CORRECT. [LB245]

SENATOR CHAMBERS: ALL RIGHT. NOW, WHEN HE COMES UP WITH WHAT HE'S BRINGING, HE IS WANTING A PERSON TO MAKE A CASE... [LB245]

SENATOR KRIST: ONE MINUTE. [LB245]

SENATOR CHAMBERS: ...IN ORDER...I CANNOT SAY ALL THAT I WANT TO SAY, SO I'M GOING TO SAY...I'M GOING TO TAKE A DIFFERENT APPROACH. I AM TOTALLY OPPOSED TO SENATOR HARR'S MOTION. I WANTED TO BE SURE HE WAS PAYING ATTENTION TO WHAT I'M SAYING. I'M TOTALLY OPPOSED TO SENATOR HARR'S MOTION. THIS MATTER WAS DISCUSSED IN THE JUDICIARY COMMITTEE. THIS ISSUE WAS DISCUSSED ON GENERAL FILE. SENATOR HARR KNEW AS MUCH ON

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GENERAL FILE ABOUT THE LAW AS HE KNOWS NOW. I BELIEVE THIS WAS PUT IN HIS HAND BY CERTAIN NEFARIOUS INTERESTS IN WHOM I HAVE NO TRUST OR CONFIDENCE WHATSOEVER. AND SINCE HE'S GOING TO DELAY THE BILL, I WILL GO AHEAD AND PARTICIPATE FURTHER IN THE DISCUSSION. THANK YOU, MR. PRESIDENT. [LB245]

SENATOR KRIST: THANK YOU, SENATOR CHAMBERS AND SENATOR HARR. SENATOR SCHUMACHER, YOU ARE RECOGNIZED. [LB245]

SENATOR SCHUMACHER: THANK YOU, MR. CHAIRMAN, MEMBERS OF THE BODY. WILL SENATOR HARR YIELD TO SOME QUESTIONS? [LB245]

SENATOR KRIST: SENATOR HARR, WILL YOU YIELD? [LB245]

SENATOR HARR: YES. [LB245]

SENATOR SCHUMACHER: FOR EDUCATIONAL PURPOSES, CAN YOU GO THROUGH WHAT HAPPENS AFTER A JURY OR JUDGE FINDS SOMEBODY GUILTY AND THEY'RE PRESUMABLY SENTENCED TO THE PENITENTIARY? AND ALL OF A SUDDEN THEY THINK THAT THERE'S SOME EVIDENCE OUT THERE WHICH MIGHT HAVE RESULTED IN A DIFFERENT RESULT. WHAT'S THE PROCEDURE THAT HAS BEEN USED UP TO THIS TIME? [LB245]

SENATOR HARR: UP UNTIL NOW, YOU HAVE TWO YEARS TO COME UP WITH THAT NEW EVIDENCE. AND YOU CAN FILE A MOTION FOR...BASED ON THAT NEW EVIDENCE. AFTER TWO YEARS, THE PUBLIC POLICY HAS BEEN SIMILAR TO HOW WE HAVE A STATUTE OF LIMITATION PRIOR TO A CRIME. YOU HAVE TWO DAYS...TWO YEARS GENERALLY--WELL, DEPENDING ON THE CRIME. YOU HAVE A CERTAIN AMOUNT OF TIME FROM THE TIME OF THE CRIME UNTIL THE TRIAL, CALLED STATUTE OF LIMITATION, BECAUSE THERE'S A FEAR--AND NOW IT'S THE SAME FEAR THAT WE USE ON THE BACK END--THAT WITNESSES WILL DISAPPEAR, THAT EVIDENCE...WITNESSES WILL DISAPPEAR, WITNESSES WILL DIE, EVIDENCE GOES STALE, THAT IT'S NOT TIMELY. [LB245]

SENATOR SCHUMACHER: SO LET'S JUST SUPPOSE A CASE WHERE IT'S FIVE YEARS DOWN THE ROAD--AND FORGET ABOUT DNA AND ALL THAT--A MOVIE SHOWS UP THAT SHOWS THAT, INSTEAD OF BEING OUT ON THE STREET KILLING

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SOMEBODY, YOU WERE CLEARLY ON A SURVEILLANCE TAPE SITTING IN A RESTAURANT OR A HOTEL LOBBY. WHAT DO YOU DO TO GET JUSTICE? [LB245]

