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Floor Debate
February 24, 2016

[LB188 LB447 LB683 LB744 LB746 LB831A LB839 LB857 LB919A LB930 LB954 LB1012
LB1016 LB1075 LB1098 LR449 LR450]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: GOOD MORNING, LADIES AND GENTLEMEN, WELCOME TO THE GEORGE W. NORRIS LEGISLATIVE CHAMBER FOR THE THIRTY-SECOND DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, SECOND SESSION. OUR CHAPLAIN FOR TODAY IS PASTOR JUSTIN ADAMS OF THE "EPIC" CHURCH IN LINCOLN, NEBRASKA; SENATOR CAMPBELL'S DISTRICT, PLEASE RISE.

PASTOR ADAMS: (PRAYER OFFERED.)

PRESIDENT FOLEY: THANK YOU, PASTOR ADAMS. I CALL TO ORDER THE THIRTY-SECOND DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, SECOND SESSION. SENATORS, PLEASE RECORD YOUR PRESENCE. ROLL CALL. MR. CLERK, PLEASE RECORD.

CLERK: I HAVE A QUORUM PRESENT, MR. PRESIDENT.

PRESIDENT FOLEY: THANK YOU, MR. CLERK. ARE THERE ANY CORRECTIONS FOR THE JOURNAL?

CLERK: I HAVE NO CORRECTIONS.

PRESIDENT FOLEY: THANK YOU, MR. CLERK. ARE THERE ANY MESSAGES, REPORTS OR ANNOUNCEMENTS?

CLERK: YOUR COMMITTEE ON ENROLLMENT AND REVIEW REPORTS LB683 AND LB746 TO SELECT FILE. I HAVE NOTICE OF A HEARING FROM THE GOVERNMENT, MILITARY AND VETERAN'S AFFAIRS COMMITTEE. TWO CONFIRMATION REPORT FROM RETIREMENT SYSTEMS COMMITTEE. SENATOR STINNER OFFERS A NEW RESOLUTION, LR449; THAT WILL BE LAID OVER. THAT'S ALL THAT I HAVE, MR. PRESIDENT. (LEGISLATIVE JOURNAL PAGES 703-704.) [LB683 LB746 LR449]

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PRESIDENT FOLEY: (DOCTOR OF THE DAY INTRODUCED.) WE'LL NOW PROCEED TO THE FIRST ITEM ON THE AGENDA, SELECT FILE, 2016 COMMITTEE PRIORITY BILLS. MR. CLERK.

CLERK: MR. PRESIDENT, SENATOR HANSEN, I HAVE ENROLLMENT AND REVIEW AMENDMENTS FIRST OF ALL. (ER162, LEGISLATIVE JOURNAL PAGE 569.) [LB954]

PRESIDENT FOLEY: SENATOR HANSEN, FOR A MOTION. [LB954]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADOPT THE E&R AMENDMENTS TO LB954. [LB954]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADOPT THE E&R AMENDMENTS, ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. E&R AMENDMENTS ARE ADOPTED. MR. CLERK. [LB954]

CLERK: SENATOR KRIST WOULD MOVE TO AMEND WITH AM2279. (LEGISLATIVE JOURNAL PAGES 705-707.) [LB954]

PRESIDENT FOLEY: SENATOR KRIST, YOU'RE RECOGNIZED TO OPEN ON AM2279. [LB954]

SENATOR KRIST: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES; AND GOOD MORNING, NEBRASKA. AND I PROMISED A CONSTITUENT I WOULD SAY GOOD NIGHT TO HIM BECAUSE HE WORKS NIGHT SHIFTS AND HE FINDS OUR DIALOGUE IN THE MORNING RESTFUL, HELPS HIM GO TO SLEEP IN THE MORNING, IF YOU CAN BELIEVE THAT. SO, GOOD NIGHT, BERN (PHONETIC). THIS AMENDMENT IS PRETTY SIMPLE. AND I WANT TO THANK THE JUDICIARY FOR BRINGING IT FORWARD. IT CAME TO THEIR ATTENTION DURING A WEBINAR YESTERDAY, HOSTED BY THE COURT ADMINISTRATOR, ADMINISTRATOR OF THE COURT, COREY STEEL, THAT SEALED RECORDS WERE NOT AVAILABLE TO THE IG. THIS AMENDMENT SIMPLY ADDS THE IG TO THAT LIST OF PEOPLE THAT CAN LOOK AT SEALED RECORDS FOR THE JUVENILES. AND I THINK THAT...AND IN TERMS OF AN INVESTIGATION IS VERY IMPORTANT. SO I ASK YOU TO VOTE GREEN ON AM2279 AND LET'S MOVE LB954 ALONG. [LB954]

PRESIDENT FOLEY: THANK YOU, SENATOR KRIST. MEMBERS, YOU'VE HEARD THE OPENING ON AM2279. SEEING NO SENATORS WISHING TO SPEAK, SENATOR KRIST

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WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF AM2279. ALL THOSE IN FAVOR VOTE AYE, THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD, PLEASE, MR. CLERK. [LB954]

CLERK: 31 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE AMENDMENT. [LB954]

PRESIDENT FOLEY: AM2279 IS ADOPTED. MR. CLERK. [LB954]

CLERK: MR. PRESIDENT, NOTHING FURTHER ON THE BILL. [LB954]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB954]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB954 TO E&R FOR ENGROSSING. [LB954]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB954 TO E&R FOR ENGROSSING. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB954 ADVANCES. MR. CLERK. [LB954]

CLERK: MR. PRESIDENT. SENATOR HANSEN, LB1016, I HAVE NO AMENDMENTS TO THE BILL. [LB1016]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB1016]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB1016 TO E&R FOR ENGROSSING. [LB1016]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB1016. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB1016 ADVANCES. MR. CLERK. [LB1016]

CLERK: MR. PRESIDENT, NEXT BILL LB188. I HAVE NO E&Rs. SENATOR CHAMBERS WOULD MOVE TO AMEND. [LB188]

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PRESIDENT FOLEY: I DO NOT SEE SENATOR CHAMBERS ON THE FLOOR. WE'LL PASS OVER THAT AMENDMENT FOR THE TIME BEING. MR. CLERK, ANYTHING ELSE? [LB188]

CLERK: MR. PRESIDENT, SENATOR WATERMEIER WOULD MOVE TO AMEND WITH AM2084. SENATOR, I UNDERSTAND YOU WISH TO WITHDRAW AM2084 AND OFFER AS A SUBSTITUTE AM2199. (LEGISLATIVE JOURNAL PAGE 707.) [LB188]

SENATOR WATERMEIER: YES, I... [LB188]

PRESIDENT FOLEY: WITHOUT OBJECTION, SO ORDERED. [LB188]

CLERK: AM2199, SENATOR. [LB188]

PRESIDENT FOLEY: SENATOR WATERMEIER, YOU'RE RECOGNIZED TO OPEN ON AM2199. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. AM2199 WOULD STRIKE AND INSERT THE COMPROMISE...EXCUSE ME, WOULD INSERT THE COMPROMISE THAT I REFERRED TO PRIOR TO LB188 ADVANCING FROM GENERAL FILE. I'LL ALSO NOTE THAT AM2199 CONTAINS THE CONTENTS OF SENATOR CHAMBERS' FLOOR AMENDMENT, FA86, BUT GOES FURTHER AND ADDS ANOTHER IMPORTANT CHANGE. LB188, WITH THE JUDICIARY COMMITTEE AMENDMENTS ADOPTED ON GENERAL FILE, AND MY PROPOSED AMENDMENT SELECTS AM2199 CREATES A DEFINITION OF INNOCENT THIRD PARTY FOR PURPOSES OF AUTOMATIC OR STRICT LIABILITY RECOVERY OF DAMAGES AGAINST COUNTIES, CITIES, AND STATE IN CIVIL CASES BROUGHT BY INJURED PARTIES IN A FLEEING VEHICLE AS FOLLOWS: NUMBER FIVE, FOR PURPOSES OF THIS SECTION, A PASSENGER IN A FLEEING VEHICLE SHOULD NOT BE CONSIDERED AN INNOCENT THIRD PARTY IF THE PASSENGER: (a) PROMOTES, PROVOKES, OR PERSUADES THE DRIVER TO ENGAGE IN FLIGHT FROM LAW PERSONNEL; (b) IS SOUGHT TO BE APPREHENDED BY LAW ENFORCEMENT PERSONNEL, OR (c) HAS ENGAGED IN CONDUCT CHARGEABLE AS OR AMOUNTING TO A FELONY WHILE IN OR ON OR IMMEDIATELY PRIOR TO ENTERING INTO THE FLEEING VEHICLE. I'LL GIVE YOU A BRIEF EXPLANATION OF THIS DEFINITION. THE NEW SUBSECTION PROVIDES: (a) THAT A PASSENGER IN A FLEEING VEHICLE TO PROMOTES, PROVOKES OR PERSUADES THE DRIVER TO ENGAGE IN FLIGHT FROM LAW ENFORCEMENT PERSONNEL IS NOT AN INNOCENT THIRD PARTY FOR PURPOSES OF AUTOMATIC RECOVERY OF DAMAGES FROM THE TAXPAYERS. THIS LANGUAGE IS TAKEN