SENATOR HARR: WHAT IS THE FAIL-SAFE? YOU CAN ALWAYS GO TO THE BOARD OF PARDONS WITH THE EVIDENCE. [LB245]

SENATOR SCHUMACHER: SO THAT'S THE ONLY ROUTE YOU HAVE AT THAT POINT? [LB245]

SENATOR HARR: AT THAT POINT, YES. [LB245]

SENATOR SCHUMACHER: NOW WITH THE PROPOSED LANGUAGE THAT YOU'RE PROPOSING WITH...OR WILL BE PROPOSING--I GUESS IT'S PROBABLY NOT FILED YET--HOW DOES LIFE CHANGE? [LB245]

SENATOR HARR: WELL, IN A MOTION FOR A NEW TRIAL YOU MUST MAKE A PRIMA FACIE SHOWING THE FACTS ALLEGED IN THE MOTION MATERIALLY AFFECT THE DEFENDANT'S RIGHTS AND THAT HE OR SHE IS ENTITLED TO THAT HEARING. SO ALL WE'RE DOING IS REQUIRING THEM TO TAKE ONE MORE STEP. WE'RE NOT JUST LETTING THEM FILE 30 MOTIONS AT ONCE FOR A NEW TRIAL BASED ON EVIDENCE THAT MAY OR MAY NOT BE RELEVANT. [LB245]

SENATOR SCHUMACHER: SO, "PRIMA FACIE," THAT'S A BIG WORD. WHAT DOES THAT MEAN? [LB245]

SENATOR HARR: WELL, YOU'RE A LAWYER. [LB245]

SENATOR SCHUMACHER: WELL, I KNOW. [LB245]

SENATOR HARR: OKAY. [LB245]

SENATOR SCHUMACHER: BUT I'D LIKE TO SEE IF YOU KNOW WHAT IT MEANS. [LB245]

SENATOR HARR: PRIMA FACIE MEANS THAT I'M NOT IN LAW SCHOOL ANYMORE. IF YOU WOULD LIKE TO ENTERTAIN ME WITH THE DEFINITION, I WOULD APPRECIATE IT. [LB245]

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SENATOR SCHUMACHER: I THINK IT'S SORT OF SYNONYMOUS TO ON FIRST BLUSH OR ON ITS FACE. [LB245]

SENATOR HARR: YEAH, THANK YOU. [LB245]

SENATOR SCHUMACHER: SO HOW HARD IS THAT TO DO? I MEAN, WHAT DO I HAVE TO SHOW TO THE JUDGE? WHO DO I HAVE TO SHOW IT TO? [LB245]

SENATOR HARR: YOU KNOW, THAT'S A GREAT QUESTION. AND I WOULD SAY IT'S, YOU KNOW, IF YOU HAVE THE VIDEO THAT YOU GAVE, YOU COULD...THAT WOULD BE ENOUGH PRIMA FACIE. BUT IF IT'S ME SAYING, I GOT NEW EVIDENCE, MY GRANDMA SAID I WASN'T THERE, AND I DIDN'T HAVE THAT EVIDENCE AT THE TIME, I DON'T THINK THAT WOULD QUALIFY. [LB245]

SENATOR SCHUMACHER: SO YOU'RE ASKING FOR KIND OF A PROBABLE CAUSE HEARING, IN REVERSE. [LB245]

SENATOR HARR: IF YOU WILL. AND PRIMA FACIE I THINK IS LOWER THAN PROBABLE CAUSE, SO. WELL, IT IS LOWER THAN PROBABLE CAUSE. [LB245]

SENATOR SCHUMACHER: OKAY. SO, WHAT IF YOUR IDEA IS RESTRICTED ONLY THAT YOU HAVE...IN ALL CASES EXCEPT THOSE INVOLVING DNA, WHICH I GATHER WAS THE ORIGINAL PURPOSE OF THIS BILL. [LB245]

SENATOR HARR: YEAH. YEAH. WELL, DNA YOU GET A NEW TRIAL IF THERE'S NEW DNA EVIDENCE, ANYTIME. [LB245]

SENATOR KRIST: ONE MINUTE. [LB245]

SENATOR HARR: ANYTIME YOU WOULD GET A NEW TRIAL IF DNA CONCLUSIVELY SHOWS THAT YOU...YOU KNOW, INNOCENCE. [LB245]

SENATOR SCHUMACHER: BUT WHAT HAPPENS IF THAT'S OVER THREE YEARS AFTER THE TIME YOU WERE CONVICTED? WHAT'S YOUR ROUTE...WHAT'S YOUR REMEDY THERE, JUST THE PAROLE BOARD? [LB245]

SENATOR HARR: CURRENTLY? OR... [LB245]

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SENATOR SCHUMACHER: CURRENTLY. [LB245]

SENATOR HARR: CURRENTLY, I BELIEVE THAT IS CORRECT, YES. [LB245]

SENATOR SCHUMACHER: AND UNDER THE BILL? [LB245]

SENATOR HARR: UNDER THE BILL IT'D BE UNLIMITED FOR DNA. [LB245]

SENATOR SCHUMACHER: FOR DNA, BUT YOUR PROBLEM IS NOT DNA. IT'S ANYTHING. [LB245]

SENATOR HARR: NOPE, IT'S NOT DNA. IT'S EVERYTHING ELSE BUT DNA. [LB245]

SENATOR SCHUMACHER: SO IF WE CONSTRAIN THIS TO DNA AND BIOLOGICAL EVIDENCE, THEN IT WOULD BE...WOULD THAT MEET YOUR NEEDS? [LB245]

SENATOR HARR: HMM, I'D HAVE TO THINK ABOUT THAT. [LB245]

SENATOR SCHUMACHER: OKAY. THANK YOU, SENATOR HARR. THANK YOU, MR. PRESIDENT. [LB245]

SENATOR KRIST: THANK YOU, SENATOR SCHUMACHER AND SENATOR HARR. AND, SENATOR HARR, YOU'RE NEXT IN THE QUEUE. [LB245]

SENATOR HARR: THANK YOU. [LB245]

SENATOR KRIST: SORRY, COULD YOU...WE WON'T START YOUR TIME YET. MR. CLERK FOR AN ANNOUNCEMENT. [LB245]

ASSISTANT CLERK: MR. PRESIDENT, AN ANNOUNCEMENT THAT THE GOVERNMENT COMMITTEE WILL HOLD AN EXECUTIVE SESSION AT 11:45 UNDER THE SOUTH BALCONY.

SENATOR KRIST: THANK YOU. I'M SORRY, SENATOR HARR. YOU'RE NOW RECOGNIZED. [LB245]