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DIRECTLY FROM EXISTING NEBRASKA COURT DECISIONS. IT IS SIMPLY A CODIFICATION OF EXISTING CASE LAW ON THE WERNER CASE. THE COURT SAID: WE HAVE DEFINED AN INNOCENT THIRD PARTY AS ONE WHO HAS NOT PROMOTED, PROVOKED, OR PERSUADED THE DRIVER TO ENGAGE IN FLIGHT FROM LAW ENFORCEMENT PERSONNEL. THE NEW SUBSECTION B, FORMERLY D, PROVIDES THAT ANY PASSENGER IN A FLEEING VEHICLE WHO IS SOUGHT TO BE APPREHENDED BY LAW ENFORCEMENT PERSONNEL IS NOT AN INNOCENT THIRD PARTY FOR PURPOSES OF AUTOMATIC RECOVERY OF DAMAGES FROM THE TAXPAYERS. THIS LANGUAGE IS ALSO TAKEN FROM EXISTING NEBRASKA CASE LAW WHICH IS WERNER V. THE COUNTY OF PLATTE. AGAIN, WERNER, THE COURT SAID: WE HAVE DEFINED AN INNOCENT THIRD PARTY AS ONE WHO IS NOT SOUGHT TO BE APPREHENDED. THE NEW SUBSECTION (c) IS FROM THE JUDICIARY COMMITTEE AMENDMENT ADOPTED ON GENERAL FILE PLUS ONE IMPORTANT ADDITION--THAT IT PROVIDES THAT A PASSENGER WHO HAS ENGAGED IN CONDUCT CHARGEABLE AS OR AMOUNTING TO A FELONY WHILE IN OR ON OR IMMEDIATELY PRIOR TO ENTERING THE VEHICLE IS NOT AUTOMATICALLY ENTITLED TO RECOVERY OF DAMAGES FROM THE TAXPAYER AND MUST PROVE NEGLIGENCE IN ORDER TO RECOVER DAMAGES. THE ADDITION OF THE WORD "IMMEDIATELY" MAKES IT VERY CLEAR THIS SECTION DEALS ONLY WITH FELONIES JUST PRIOR TO THE FLIGHT FROM LAW ENFORCEMENT AND NOT OLD CRIMES OR ONES WHICH HAVE BEEN ALREADY PROSECUTED. THIS PROVISION IS CONSISTENT WITH AND EVEN MORE NARROW THAN THE OCCURRING OPINION IN THE WERNER CASE WHICH POINTED OUT THE LEGISLATURE COULD DEFINE INNOCENT THIRD PARTY AS EXCLUDING THOSE WHO ENGAGE IN ILLEGAL CONDUCT. LET ME REMIND YOU, JUDGE CASSEL WROTE IN WERNER CASE: I DOUBT THAT MOST MEMBERS OF THE LEGISLATURE, IF ASKED, WOULD CHARACTERIZE A PASSENGER IN THE VEHICLE FLEEING FROM LAW ENFORCEMENT WHO HAS ON HIS PERSON METHAMPHETAMINE AND GLASS PIPES FOR SMOKING IT LATER THAT EVENING, AND WHO POSSESSES AND IS LIKELY DRINKING FROM AN OPEN CONTAINER OF AN ALCOHOLIC BEVERAGE WHEN THE PURSUIT BEGINS AS AN INNOCENT THIRD PARTY. I WRITE SEPARATELY ONLY TO EMPHASIZE THAT THE LEGISLATURE HAS THE POWER TO CHANGE THE RESULT IN A FUTURE CASE. THE LEGISLATURE MAY WISH TO REPLACE AN ADDITIONAL LIMITATION OF THE DEFINITION OF AN INNOCENT THIRD PARTY IN LIGHT OF THE FACTS IN THE INSTANT CASE AND IS FREE TO DO SO. FOR EXAMPLE, THE LEGISLATURE MIGHT DECIDE TO NARROW THE DEFINITION OF AN INNOCENT THIRD PARTY TO EXCLUDE A PERSON WHO THEN ENGAGED IN A VIOLATION OF A FELONY OR MISDEMEANOR OFFENSE WITHOUT REGARD TO WHETHER SUCH PERSON OR HIS OR HER CONDUCT WAS KNOWN TO LAW ENFORCEMENT OFFICERS BEFORE INITIATING THE PURSUIT. THAT WOULD

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GET TO THE NEXUS IDEA THAT IT'S NOT PART OF THE NEXUS. WHAT HAS CHANGED FROM GENERAL FILE? IN ADDITION TO THE CHANGE IN THE NEW SUBSECTION (c) CLARIFYING THAT THE FELONY CONDUCT MUST HAVE BEEN DURING OR IMMEDIATELY PRIOR TO THE FLIGHT FROM LAW ENFORCEMENT, THUS ELIMINATING ALL ARGUMENTS ABOUT OLD CRIMES AND CRIMES THAT HAVE ALREADY BEEN PROSECUTED, THE AMENDMENT ALSO COMPLETELY ELIMINATES THE FIRST TWO SUBSECTIONS OF THE ORIGINAL DEFINITION. THIS INCLUDES OLD SUBSECTION (a) WHICH PROVIDED THAT A PASSENGER WHO ENTERED A FLEEING VEHICLE KNOWING THE DRIVER WAS UNDER THE INFLUENCE OF ALCOHOL OR DRUGS WAS NOT ENTITLED TO AUTOMATIC RECOVERY FROM THE TAXPAYERS; AND OLD SUBSECTION (b) WHICH PROVIDED THAT IN ORDER TO AUTOMATICALLY RECOVER DAMAGES FROM THE TAXPAYER AS AN INNOCENT THIRD PARTY, THE PASSENGER IN A FLEEING VEHICLE MUST HAVE TAKEN REASONABLE STEPS TO PERSUADE THE DRIVER TO STOP THE VEHICLE. THESE PROVISIONS GENERATED MUCH OF THE DEBATE DURING GENERAL FILE. AND I REALLY DO APPRECIATE...SEVERAL OF US HAVE WORKED ON THIS BEHIND THE SCENES, AND THIS IS THE COMPROMISE THAT WE HAD COME TO. THESE PROVISIONS DID GENERATE AN AWFUL LOT OF DISCUSSION. THE SELECT FILE AMENDMENTS THUS ELIMINATING ALL ARGUMENTS RELATING TO A PASSENGER GETTING IN A FLEEING CAR WITH AN IMPAIRED DRIVER AND ALL ARGUMENTS REGARDING WHAT IS REASONABLE IN TERMS OF PERSUADING A FLEEING DRIVER TO STOP, INCLUDING THE AGE AND THE CIRCUMSTANCES OF THE PASSENGER. AGAIN, AM2199 IS THE SAME AS WAS OFFERED BY SENATOR CHAMBERS ON GENERAL FILE BUT...BUT IT GOES EVEN FURTHER YET AS I LISTENED TO YOUR CONCERNS. YOU QUESTIONED HOW A PASSENGER MIGHT KNOW IF THE DRIVER WAS INTOXICATED, SO I ELIMINATED THAT SUBSECTION. YOU QUESTIONED HOW A CHILD OR SOMEONE SLEEPING COULD TAKE REASONABLE STEPS TO PERSUADE THE DRIVER TO STOP. AT FIRST I OFFERED LANGUAGE STATING THAT THE AGE AND CIRCUMSTANCES OF THE PASSENGER MUST BE TAKEN INTO CONSIDERATION. I WENT FURTHER AND AGREED TO STRIKE THIS ENTIRE SUBSECTION. FINALLY, SOME OF YOU HAD FELT THAT THERE SHOULD BE NEXUS. I HAVE NARROWED THE NEW SUBSECTION (c) SO THAT IT APPLIES TO FELONIES COMMITTED WHILE IN THE FLEEING VEHICLE OR IMMEDIATELY PRIOR TO ENTRY INTO THE VEHICLE. THIS IS AS CLOSE AS I CAN COME TO NEXUS WITHOUT JEOPARDIZING THE CREDIBILITY OF THIS BILL. THIS LAST CHANGE ALSO ELIMINATES ANY CONCERNS ABOUT CRIMES COMMITTED YEARS AND YEARS AGO. I PROMISED A COMPROMISE AMENDMENT. I FEEL THAT I HAVE PUT FORTH A GOOD-FAITH EFFORT, BUT I CANNOT GO ANY FURTHER WITHOUT LOSING THE PURPOSE FOR WHICH I INTRODUCED THIS BILL. TWO COUNTY OFFICIALS CONTACTED ME AFTER THE WERNER CASE AND SAID, THIS

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IS NOT RIGHT. IN SUMMARY, THE ONLY LANGUAGE IN THE BILL THAT IS NEW AND NOT IN CASE LAW, SECTION (c) OF THE AMENDMENT, AND IT HAS BEEN SUBSTANTIALLY NARROWED BUT IS ABSOLUTELY NECESSARY TO DEAL WITH CASES SUCH AS THE WERNER CASE. DO WE WANT TAXPAYERS FOOTING THE BILL TO PAY FOR PASSENGERS WHO ARE HURT IN A CRASH IF THAT PASSENGER IS ENGAGED IN CONDUCT CHARGEABLE AS A FELONY AND WHO WOULD HAVE EVERY REASON TO PROMOTE...TO PROMOTE THE DRIVER TO RUN FROM THE POLICE? IS THIS WHAT THE LEGISLATURE INTENDED YEARS AGO WHEN THIS INNOCENT THIRD PARTY STATUTE WAS FIRST ENACTED TO PROTECT THE INNOCENT BYSTANDER DURING A POLICE PURSUIT? I DON'T THINK SO. I REALLY DON'T THINK SO. I URGE YOU TO SUPPORT AM2199 AND UNDERLYING LB188. I APPRECIATE THE DISCUSSION. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR WATERMEIER. DEBATE IS NOW OPEN ON AM2199. SEEING NO SENATORS WISHING TO SPEAK ON THE AMENDMENT, SENATOR WATERMEIER, YOU'RE RECOGNIZED TO CLOSE. HE WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF AM2199. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD, PLEASE, MR. CLERK. [LB188]

CLERK: 31 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF SENATOR WATERMEIER'S AMENDMENT. [LB188]

PRESIDENT FOLEY: AM2199 IS ADOPTED. [LB188]

CLERK: MR. PRESIDENT, SENATOR SCHUMACHER WOULD MOVE TO AMEND WITH AM2140. (LEGISLATIVE JOURNAL PAGE 592.) [LB188]

PRESIDENT FOLEY: SENATOR SCHUMACHER, YOU'RE RECOGNIZED TO OPEN ON AM2140. SENATOR SCHUMACHER. [LB188]

SENATOR SCHUMACHER: THANK YOU, MR. LIEUTENANT GOVERNOR AND MEMBERS OF THE BODY. THIS IS AN EFFORT TO FURTHER CLARIFY AND CLEAN UP THE LANGUAGE THAT WE JUST ADOPTED. AND, BASICALLY, IT SAYS THAT A PASSENGER FALLS WITHIN THE PROTECTIONS OF THIS ACT UNLESS THE LOCAL GOVERNMENT CAN PROVE THAT (a)--LET'S SEE, GET THE RIGHT AMENDMENT HERE--THAT THE PASSENGER PROMOTED, EGGED ON THE DRIVER IN ORDER TO CREATE THE PROBLEM OF THE PURSUIT, OR THAT THE PASSENGER IS SUBJECT TO AN ARREST WARRANT, OR THAT IS BEING PURSUED FOR A FELONY THAT IS THE

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PROXIMATE CAUSE OF THE PURSUIT, AND THAT PRIOR TO THE PURSUIT BEING OVER THAT IS ARTICULATED TO A SUPERVISING LAW ENFORCEMENT OFFICER OR THE NEBRASKA STATE PATROL DISPATCH SYSTEM. SO, BASICALLY, WHAT THIS AMENDMENT DOES IS ISOLATES THAT THE CHASE IS SOMEHOW THE FAULT OF THE PASSENGER OR THE PASSENGER IS CONTRIBUTING TO THE FAULT. AND AS SENATOR WATERMEIER HAS REPEATEDLY SAID SO FAR, THAT IT IS THE BURDEN OF THE PURSUING AGENCY OR CITY OR COUNTY OR...TO ESTABLISH THAT THE PERSON IS NOT AN INNOCENT PERSON. OTHERWISE, YOU HAVE A SITUATION IN A VEHICLE WHERE IT'S KIND OF POT LUCK. OKAY, WE WERE PURSUING THEM FOR RUNNING A STOP SIGN OR WE WERE PURSUING THEM FOR ONE THING OR ANOTHER. AND THIS PERSON, WHO DIDN'T CONTRIBUTE TO THE PURSUIT, GOT HURT IN THE PROCESS OF THE PURSUIT. AND AS A RESULT, WE LUCKED OUT BECAUSE THEY HAD A BAGGY OF MARIJUANA IN THEIR POCKET THAT THEY, WE THINK, INTENDED TO DISTRIBUTE AND THEREFORE IT'S CHARGEABLE AS A FELONY. THIS MAKES IT CLEAR THAT A PERSON HAS GOT TO HAVE DONE SOMETHING RATHER THAN BEEN SOMETHING IN ORDER TO LOSE INNOCENCE. AND I THINK THIS THEN BECOMES A GOOD BILL IN LINE WITH THE PROTECTIONS THAT WERE TRIED TO BE IMPLEMENTED IN THE ORIGINAL LAW. AND THAT IS, YOU WANT TO DISSUADE THESE CHASES. THESE CHASES--THE LEGISLATURE THEN...AND I THINK IT STILL REMAINS GOOD POLICY--ARE NOT A GOOD THING UNLESS THERE IS REALLY SERIOUS CONDUCT THAT IS PROMOTING THE CHASE-- A FELONY, A FELONY ARREST WARRANT, EGGING ON THE DRIVER, CONTRIBUTING TO THE CHASE. SIMPLY PULLING UP BEHIND SOMEBODY AT A STOP SIGN WHO ROLLED THROUGH THE STOP SIGN, FLIPPING ON THE RED LIGHTS, AND THE PERSON TAKING OFF IS NOT THE KIND OF THING THAT WE WANT TO PURSUE WITH RED LIGHTS THROUGH UNPROTECTED INTERSECTIONS ENDANGERING OTHER PEOPLE ALONG THE WAY. AND WE DO NOT WANT TO GIVE A PASSENGER THE MOTIVATION TO TRY TO EGG ON A DRIVER UNDER THOSE SITUATIONS FOR FEAR OF BEING APPREHENDED FOR SOMETHING THAT THE OFFICER HAS NO IDEA HE'S CHASING HIM FOR. THIS, I THINK, IS SOMETHING THAT MEETS SOME OF THE CRITERIA OF THE DEBATE THAT WE'VE HAD SO FAR. IT DEALS WITH THE ISSUE OF TRYING TO DISSUADE HIGH SPEED, DANGEROUS CHASES IN ALL THOSE CASES THAT ARE NOT OF A CRITICAL NATURE. AND TO SAY AFTER THE FACT, LET'S GO THROUGH HIS POCKETS AND FIND OUT IF WE CAN FIND ANY CONTRABAND AND SEE IF WE LUCKED OUT. AND SEE IF THIS PERSON, WHO MIGHT NOW BE IN A COMA, GETS TO RECOVER OR NOT WHEN THERE'S NO RELATIONSHIP SHOWN BETWEEN THE CONTRABAND OR ANY OTHER ACTIVITY THAT WAS GOING ON IN THAT VEHICLE AND THE CHASE. IN THE AMENDMENT WE JUST ADOPTED, THE LANGUAGE IS CHARGEABLE AS A FELONY, NOT CHARGED AS A FELONY, BUT CHARGEABLE AS A FELONY. LOTS OF