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SENATOR HARR: THANK YOU. THANK YOU, MR. PRESIDENT. THE ARGUMENT HERE IS PRETTY CLEAR. I THINK WHAT SENATOR PANSING BROOKS IS BRINGING IS A GOOD IDEA. WE NEED TO HAVE SOME SORT OF RELIEF VALVE IF NEW EVIDENCE DOES COME IN. BUT I DON'T THINK WHAT...WE NEED TO HAVE SOME CONTROL ON THAT. WE CAN'T JUST SAY ANY AND ALL NEW EVIDENCE AND YOU GET A HEARING AND A MOTION. IT'S EXPENSIVE. YOU HAVE TO...IF YOU HAVE A MOTION, DOES THE DEFENDANT HAVE TO BE SHIPPED BACK? YOU HAVE TO THEN HAVE AN ATTORNEY, YOU HAVE TO HAVE ATTORNEYS ON BOTH SIDES. WHAT ALL I'M TRYING TO DO IS, IS TO PUT SOME STRUCTURE IN THERE SO THAT WE STILL ALLOW THESE DEFENDANTS, CONVICTED CRIMINALS--JUSTLY OR UNJUSTLY--TO HAVE THEIR DAY IN COURT, BUT NOT UNLIMITED. THERE WAS A GUY YEARS AGO WHO WOULD FILE--HE WAS IN PRISON--AND HE WOULD JUST FILE MOTION AFTER MOTION AFTER MOTION AFTER MOTION. AND THEY HAD TO MAKE UP COURT RULES FOR HIM THAT LIMITED HOW MANY MOTIONS HE COULD FILE. THE SAME THING IS GOING TO HAPPEN HERE. YOU'RE GOING TO HAVE SOMEONE WHO'S ANGRY, WHO WILL FILE MOTION AFTER MOTION AFTER MOTION. ALL WE'RE SAYING IS, HEY, LET'S HAVE SOME CONSTRAINT ON THIS. LET'S HAVE SOME STRUCTURE. THEY FILE A PRIMA FACIE...IF THERE'S PRIMA FACIE EVIDENCE, WE'LL HAVE IT; IF NOT, THE CASE IS DISMISSED. THE MOTION IS DENIED. THAT'S ALL I'M ASKING FOR. I'M STILL ALLOWING FOR THE FAIL-SAFE, I'M STILL ALLOWING FOR THE PERSON TO HAVE THEIR TIME IN COURT. BUT WHAT I'M DOING IS PROVIDING AN EARLIER SHUTOUT...SHUTOFF VALVE SO THAT WE DON'T WASTE TAXPAYER DOLLARS, THE COURT'S TIME ON FRIVOLOUS MOTIONS. THIS ISN'T...AND I WANT TO APOLOGIZE TO SENATOR PANSING BROOKS. I WISH I'D HAD A CHANCE TO SHOW IT TO IT HER BEFOREHAND. I HAD HEARTBURN OVER THIS WHEN IT WENT ON GENERAL AND WE WERE IN EXEC ON REVENUE. AND I REACHED OUT...I'LL TELL YOU, FRANKLY, I REACHED OUT TO THE COUNTY ATTORNEYS ASSOCIATION AND I SAID, HEY, I HAVE A PROBLEM WITH THIS. AND THEY SAID, YEAH, WELL, WE DO TOO. AND I NEVER REALLY FOLLOWED UP. AND THEN I TALKED TO SOMEONE ELSE, AND NOT FROM THE COUNTY ATTORNEY'S OFFICE. THEY SAID, HEY, WE HAVE AN AMENDMENT, WE HAVE SOME LANGUAGE. I SAID, WELL, LET ME LOOK AT IT. I LOOKED AT IT AND IT'S LANGUAGE I LIKE AND I THINK IT PROVIDES STRUCTURE. IT'S NOT...WE'RE NOT DENYING, WE'RE NOT GOING BACK TO WHERE WE WERE BEFORE. WHAT WE ARE DOING IS FINDING A MIDDLE GROUND. AND I THINK IT WAS SENATOR WILLIAMS THAT SAYS IN A POEM, IF BOTH SIDES DON'T LIKE IT, IT'S PROBABLY A GOOD DEAL. SO THAT'S WHAT I'M TRYING TO DO WITH THIS AMENDMENT. AND WITH THAT, I'D YIELD THE REMAINDER OF MY TIME BACK TO THE CHAIR. [LB245]

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SENATOR KRIST: THANK YOU, SENATOR HARR. (VISITORS INTRODUCED.) THOSE STILL WISHING TO SPEAK: SENATOR PANSING BROOKS, SENATOR CHAMBERS, AND SENATOR MORFELD. SENATOR PANSING BROOKS, YOU ARE RECOGNIZED. [LB245]

SENATOR PANSING BROOKS: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. GOOD MORNING, NEBRASKA. I AM WANTING TO TALK ABOUT THE FACT THAT, FIRST OFF, WE HAD NO KNOWLEDGE OF THIS, WHICH SENATOR HARR JUST ADMITTED. AND HE SAYS, BASICALLY, IT'S A GOOD IDEA FOR NEW EVIDENCE BUT YOU CAN'T SAY ANY AND ALL EVIDENCE. AND SO I WAS WONDERING IF SENATOR HARR WOULD BE WILLING TO YIELD TO A QUESTION. [LB245]

SENATOR KRIST: SENATOR HARR, WILL YOU YIELD? [LB245]

SENATOR HARR: I WOULD GLADLY YIELD. [LB245]

SENATOR PANSING BROOKS: SENATOR HARR, AS A PROSECUTOR, WERE YOU AWARE OF THE LAWS THAT THE SUPREME COURT HAS CREATED WHICH LIMIT THE ABILITY TO SUBMIT NEW TESTIMONY ON A MOTION FOR NEW TRIAL? [LB245]

SENATOR HARR: YES. [LB245]

SENATOR PANSING BROOKS: AND DO YOU THINK THAT THE SUPREME COURT IS QUITE CLEAR ON WHAT THEY WOULD CONSIDER EVIDENCE SUFFICIENT FOR GROUNDS FOR A NEW TRIAL? [LB245]

SENATOR HARR: BOY, I ALWAYS THINK THEY'RE CLEAR. [LB245]

SENATOR PANSING BROOKS: WELL, I DO, TOO. THANK YOU, SENATOR HARR. IN FACT, WE HAVE CASE AFTER CASE THAT TALKS ABOUT THAT THE COURT MUST DETERMINE THAT NEWLY DISCOVERED EXCULPATORY EVIDENCE OBTAINED MUST PRODUCE A SUBSTANTIALLY DIFFERENT RESULT, THAT THE DISCOVERED EVIDENCE MUST INVOLVE SOMETHING OTHER THAN THE CREDIBILITY OF A WITNESS WHO TESTIFIED, THAT THE CREDIBILITY...THAT'S IN STATE V. PIERCE. AND IN STATE V. HORTMAN THE CREDIBILITY OF A WITNESS IS NOT SUFFICIENT TO SUPPORT A MOTION FOR A NEW TRIAL. IN STATE V. SMITH, NEWLY

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DISCOVERED EVIDENCE MUST BE RELEVANT AND CREDIBLE AND NOT MERELY CUMULATIVE. IN STATE V. JACKSON, WHEN A CODEFENDANT WHO HAS CHOSEN NOT TO TESTIFY SUBSEQUENTLY COMES FORWARD TO OFFER TESTIMONY EXCULPATING A DEFENDANT, THE EVIDENCE IS NOT NEWLY DISCOVERED WITHIN THE MEANING OF THE SECTION. SO THERE IS CASE AFTER CASE AFTER CASE WHERE THE SUPREME COURT, OUR NEBRASKA SUPREME COURT, HAS RULED ON WHAT CONSTITUTES ENOUGH EVIDENCE FOR A MOTION FOR A NEW TRIAL. SO TO SAY THAT YOU CAN JUST HAVE SOME EXPANSIVE STRUCTURE THAT ALLOWS ANY AND ALL NEW EVIDENCE, IS CLEARLY CONTRARY TO WHAT THE SUPREME COURT HAS CURRENTLY RULED IN CASE AFTER CASE. FURTHERMORE, I'D LIKE TO SAY THAT THE COUNTY ATTORNEYS, WHEN THEY CAME FORWARD THEY ONLY SPOKE...THEY ONLY SENT A LETTER ON THIS. THEY DIDN'T EVEN FEEL STRONGLY ENOUGH ABOUT IT TO COME AND TESTIFY. SO, AGAIN, I WOULD YIELD MY TIME NOW TO SENATOR CHAMBERS. THANK YOU. [LB245]

SENATOR KRIST: SENATOR CHAMBERS, YOU'RE YIELDED 2 MINUTES. [LB245]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, WHILE OTHERS SPOKE, IT GAVE ME A CHANCE TO KIND OF CONTROL MY TEMPER. BUT I'M SICK OF THESE COUNTY ATTORNEYS. YOU KNOW WHY THEY WOULDN'T COME? THEY DIDN'T WANT TO FACE ME AT THE COMMITTEE SO THEY SENT A LETTER. THEN THEY KNEW THEY HAD A WATER CARRIER OUT HERE, SENATOR HARR, AND THEY JUDGED HIM PROPERLY. NOW WHY DIDN'T SENATOR HARR SAY...SENATOR HARR, I'D LIKE TO ASK YOU A QUESTION OR TWO. [LB245]

SENATOR KRIST: SENATOR HARR, WILL YOU YIELD? [LB245]

SENATOR HARR: YES. [LB245]

SENATOR CHAMBERS: SENATOR HARR, WHAT IS A BENCH TRIAL AS OPPOSED TO A JURY TRIAL? [LB245]

SENATOR HARR: A BENCH TRIAL IS A TRIAL TO A JUDGE. [LB245]

SENATOR CHAMBERS: AND, IN EFFECT, ISN'T THAT WHAT YOU'RE ASKING FOR ON THIS, ANOTHER TRIAL BEFORE THE JUDGE BEFORE WE CAN EVEN GET TO THE

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MOTION FOR A NEW TRIAL? BECAUSE THE ONE MAKING THE MOTION HAS TO PRESENT EVIDENCE, THE ONE WHO IS OPPOSED TO IT, THE COUNTY ATTORNEYS, WILL THEN PRESENT EVIDENCE. ISN'T THAT WHAT YOU SAID? [LB245]