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BEHAVIOR IS CHARGEABLE AS A FELONY, EVEN THOUGH YOU WOULD NEVER GET A CONVICTION FOR THAT. WE DO NOT WANT TO PROMOTE HIGH SPEED CHASES UNLESS THEY ARE ABSOLUTELY NECESSARY. AND PEOPLE ARE INNOCENT IF THEY GET CAUGHT UP IN THE NET UNLESS THEY DID SOMETHING DIRECTLY RELATED TO THE CHASE TO CAUSE THAT CHASE TO OCCUR. THEY CERTAINLY ARE NOT INNOCENT. AND POSSESSION OF A SMALL AMOUNT OF MARIJUANA WITH INTENT TO DELIVER THAT MARIJUANA TO SOMEBODY, FOR EXAMPLE, IS CHARGEABLE AS A FELONY AND THAT PERSON WOULD FALL WITHIN THE EXCLUSION THAT WE JUST ADOPTED. WE'RE TALKING SERIOUS CRIME. WE'RE TALKING THE OFFICER KNOWING THAT IT'S A SERIOUS CRIME AT THE TIME THE PURSUIT COMMENCED. AND WE'RE TALKING DISSUADING THESE TYPE OF CHASES UNLESS THEY ARE CLEARLY, CLEARLY CAUSED IN THE PUBLIC INTEREST AND NOT HAPPENSTANCE BECAUSE OF WHAT WE FOUND IN WHAT MIGHT NOW BE A COMATOSE PERSON'S POCKET. WE ARE VERY CLOSE, BUT SO FAR THIS ISN'T HORSE SHOES AND CLOSE ISN'T COUNTING. AND WITHOUT THOSE KIND OF RESTRICTIONS TO MAKE IT CLEAR THAT THERE IS A RELATIONSHIP BETWEEN THE CHASE AND BETWEEN THE ACT THAT WE ARE DECLARING NON-INNOCENCE FOR, WE HAVEN'T ACCOMPLISHED THE OBJECTIVE YET. THIS, I THINK, AND I'LL BE INTERESTED TO LISTEN TO SOME OF THE COMMENTS FROM THE PEOPLE WHO HAVE BEEN OPPOSING THIS, IF THIS WILL SOLVE THE PROBLEM. IT'S WHY I OFFERED IT BECAUSE WE CAN, IF WE ADOPT THIS, MOVE ON AND AVOID FURTHER DELAY IN OUR PROCEEDINGS ON OTHER BILLS WHICH ARE NOW BECOMING CRITICALLY IMPORTANT. IF WE CAN'T DO THIS, THEN I THINK WE'RE GOING TO PROBABLY SPEND THE TIME. SENATOR WATERMEIER SAYS THAT HE'S AFRAID THAT IF SOMEBODY'S DOING A FELONY THAT THEY'RE EGGING HIM ON AND THEREFORE THEY'RE NOT AN INNOCENT PARTY. WELL THEN PROVE IT. IF THAT'S THE CASE, THEY'RE NOT AN INNOCENT PARTY. IF IT'S NOT THE CASE, THEN THERE'S NO REASON FOR REDUCING THE DISINCENTIVE FOR HIGH-SPEED CHASES. RUNNING A STOP SIGN AND BEING PURSUED SHOULD NOT BE A TEST OF WHAT MIGHT BE IN THE CAR OR IN SOMEBODY'S POCKET IN THE CAR. THERE SHOULD BE NEXUS. WE STILL DO NOT HAVE THE CAUSE-EFFECT RELATIONSHIP ESTABLISHED IN THE BILL THAT WE JUST...OR THE AMENDMENT WE JUST ADOPTED. IT'S A WHOLE LOT BETTER THAN WHAT WE STARTED OUT WITH, WHICH WAS INTENDED TO BE A BROAD NET OVER JUST ABOUT ANYTHING... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR SCHUMACHER: ...AND THE DREAM CHILD OF SOME LOBBYIST. NOW WE'RE DOWN TO DOING THE JOB OF LEGISLATORS AND LOOKING AT THE BIG

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PICTURE. IF WE'VE DETERMINED, AS APPEARS TO HAVE BEEN, THAT HIGH-SPEED CHASES ARE NOT A GOOD IDEA, THEN THEY SHOULD BE RESTRICTED TO THOSE CASES IN WHICH IT'S ABSOLUTELY NECESSARY TO PURSUE, AND SOMEBODY WHO IS NOT ACTIVELY CHURNING UP OR AN ACTIVE CAUSE OF THAT HIGH SPEED CHASE SHOULD NOT BE PENALIZED. WE ADOPT THAT RULE AND WE CAN MOVE ON AND CLOSE THE BOOK ON THIS PARTICULAR DISCUSSION. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHUMACHER. (VISITORS INTRODUCED.) DEBATE IS NOW OPEN ON AM2140. SENATOR SCHNOOR, YOU'RE RECOGNIZED. [LB188]

SENATOR SCHNOOR: THANK YOU. I FIND IT IRONIC THAT WE HAVE TWO FARMERS ARGUING IN FAVOR OF THIS AGAINST A COUPLE OF LAWYERS, BUT NONETHELESS THAT'S WHAT'S GOING ON. SENATOR SCHUMACHER, WOULD YOU YIELD TO A QUESTION, PLEASE? [LB188]

PRESIDENT FOLEY: SENATOR SCHUMACHER, WILL YOU YIELD, PLEASE? [LB188]

SENATOR SCHUMACHER: YES, I WILL. [LB188]

SENATOR SCHNOOR: OKAY. YOU'RE AN ATTORNEY AND I'M NOT. A LOT OF THIS STUFF IS WRITTEN IN LEGAL JARGON THAT, THE FACT OF THE MATTER IS MOST OF US DON'T UNDERSTAND. SO ON YOUR...EXCUSE ME, ON AMENDMENT...ON YOUR AMENDMENT WE'RE TALKING ABOUT...I MEAN, THIS IS ALL ABOUT THE THIRD PARTY INVOLVEMENT, WHETHER THEY'RE INNOCENT OR GUILTY. ON LINE 8 IS WHAT I'M REFERRING TO, THAT PARAGRAPH, PARAGRAPH B, THAT THIRD PARTY IS SUBJECT TO ARREST PURSUANT TO AN ARREST WARRANT. CAN YOU DEFINE...GIVE ME THE LAYMAN'S VERSION OF WHAT "PURSUANT" MEANS? [LB188]

SENATOR SCHUMACHER: THAT MEANS THAT A JUDGE HAS ISSUED--UPON APPLICATION OF A PROSECUTING ATTORNEY--HAS ISSUED A PAPER SAYING, CATCH THIS PERSON AND BRING HIM TO ME. AT THAT PARTICULAR POINT, THAT PERSON IS SUBJECT TO ARREST PURSUANT TO THAT JUDGE'S ORDER BECAUSE A JUDGE FOUND THAT THERE WAS GOOD CAUSE TO BELIEVE THAT THAT PERSON HAD DONE A FELONY. [LB188]

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SENATOR SCHNOOR: OKAY. NOW THIS ARREST WARRANT THAT YOU'RE REFERRING TO IN SECTION...IN PART B OF YOUR AMENDMENT, IS THAT ARREST WARRANT FOR THE DRIVER OR FOR THE THIRD PARTY THAT... [LB188]

SENATOR SCHUMACHER: THE THIRD PARTY, BECAUSE WE'RE NOT TALKING ABOUT THE DRIVER HERE. CLEARLY THE DRIVER OF THIS VEHICLE IS NOT AN INNOCENT PARTY. WE'RE DOWN TO SPLITTING HAIRS OVER WHETHER OR NOT A PASSENGER IN THE VEHICLE CAN BE INNOCENT FOR PURPOSES OF RECOVERY UNDER THIS ACT. [LB188]

SENATOR SCHNOOR: OKAY. SO THEN IF A LAW ENFORCEMENT OFFICER ENGAGES IN A PURSUIT, HE HAS NO CLUE. I MEAN, HE CAN PROBABLY TELL THAT THERE'S A PASSENGER, BUT HE HAS NO IDEA WHO THE PASSENGER IS, WHETHER THERE'S AN ARREST WARRANT OUT FOR HIM, WHETHER HE'S A FELON, WHETHER HE'S AN INNOCENT THIRD PARTY. HE HAS ABSOLUTELY NO IDEA OF THE STATE OF THAT INDIVIDUAL. HE'S ENGAGING IN THIS CHASE BECAUSE THE DRIVER HAS DONE SOMETHING TO CAUSE THAT, SO HOW THEN CAN WE DETERMINE BEFORE THAT CHASE BEGINS THAT THERE'S AN ARREST WARRANT FOR THE THIRD PARTY? [LB188]