SENATOR HARR: OH, I DON'T THINK...WELL, I DON'T KNOW IF THE COUNTY ATTORNEY WOULD NECESSARILY INTRODUCE EVIDENCE, BUT THEY WOULD HAVE THE ABILITY TO CROSS-EXAMINE THAT WITNESS OR THE EVIDENCE. [LB245]

SENATOR CHAMBERS: THANK YOU. MEMBERS OF THE LEGISLATURE, I'LL TELL YOU WHY THE COUNTY ATTORNEYS DON'T COME. THERE WAS A CASE THAT THE SUPREME COURT JUST DECIDED. THEY REVERSED IT BECAUSE A DEPUTY LANCASTER COUNTY ATTORNEY LIED TO THE JURY. HE HAD EVIDENCE THAT HE KNEW WAS UNTRUE AND HE GAVE IT TO THE JURY KNOWING IT WAS UNTRUE, AND THAT'S WHAT THE SUPREME COURT SAID. THAT'S WHAT YOUR COUNTY ATTORNEYS DO, THEY LIE TO THE COURT. AND I'LL TELL YOU, SENATOR HARR, WHAT YOU'VE PUT ME IN A MIND TO DO. I'M GOING TO FILE AN ETHICS COMPLAINT AGAINST THAT COUNTY ATTORNEY. YOU KNOW WHY? BECAUSE IT'S AGAINST THE ETHICS OF A LAWYER TO MISLEAD A TRIBUNAL. AND WHEN YOU LIE DURING THE COURSE OF A TRIAL... [LB245]

SENATOR KRIST: ONE MINUTE. [LB245]

SENATOR CHAMBERS: ...THAT COURT IS THE TRIBUNAL. AND WHEN YOU TOLD THAT LIE IN COURT, KNOWING IT'S A LIE, YOU VIOLATED YOUR ETHICS. AND THESE ARE THE PEOPLE HE WENT TO, TO BRING THAT MESS TO US THAT THEY WERE TOO COWARDLY AND GUTLESS TO BRING THEMSELVES. YOU KNOW WHY I'M UPSET? I CARE ABOUT PEOPLE WHO MAY BE UNJUSTLY CONVICTED. THE CASE THAT I'M TALKING ABOUT, I CAN'T SAY THE MAN WAS INNOCENT. BUT I CAN SAY THIS: HE WAS UNJUSTLY CONVICTED BECAUSE THE LAW WAS VIOLATED BY THE COUNTY ATTORNEY'S OFFICE. AND SENATOR HARR HAS UPSET ME IN A WAY THAT I DIDN'T THINK HE COULD. I THOUGHT HE WAS BETTER THAN THAT. I THOUGHT HE WAS A BETTER LAWYER THAN THAT. [LB245]

SENATOR KRIST: TIME, SENATOR. [LB245]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB245]

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SENATOR KRIST: BUT YOU'RE NEXT IN THE QUEUE. YOU MAY CONTINUE IF YOU WISH. [LB245]