SENATOR SCHUMACHER: OH, THAT'S PRETTY EASY TO DO. OFFICERS OFTEN KNOW WHO THE PASSENGER IN A VEHICLE IS. THEY MAY HAVE BEEN WATCHING THIS PERSON, HAVING THEM UNDER SURVEILLANCE, AND THEN WATCH HIM GET INTO THIS VEHICLE AND SAY, GEE, TOO BAD WE COULDN'T GET HIM BEFORE HE GOT INTO THE VEHICLE, BECAUSE WE GOT AN ARREST WARRANT FOR KIDNAPPING OUT FOR THIS GUY. [LB188]

SENATOR SCHNOOR: BUT THEY MAY NOT KNOW THAT. I MEAN, THAT'S A POSSIBILITY. YOU'RE SAYING IT'S POSSIBLE THAT THEY COULD KNOW IT. BUT IT'S ALSO POSSIBLE THAT THEY HAVE NO IDEA WHO THAT IS. [LB188]

SENATOR SCHUMACHER: IN THAT CASE, IF THEY HAVE NO IDEA AND IT DID NOT CONTRIBUTE TO THE REASON FOR THE CHASE, THEN THAT IS AN UNRELATED BEHAVIOR AND FALLS WITHIN THE SPECTRUM OF SOMEBODY WHO DID NOT CONTRIBUTE, WHO IS NOT RESPONSIBLE FOR THE CHASE. UNLESS THAT PERSON SAID TO THE DRIVER, HEY, LET'S GO; MAN, I'VE GOT AN ARREST WARRANT OUT FOR ME, LET'S ROLL. I MEAN, THIS PERSON...WE'RE TALKING ABOUT SOMEBODY WHO DID NOT CONTRIBUTE TO THE REASON FOR THE CHASE. IF THE OFFICER

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KNOWS THAT THERE'S AN ARREST WARRANT, HE'S PERFECTLY LEGITIMATE IN CHASING HIM. [LB188]

SENATOR SCHNOOR: SO IN THE REST OF THAT PARAGRAPH THEN IT SAYS, "THE PURSUING LAW ENFORCEMENT OFFICER GENERALLY IDENTIFIES THE PASSENGER AND THE EXISTENCE OF THE WARRANT OR SUCH UNDERLYING FELONY TO A SUPERVISING... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR SCHNOOR: ...LAW ENFORCEMENT OFFICER OR THE NEBRASKA STATE PATROL DISPATCH SYSTEM." SO DOES THAT MEAN THEN THAT HE HAS TO NOW CALL AND GET PERMISSION TO ENGAGE IN A PURSUIT? [LB188]

SENATOR SCHUMACHER: IT WOULD BE AN ODD CASE WHERE AN OFFICER WHO INITIATED A HIGH-SPEED PURSUIT WAS DOING IT WITHOUT NOTIFYING HIS SUPERVISORS SO THAT HE HAD PROPER BACKUP. THAT'S NORMAL PROCEDURE. [LB188]

SENATOR SCHNOOR: WELL, THAT I WOULD AGREE WITH, BUT DO THEY GENERALLY HAVE TO CALL AND ASK PERMISSION? [LB188]

SENATOR SCHUMACHER: WHAT THIS DOES IS IT SAYS THE OFFICER WHO'S DOING THE CHASE GETS ON HIS HORN AND SAYS, GENERALLY IDENTIFIES, NOT WITH PARTICULARS, BUT GENERALLY IDENTIFIES THE PASSENGER AND THE EXISTENCE OF A WARRANT OR THE FACT THAT THIS OFFICER IS IN HOT PURSUIT FOR A FELONY THAT WAS COMMITTED, BASICALLY, IMMEDIATELY BEFORE THE PURSUIT. SO, YES, AND THEY WILL. THEY'LL SAY, IN PURSUIT OF THE BANK ROBBER WHO JUST CAME OUT OF THE BANK. [LB188]

PRESIDENT FOLEY: TIME, SENATORS. [LB188]

SENATOR SCHNOOR: THANK YOU. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHNOOR AND SENATOR SCHUMACHER. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB188]

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SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE. SENATOR SCHNOOR AND I, WHEN HE FIRST CAME DOWN HERE, DEVELOPED SOMEWHAT OF AN ANTAGONISM TOWARD EACH OTHER. BUT WHEN YOU CONSIDER THINGS THAT ARE SAID IN MOVIES, THEY MAKE SENSE ON OCCASION. KEEP YOUR FRIENDS CLOSE BUT YOUR ENEMIES CLOSER. SO I DON'T HAVE TO STUDY FRIENDS, BUT I STUDY FOES. SO I'VE DEVELOPED WHAT I THINK IS AN UNDERSTANDING OF HOW SENATOR SCHNOOR IS THINKING ON CERTAIN ISSUES FROM THE WAY THE QUESTIONS ARE FRAMED. SO BASED ON THAT, I'M GOING TO GO THROUGH WHAT SENATOR SCHUMACHER'S AMENDMENT IS SAYING, NOT BY READING IT WORD FOR WORD, BUT GETTING TO THE SENSE OF IT, IN A WAY THAT I COULDN'T DO IF IT WAS MY AMENDMENT. I WOULD HAVE TO STICK RIGHT TO IT, BUT NOW I'M DISCUSSING THE IMPACT OF IT. LET'S TAKE ONE SITUATION WHERE THE DRIVER HAS DONE SOMETHING THAT CAUSES THE OFFICER TO CHASE. THE PASSENGER IS NOT EVEN IN THAT EQUATION AT ALL. THE CHASE IS BASED ON WHAT THE DRIVER DID. NOW, THERE ARE TWO WAYS THAT A PASSENGER COULD BECOME INVOLVED. IF THE PASSENGER IS THE REASON FOR THE CHASE, THAT THE DRIVER HAS NOT DONE ANYTHING THAT RAISED THE SUSPICION, AND THE PASSENGER IS THE REASON FOR THE CHASE, WHEN THAT OFFICER NOTIFIES HIS SUPERVISOR, HIS OR HER SUPERVISOR, THAT A CHASE IS BEING UNDERTAKEN, THEN THE REASON IS GIVEN. AND ALTHOUGH PEOPLE MAY NOT TAKE IT AS STRICTLY GETTING PERMISSION, THE SUPERVISOR, WHEN TOLD WHERE THE CHASE IS OCCURRING AND MAY HAVE FAMILIARITY WITH THE NATURE OF THE TERRAIN, MAY DENY PERMISSION AND SAY, DON'T CHASE. IF YOU CAN GET A PLATE NUMBER, GET IT. IF YOU HAVE AN IDEA OF THE GENERAL DIRECTION, WE'LL SEE IF THERE ARE ANY CARS NEARBY WHO CAN INTERCEPT OR FIND A DIFFERENT WAY OTHER THAN YOU GETTING BEHIND THAT CAR AND CHASING IT, BECAUSE YOU'LL CREATE A GREATER HAZARD THAN THAT PERSON GETTING AWAY WOULD CREATE. THE OTHER SITUATION THAT WOULD INVOLVE THE PASSENGER, AND REMEMBER ALL THAT WE'RE TALKING ABOUT IS WHETHER THE PASSENGER CAN RECOVER FOR INJURIES IF THE DRIVER HAS AN ACCIDENT. IF THE CHASE IS GOING ON, BASED ON WHAT THE DRIVER HAS DONE, AND THE PERSON IN THAT CAR MAY HAVE DONE SOMETHING ALSO, BUT THE OFFICER DIDN'T KNOW IT, THE CHASE MAY BE ALLOWED AS LEGITIMATE. BUT THERE'S NOTHING THE PASSENGER DID THAT WOULD DISQUALIFY HIM OR HER FROM BEING COMPENSATED FOR INJURY. THE OFFICER, IN TALKING TO CITY OFFICIALS WHO MIGHT DO THEIR RESEARCH AND SAY, HEY, WE FOUND OUT THAT THIS PASSENGER HAD SOMETHING THAT HE OR SHE HAD DONE. NOW, WERE YOU AWARE OF THAT? AND THE OFFICER SAYS, NO. SO THEN THAT PASSENGER, WHATEVER HE OR SHE MAY HAVE DONE, WAS NOT WHY YOU CHASED. THE OFFICER SAYS, NO. THEN REGARDLESS OF WHAT THAT

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PASSENGER MAY HAVE DONE, IF THAT PASSENGER HAD NOT ENCOURAGED THE FLIGHT--BECAUSE IF THE PASSENGER DID THAT, THE PASSENGER CAN'T RECOVER--IF THE PASSENGER PLAYED NO ROLE, THEN THE PASSENGER WOULD RECOVER FOR INJURIES. THAT'S WHAT WE ARE TALKING ABOUT. THE OFFICER WOULD NOT BE ALLOWED... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...AFTER THE FACT AND AFTER SOME PEOPLE IN THE CITY GAVE HIM INFORMATION TO USE THAT AS A BASIS TO DISQUALIFY THAT PASSENGER. IF AT THE OUTSET, EVEN IF IT WAS A SITUATION WHERE THE DRIVER'S DRIVING GAVE A BASIS FOR THE CHASE, IF THERE WAS SOMETHING KNOWN ABOUT THE PASSENGER THAT CONTRIBUTED TO THE CHASE BEING UNDERTAKEN, THEN THAT PASSENGER, BASED ON THE CRITERIA LAID DOWN BY SENATOR SCHUMACHER, COULD NOT RECOVER AS AN INNOCENT THIRD PARTY. THE ONLY THING THAT THAT PASSENGER WOULD BE CULPABLE FOR WAS WHATEVER WAS WANTED FROM THAT PASSENGER. AND IN CASE I HAVEN'T BEEN CLEAR, I'M GOING TO PUT MY LIGHT ON. BUT I WANT TO TRY, WHILE I'M SPEAKING NOW, TO WRAP THAT UP. ALL THAT THIS BILL DEALS WITH... [LB188]

PRESIDENT FOLEY: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: YOU SAID TIME? [LB188]

PRESIDENT FOLEY: YES, SENATOR. THANK YOU, SENATOR CHAMBERS. SENATOR WATERMEIER, YOU'RE RECOGNIZED. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. LIEUTENANT GOVERNOR. I JUST WANT TO RISE IN OPPOSITION TO AM2140 OFFERED BY SENATOR SCHUMACHER. AND I HAD A CHANCE TO...HE HAD GIVEN THIS TO ME LAST WEEK WHEN WE WERE TALKING ABOUT TRYING TO DEBATE LB188. AND I REACHED OUT AND DID THE BEST I COULD TO COME TO THIS CONSENSUS THAT ACTUALLY THIS AMENDMENT TAKES OUR EXISTING STATUTES IN LAW FURTHER, FURTHER THAN ANYTHING WE HAD EVEN WITHOUT THE ORIGINAL POSITION THAT SENATOR CHAMBERS PUT US IN, IN 1981. THIS IS PUTTING US MORE RESTRICTIVE. IT'S DOING EVEN MORE THAN YOU CAN IMAGINE. I BELIEVE THAT MOST IMPORTANTLY THAT SECTION B THAT IS IN AM2140 PLACES A HIGHER HURDLE IN FRONT OF COUNTIES, CITIES, AND THE STATE THAN EXISTING LAW. UNDER EXISTING LAW, A PASSENGER IS NOT AN INNOCENT THIRD PARTY IF THEY ARE

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SOUGHT TO BE APPREHENDED IN THE FLEEING VEHICLE. UNDER THE PROPOSED AMENDMENT, THEY WOULD STILL BE AN INNOCENT THIRD PARTY EVEN IF THEY WERE SOUGHT TO BE APPREHENDED IF THE LAW ENFORCEMENT OFFICER DID NOT IDENTIFY THEM AND REPORT THIS TO THE SUPERVISING OFFICER. THIS IS A SIGNIFICANT EXPANSION OF THE STRICT LIABILITY RATHER THAN A SENSIBLE TIGHTENING OF THE STATUTE. I READ THAT OVER LAST WEEK, I DID THE VERY BEST I COULD TO SUMMARIZE THAT. IN GENERAL, IN THE BIG PICTURE, IN THE BIG PICTURE, WE DO NOT WANT TO MAKE, WE DO NOT WANT TO PUT IN STATUTES SO THAT IT MAKES IT SO DIFFICULT TO MICROMANAGE OUR LAW ENFORCEMENT OFFICERS. I GET IT. I APPRECIATE, I RESPECT THE LAW ENFORCEMENT OFFICERS. I APPRECIATE THE COURTS. SOME DO NOT. I HAVE SOME FAITH THAT THE SYSTEM WILL WORK. THIS IS ABSOLUTELY GOING MUCH FARTHER THAN WE ALREADY HAVE. I CANNOT SUPPORT THIS. I REACHED OUT AS VERY BEST I CAN. AND I BELIEVE THE AMENDMENT THAT WE JUST ADOPTED, IT TIGHTENS IT UP SO INCREDIBLY FAR, BUT IT STILL DOES WHAT I BELIEVE IS RIGHT FOR THE STATE OF NEBRASKA. IF THERE'S ANY QUESTIONS ON IT, I'D BE GLAD TO ANSWER THEM OFF THE MIKE OVER HERE. I'M NOT GOING ANYWHERE. I APPRECIATE THE DEBATE. BUT I WILL JUST ALSO REMINDED PEOPLE THAT SENATOR CHAMBERS' EFFORTS, BACK IN THE EARLY '80s, HAVE DONE A SIGNIFICANT AMOUNT OF GOOD. THEY HAVE MANDATED TO ALL LAW ENFORCEMENT THAT THEY WILL FOLLOW THESE POLICIES AND THESE PROCEDURES AND THEY'RE REDUCING OUR POLICE PURSUITS. THEY'RE REDUCING THEM. THE STATE OF NEBRASKA IS NOW STILL THE ONLY STATE IN THE UNION THAT IS RESPONSIBLE FOR A STRICT LIABILITY IN A POLICE PURSUIT, WHETHER THEY'RE NEGLIGENT OR NOT, THEY'RE GOING TO BE HELD LIABLE. IF SOMEONE IS HURT ON A STREET, THAT WAS A GOOD IDEA TO HAVE THAT BILL. IF SOMEONE IS IN THE BACKSEAT AND COULD POTENTIALLY CAUSE THE DRIVER TO FLEE, DO WE WANT TO TAKE THAT OPTION AWAY FROM THE STATE OF NEBRASKA? I APPRECIATE ALL THIS DISCUSSION BACK AND FORTH, BUT THIS DISCUSSION IS TO KILL THE BILL. THIS AMENDMENT GUTS THE BILL. IT MAKES IT AND TAKES IT FURTHER THAN WE ALREADY HAVE. JUST KEEP YOUR EYE ON THE BALL. STAY WITH ME TODAY. I APPRECIATE THE DISCUSSION. AND I KNOW SENATOR CHAMBERS, WE'VE HAD GOOD CONVERSATIONS ABOUT THIS OFF THE MIKE. I APPRECIATE WHERE HE'S HEADED. AND HE CAN CALL ME WHATEVER IT TAKES, I'M JUST FINE WITH THAT. I WON'T BE ABLE TO DEFEND THIS EVERY TOOTH AND NAIL IN THE LAW. BUT KEEP OUR EYE ON THE BALL AND THE BIG PICTURE. WHERE DO WE WANT TO BE AT IN THE STATE OF NEBRASKA? AND I JUST ASK FOR YOU TO LOOK UPON AM2140 AND WHEN WE GET TO A VOTE ON THAT TO VOTE THAT DOWN. THANK YOU, MR. LIEUTENANT GOVERNOR. [LB188]

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PRESIDENT FOLEY: THANK YOU, SENATOR WATERMEIER. SENATOR SCHUMACHER, YOU'RE RECOGNIZED. [LB188]