SENATOR CHAMBERS: NOW THAT I'M ON MY OWN TIME...I FELT THAT I COULD INDULGE MYSELF ON SENATOR PANSING BROOKS' TIME TO LET MY ANGER SHOW THROUGH. BUT NOW I'M SPEAKING ON MY OWN TIME, IN MY OWN TERMS. I'M TRAINED IN THE LAW. I'VE WON CASES BEFORE THE SUPREME COURT THAT PROSECUTORS BROUGHT AGAINST ME. THERE WAS A FINDING BY THE DOUGLAS COUNTY COURT WITH REFERENCE TO SOME GRAND JURY PROCEEDINGS. THERE WERE THINGS IN THE GRAND JURY REPORT THAT WERE FALSE. I DID AS I SHOULD DO AND TALKED TO THE LOWER COURT AND TOLD THEM THEY SHOULD EXPUNGE EVERYTHING IN IT THAT SHOULDN'T BE OR THE WHOLE REPORT, AND I LOST. BUT I TOOK IT TO THE NEBRASKA SUPREME COURT AND I WON. I WON. THEY SAID, THIS IS NOT A CASE WHERE THE GRAND JURY REPORT IS SEALED. IT IS EXPUNGED; THAT MEANS IT IS ERASED. PEOPLE LIKE SENATOR HARR WOULD SAY THAT I SHOULD HAVE JUST LET IT GO BECAUSE A PROSECUTOR SPOKE AGAINST ME, THE SPECIAL PROSECUTOR FOR THE GRAND JURY. THE LOWER COURT JUDGE RULED AGAINST ME. BUT I WAS MY OWN LAWYER AND AS IT TURNED OUT I WAS THE LAWYER FOR EVERYBODY WHO WAS MALIGNED IN THAT REPORT. SENATOR JOHN DeCAMP...THEN-SENATOR DeCAMP WENT TO FEDERAL COURT TO TRY TO GET IT SET ASIDE. AND HIS WAS DISMISSED ON THE BASIS OF THE MOTION THAT HE FILED...THE PETITION HE FILED. I WON. SO I'M NOT SOMEBODY WHO HAS NO KNOWLEDGE WHATSOEVER OF THE LAW. BUT THIS GOES BEYOND THE LAW. THIS GOES TO THE SPIRIT OF THE LAW. IF SENATOR HARR WATCHED TELEVISION, HE WOULD SEE WHERE A MAN JUST THE OTHER DAY--IT WASN'T IN NEBRASKA--AFTER 21 YEARS IN PRISON FOR A CRIME HE DIDN'T COMMIT, HE WAS FINALLY TURNED LOOSE. THE BEATRICE SIX WERE RELEASED AND JON BRUNING, THE ATTORNEY GENERAL, ASKED ME PERSONALLY TO COME TO THE HEARING BEFORE THE PARDONS BOARD BECAUSE HAD I NOT PLAYED THE ROLE THAT I PLAYED THAT NEVER WOULD HAVE HAPPENED. I KNOW I'M NOT RESPECTED IN THIS STATE. I KNOW THAT, AND THAT'S WHY I WORK HARDER AND I PAY MORE ATTENTION. AND WHENEVER I SEE PEOPLE WHOSE RIGHTS ARE GOING TO BE VIOLATED BY THE COUNTY ATTORNEY WITH THE COMPLICITY OF ONE OF MY COLLEAGUES ON THIS FLOOR WHO CAN TALK BACK TO ME, THEN I'M GOING TO SPEAK VERY FORTHRIGHTLY AND TELL HOW ANGRY I AM. WE'RE NOT TALKING ABOUT DRY BEANS NOW. WE'RE NOT MAKING A POINT NOW. I'M TALKING ABOUT BASIC HUMAN DIGNITY, DECENCY, AND THE ROLE OF THE COURTS. THE CONSTITUTION SAYS THE DOORS TO THE COURTHOUSE ARE TO BE OPEN TO EVERYBODY. SENATOR HARR WANTS TO SAY THEY'RE OPEN IF YOU COME WITHIN THE TWO

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YEARS THAT THE COUNTY ATTORNEYS GOT INTO THE LAW WHEN I WAS NOT HERE. THEY DON'T HAVE TO WORRY ABOUT HIM. THEY DON'T HAVE TO WORRY ABOUT ANYBODY ELSE ON THIS FLOOR, SO THEY WAITED TILL I WAS GONE. YOU KNOW HOW MANY YEARS I STOPPED THEM FROM GETTING LETHAL INJECTION? OVER A DECADE. THEY COULDN'T GET IT. AND I TOLD THEM WHY, BECAUSE I WANTED NEBRASKA TO BE THE ONLY STATE WITH ELECTROCUTION AS THE ONLY MEANS OF EXECUTION. AND PEOPLE ASKED ME WHY WOULD I DO THAT SINCE I'M AGAINST CAPITAL PUNISHMENT? I SAID, AS INCOMPETENT AS THEY ARE, THERE WILL BE NO EXECUTION BEFORE THIS CONDITION THAT I WANT TO SEE IN PLACE. AND TRUE ENOUGH, IT CAME. AND WHEN THAT MATTER WAS PUT BEFORE THE NEBRASKA SUPREME COURT ON A DEVELOPED RECORD, THE SUPREME COURT STRUCK DOWN ELECTROCUTION. IF I'D GONE ALONG WITH THE WEAK-KNEED, LILY-LIVERED PEOPLE IN THIS LEGISLATURE, THEY WOULD HAVE GOTTEN LETHAL INJECTION. [LB245]