SENATOR SCHUMACHER: THANK YOU, MR. LIEUTENANT GOVERNOR AND MEMBERS OF THE BODY. AM2140 DOES A COUPLE OF THINGS. NUMBER ONE, IT CLEARLY STATES--AND SO FAR WE'VE NOT CLEARLY STATED IT--THAT THE BURDEN OF PROOF TO PROVE THAT SOMEBODY IS NOT AN INNOCENT PARTY RESTS WITH THE PURSUING LOCAL SUBDIVISION OR AGENCY. THAT BURDEN IS NOT CLEARLY STATED IN THE AMENDMENTS THAT WE HAVE HAD SO FAR. SENATOR WATERMEIER HAS REPEATEDLY STATED THAT'S HIS INTENT. AND THIS IS THE FIRST TIME WE'VE SEEN THAT LANGUAGE IN AN AMENDMENT TO THIS BILL TO MAKE IT PERFECTLY CLEAR SO THERE'S NO DEBATE AS TO WHO HAS THE BURDEN OF PROOF. THIS, CONTRARY TO WHAT SENATOR WATERMEIER JUST SAID, GOES A STEP BEYOND EXISTING LAW IN REMOVING INNOCENCE, BECAUSE UNDER EXISTING LAW BEING UNDER FELONY WARRANT OR PURSUIT FOR AN IMMEDIATELY COMMITTED FELONY IS NOT THE LAW. YOU HAVE TO ACTIVELY PROMOTE. SO THIS IS BEYOND THAT. BUT LET ME GO ON AND TELL A LITTLE BIT OF STORY IN THE REMAINDER OF MY TIME AS TO WHY I BELIEVE WE SHOULD HAVE A STRONG SENTIMENT TOWARD DE-ESCALATION OF THESE HOT SITUATIONS WITH LAW ENFORCEMENT. ABOUT EIGHT YEARS AS A CHIEF LAW ENFORCEMENT OFFICER OF A COUNTY, AND ONE DAY I GET A CALL IN THE EVENING AND THE CALL WAS, BASICALLY...THIS FROM THE POLICE CHIEF, WE'VE GOT DAVE--I'LL CALL HIM--HOLED UP IN HIS HOUSE. OFFICERS CHASED HIM THERE BECAUSE THEY SUSPECT THAT HE WAS DRINKING AND DRIVING, AND HE'S IN THERE WITH ALL KINDS OF GUNS, AND HE SAYS HE'S GOING TO HAVE A SHOOTOUT. OKAY. AND WE'RE READY. WE'VE GOT OUR TEAR GAS, WE'VE GOT OUR SHOTGUNS, WE'VE GOT OUR SWAT TEAMS, WE'VE GOT ALL THIS READY TO GO IN AND GET DAVE, BECAUSE THEY DIDN'T REALLY LIKE DAVE AND DAVE BEEN A PAIN IN THE BUTT FOR A LONG TIME, AND NOW THEY HAD A SHOT. AND I TOLD THE CHIEF, HOLD STILL. I CALLED DAVE'S ATTORNEY AND I SAID, CALL DAVE. SEE IF WE CAN START TALKING HIM DOWN. AND THE ATTORNEY DID. AND THE ATTORNEY DETERMINED THAT DAVE WAS NOT GOING TO LET THOSE COPS ANYWHERE NEAR HIS HOUSE; THAT WE WERE GOING TO HAVE BLOODSHED THAT DAY. AND SO AFTER DUE CONSIDERATION AND DISCUSSIONS WE SAID, YOU KNOW WHAT, I BET YOU DAVE IS GOING TO BE AT THE BAR TOMORROW AFTERNOON DRINKING. WE CAN JUST PICK HIM UP. AND THAT SEEMED LIKE A REASONABLE CONCLUSION. BLOOD WAS BOILING AT THE SCENE, BUT I WASN'T AT THE SCENE. I HAD A COOL POSITION TO OBSERVE THE ADMINISTRATION OF LAW ENFORCEMENT. AND I SAID TO THE POLICE CHIEF, GO HOME! DISENGAGE. AND BOY THEY DIDN'T LIKE THAT TUNE, BUT IT WAS A SMART THING. THEY

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WENT HOME. THE NEXT DAY HE WAS AT THE LOCAL BAR DRINKING RED BEER AND THEY WALKED IN AND GOT HIM. NO FIGHT. HE HAD SOBERED UP. THESE HOT PURSUITS, THESE BLINDNESS OF JUDGMENTS THAT OCCUR WHEN THE DOG SEES THE RABBIT RUNNING ARE NOT GOOD THINGS. AND BEFORE YOU TURN THE DOG LOOSE, YOU BETTER KNOW YOU WANT THAT RABBIT. AND THIS AMENDMENT CORRECTS THE UNDERLYING PROBLEM AND CREATES A NEXUS... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR SCHUMACHER: ...BETWEEN THE BEHAVIOR OF THE PERSON WHO IS BEING PURSUED AND WHETHER OR NOT THEY CLASSIFY AS INNOCENT. AND I THINK INNOCENT IS A BAD WORD FOR THIS, BUT WHETHER THEY CLASSIFY FOR THE BENEFITS OF THIS PARTICULAR ACT. WE WANT TO DISSUADE CHASES. AND WE DON'T WANT TO HAVE CHASES THAT ARE ALL FUN AND GAMES BECAUSE SOMEBODY ROLLED THROUGH A STOP SIGN AND THEN SEE IF WE LUCKED OUT AND THEY FOUND SOMETHING IN THEIR POCKET. AND REMEMBER ANY, ANY DRUGS, ONE LOUSY JOINT, IS CHARGEABLE AS A FELONY IF YOU ALLEGE THEY INTENDED TO SHARE THAT JOINT WITH SOMEBODY. THAT'S ALL YOU GOT TO DO. IT'S A FELONY. WE'RE AGGRAVATING THE SITUATION INSTEAD OF SOLVING IT. AND THIS HAS BECOME A TIT FOR TAT KIND OF THING BETWEEN LINES DRAWN JUST LIKE THE LINES WERE DRAWN OUTSIDE DAVE'S HOUSE. [LB188]

PRESIDENT FOLEY: TIME, SENATOR. [LB188]

SENATOR SCHUMACHER: THANK YOU. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHUMACHER. (VISITORS INTRODUCED.) ITEMS FOR THE RECORD, MR. CLERK. [LB188]

CLERK: THANK YOU, MR. PRESIDENT. NEW A BILL, LB919A, BY SENATOR WILLIAMS (READ LB919A BY TITLE FOR THE FIRST TIME.) EDUCATION COMMITTEE, CHAIRED BY SENATOR SULLIVAN, REPORTS LB930 TO GENERAL FILE WITH AMENDMENTS. URBAN AFFAIRS CHAIRED BY SENATOR CRAWFORD REPORTS LB857 AND LB1012 TO GENERAL FILE WITH AMENDMENTS. THAT'S ALL THAT I HAVE, MR. PRESIDENT. (LEGISLATIVE JOURNAL PAGE 708.) [LB919A LB930 LB857 LB1012]

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PRESIDENT FOLEY: MR. CLERK. [LB188]

CLERK: MR. PRESIDENT, RETURNING TO LB188. I HAVE A PRIORITY MOTION. SENATOR CHAMBERS WOULD MOVE TO BRACKET THE BILL UNTIL APRIL 20, 2016. [LB188]