SENATOR KRIST: ONE MINUTE. [LB245]

SENATOR CHAMBERS: AND WHEN THE COURT STRUCK DOWN ELECTROCUTION, I STILL WAS IN THE LEGISLATURE. SO YOU KNOW WHAT JON BRUNING AND THE GUTLESS PEOPLE IN THIS LEGISLATURE DID? THEY WAITED UNTIL THE YEAR THAT I HAD TO SERVE AND WAS TERM LIMITED OUT. THEN THEY AND THE GOVERNOR AND THE ATTORNEY GENERAL BROUGHT THAT NO-GOOD BILL AND THEY GOT IT PASSED BY THE LEGISLATURE. THAT'S WHY I'M UPSET. I WORK HARD AND I MEAN WHAT I SAY. AND I WILL CONTINUE TO WORK HARD. AND, FRANKLY, THERE IS NO BILL THAT MEANS ENOUGH TO ME THAT SOMEBODY CAN SAY, IF YOU DO THIS OR SAY THAT, I'LL VOTE AGAINST THE BILL. VOTE AGAINST IT. I FOUGHT FOR SOMETHING FOR 40 YEARS AND I'LL CONTINUE. BUT I WON'T SELL OUT MY PRINCIPLES AND I WON'T SELL OUT THOSE PEOPLE WHO HAVE NO VOICE ON THIS FLOOR, AS SOME OF MY COLLEAGUES WOULD DO BECAUSE THE COUNTY ATTORNEYS WANT THEM TO DO IT THAT WAY. THANK YOU, MR. PRESIDENT. AND I DON'T APOLOGIZE FOR A THING THAT I'VE SAID OR THE WAY THAT I'VE SAID IT. HAD I MORE FORCEFULNESS, I WOULD HAVE BEEN MORE FORCEFUL. THANK YOU. [LB245]

SENATOR KRIST: THANK YOU, SENATOR CHAMBERS. MR. CLERK. [LB245]

ASSISTANT CLERK: MR. PRESIDENT, SOME ITEMS FOR THE RECORD. YOUR COMMITTEE ON HEALTH REPORTS LB240, LB28, LB243, LB287, LB320, LB405, LB472, LB500, AND LB607 TO GENERAL FILE. COMMITTEE ON GOVERNMENT REPORTS

Transcript Prepared By the Clerk of the Legislature
Transcriber's Office

Floor Debate
March 11, 2015

LB541, LB105, AND LB465 TO GENERAL FILE. REVENUE REPORTS LB259 AND LB322 TO GENERAL FILE. SERIES OF PRIORITY BILL DESIGNATIONS: SENATOR KEN HAAR, LB407; SENATOR KINTNER, LB481; SENATOR MORFELD, LB264; STATE-TRIBAL RELATIONS COMMITTEE HAS DESIGNATED LB566; REVENUE, LB259 AND LB356. SERIES OF AMENDMENTS TO BE PRINTED: SENATOR SCHEER TO LB53; SENATOR HADLEY TO LB497; SENATOR KRIST, LB504; SENATOR PANSING BROOKS, LB366A; SENATOR BLOOMFIELD TO LB431; SENATOR LARSON TO LB242 AND LB619; SENATOR BURKE HARR TO LB245. NEW RESOLUTIONS: LR111 BY SENATOR WATERMEIER, AND LR112 BY SENATOR FRIESEN; THOSE WILL BE LAID OVER. NAME ADD: SENATOR COASH TO LB516. (LEGISLATIVE JOURNAL PAGES 799-819.) [LB240 LB28 LB243 LB287 LB320 LB405 LB472 LB500 LB607 LB541 LB105 LB465 LB259 LB322 LB407 LB481 LB264 LB566 LB259 LB356 LB53 LB497 LB504 LB366A LB431 LB242 LB619 LB245 LR111 LR112 LB516]

AND FINALLY, MR. PRESIDENT, SENATOR WILLIAMS WOULD MOVE TO ADJOURN UNTIL THURSDAY, MARCH 12, 2015, AT 9:00 A.M.

SENATOR KRIST: YOU'VE HEARD THE MOTION. ALL THOSE IN FAVOR, AYE. OPPOSED, NAY. WE ARE ADJOURNED TILL TOMORROW MORNING.