PRESIDENT FOLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED TO OPEN ON YOUR BRACKET MOTION. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, THE LINE, ONCE AGAIN, HAS BEEN DRAWN IN THE SAND. IF SENATOR SCHUMACHER'S AMENDMENT, WHICH IS IMMINENTLY JUST AND SENSIBLE, PRUDENT, I WOULD LEAVE THE BILL ALONE, AND IT WOULD NOT BE IN THE CONDITION I THINK IT SHOULD BE IN. I DON'T THINK THE BILL IS NEEDED AT ALL. WHEN THE SUPREME COURT SET A STANDARD, THAT BECOMES THE LAW GOVERNING THAT SITUATION UNLESS THE LEGISLATURE DOES SOMETHING TO CHANGE IT. IF THIS BILL IS NOT PASSED, NOTHING WILL HAVE BEEN DONE TO CHANGE THE SUPREME COURT'S DECISION AND THAT WOULD REMAIN THE LAW. IT HAS BEEN THE LAW FOR A PERIOD OF TIME. NOT ONE CHASE HAS OCCURRED WHERE A PASSENGER WAS INVOLVED WHO WOULD HAVE RECOVERED IN THE WAY THAT SENATOR WATERMEIER HAS BEEN DISCUSSING BASED ON WHAT THEY, IN THE LOBBY, ARE TELLING HIM. THE LOBBY IS DRIVING THIS DISCUSSION. HAVING SERVED WITH SENATOR WATERMEIER, NOT AT OUR INSTITUTION OF HIGHER SECURITY KNOWN AS THE PENITENTIARY, BUT IN A CAPACITY WHERE IT IS MORE IRRITATING AND ANNOYING, WHICH IS A MEMBER OF THE EXECUTIVE BOARD. SENATOR WATERMEIER CAN BE REASONABLE WHEN HE THOROUGHLY UNDERSTANDS A SITUATION. AND I DON'T THINK HE THOROUGHLY UNDERSTANDS THIS SITUATION. THAT IS NOT A CRITICISM OF HIS KNOWLEDGE. IT JUST HAPPENS TO BE AN AREA IN WHICH HE LACKS EXPERTISE AND HE HAS ADMITTED THAT. I PUT UP THIS MOTION BECAUSE HE IS PREPARED TO GIVE ME FOUR HOURS ON SELECT AND TWO MORE HOURS ON FINAL, AND I WILL TAKE ALL OF THAT TIME. I DIDN'T OFFER THIS MOTION AT THE OUTSET BECAUSE SENATOR SCHUMACHER'S AMENDMENT SHOULD HAVE HAD A CHANCE FOR PASSAGE. THERE WOULD NOT HAVE BEEN THE KNEE JERK OPPOSITION AS OCCURS WERE I SUPPOSED TO HAVE OFFERED THAT AMENDMENT. BUT YOU KNOW WHAT YOU ADOPTED THIS MORNING? AN AMENDMENT THAT I FOUGHT ON HOUR AFTER HOUR AND IT WAS REJECTED, BECAUSE THE LOBBY TOLD SENATOR WATERMEIER TO REJECT IT. SO WHAT HAPPENS TODAY? THEY ARE NOW DESPERATE. THEY SAID, GO IN THERE AND ACCEPT WHAT SENATOR CHAMBERS OFFERED. AND HE ACKNOWLEDGED THAT THE VERY THING HE

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PRESENTED, AND YOU ALL ACCEPTED IT BECAUSE HE OFFERED IT, WAS MY AMENDMENT. WHY DID IT TAKE ON MORE VALIDITY WHEN HE OFFERED IT THAN IT HAD WHEN I OFFERED IT? IT'S BECAUSE OF THAT KNEE JERK, NEGATIVE REACTION TO ME. THE AMENDMENT IS PRECISELY THE SAME. NO NEW INFORMATION HAS BEEN PRESENTED. THE ONLY CHANGE IS IN THE IDENTITY OF THE PERSON WHO OFFERED IT. AND SINCE THAT'S THE WAY THIS GAME IS GOING TO BE PLAYED OUT, I'M GOING TO PLAY IT OUT ON THAT BASIS. SENATOR SCHUMACHER'S AMENDMENT WILL NOT BE AFFECTED BY MY MOTION. AND I DOUBT THAT YOU'LL ACCEPT MY MOTION. BUT IF AND WHEN YOU REJECT IT, I'M GOING TO MOVE TO RECONSIDER IT. THERE ARE SOME THINGS I WANT TO DISCUSS ALONG THE LINES OF WHAT SENATOR SCHUMACHER MENTIONED TO SHOW HOW PEOPLE IN LAW ENFORCEMENT DO NOT ALWAYS EXERCISE THE BEST JUDGMENT WHEN THEY GET INVOLVED IN A SITUATION. I WON'T GO INTO DETAIL, BUT IT ANGERED ME BEYOND WORDS WHEN THE POLICE WERE CALLED BECAUSE A MOUNTAIN LION WAS FOUND...WAS DESCRIBED AS BEING IN A CERTAIN LOCATION. SO WHEN THE POLICE CAME, PEOPLE WERE LOOKING OUT WINDOWS, PEOPLE WERE STANDING AROUND. THE LION WAS NOT BOTHERING ANYBODY, BUT WAS IN A PRONE POSITION BECAUSE IT HAD A BROKEN LEG. SO WHAT THE OMAHA POLICE DID, THEY BROUGHT A PHALANX OF OFFICERS WITH PISTOLS AND SHOTGUNS. AND WHEN THEY FIRST FIRED A FUSILLADE, THEY DIDN'T KILL THE ANIMAL IMMEDIATELY, SO HE ROSE UP. AND AS THEY SAY ABOUT A HUMAN BEING, THAT PERSON LUNGED AND I FELT THREATENED AND IN FEAR FOR MY LIFE. SO THIS BROKEN-LEGGED MOUNTAIN LION, WHICH HAS BEEN HIT BY A FUSILLADE OF GUNFIRE DID WHAT I GUESS, MAYBE, ANY ANIMAL WOULD DO, ROSE UP, THEN THE SHOTGUNS FIRED AND A TOTAL OF 22 PROJECTILES WERE FIRED INTO THAT ANIMAL. THAT'S THE POLICE. HAD THERE NOT BEEN IRRESPONSIBLE, FOOLISH CHASES IN OMAHA WHERE PEOPLE WERE KILLED, INNOCENT PEOPLE, NOT INVOLVED IN THE CHASE, FENCES WERE TORN DOWN BY THE PERSON FLEEING AND BY THE PURSUING OFFICERS. THEY DID WHAT WAS KNOWN AS CARAVANNING. SEVERAL CARS WANTED THE THRILL OF THE CHASE. SO I POINTED OUT, IF THE ONE FLEEING IS A FOOL, THEN YOU MULTIPLY THAT BY SEVEN AND NOW YOU HAVE SEVEN FOOLS. IF THE WAY THAT PURSUED PERSON WAS DRIVING ENDANGERED THE PUBLIC, YOU MULTIPLIED THAT DANGER SEVENFOLD, AND THAT DID NO GOOD. ONE PERSON WHO IS IN SUCH A CHASE GOT AWAY. BUT YOU KNOW WHAT THEY HAD DONE? THEY HAD TAKEN HIS LICENSE PLATE NUMBER AND THEY WENT TO HIS HOUSE AND ARRESTED HIM. THAT COULD HAVE BEEN DONE IN THE FIRST PLACE. OFFICERS HAVE BEEN QUESTIONED WHO WERE IN THESE CHASES, AND THEY SAID THE ADRENALINE FLOWS AND THEY CAN'T BREAK OFF THE CHASE. AND OFTEN, OFTEN WHEN THE PERSON IS APPREHENDED THEY INFLICT PHYSICAL VIOLENCE

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ON THAT PERSON. THEIR JOB IS TO APPREHEND, NOT TO PUNISH. BUT THERE WERE ALL KIND OF NEGATIVES ASSOCIATED WITH THESE CHASES. SO AFTER MY APPEARANCES BEFORE THE CITY COUNCIL TO TRY TO PERSUADE THEM TO IMPOSE REGULATIONS ON CHANGES FELL ON DEAF EARS, I, BEING A MEMBER OF THE LEGISLATURE, BROUGHT LEGISLATION, WHICH PASSED. AND THE GUIDING THEORY WAS THIS: IF THESE POLICE OFFICERS ARE ENGAGING IN A PROCESS OF LAW ENFORCEMENT WHICH SOCIETY APPROVED OF, IF INNOCENT PERSONS WERE INJURED AS A RESULT OF THAT SOCIETY-APPROVED FORM OF LAW ENFORCEMENT, SOCIETY AS A WHOLE SHOULD BE CALLED ON TO MAKE THAT INNOCENT PERSON WHOLE. AND THE ONLY WAY YOU CAN DO THAT IS BY MONEY, MONEY DAMAGES. AND IT DOESN'T MAKE THE PERSON WHOLE. IF THE PERSON WAS RENDERED A QUADRIPLÉGIC--AND THAT HAS HAPPENED--THIS DOESN'T RESTORE TO THAT PERSON THE USE OF HIS OR HER LIMBS. IT'S A METHOD THAT SOCIETY CHOSE TO GIVE A KIND OF RECOMPENSE TO THAT PERSON. AND A POINT WAS REACHED EVEN IN OMAHA WHERE ONE OF THE CHIEFS DID AWAY WITH HIGH-SPEED CHASES ALTOGETHER. THERE WAS NO OUTBREAK OF CRIME, NOTHING. BUT OFFICERS WERE UPSET BECAUSE THEY LOVED THE CHASE, SO THE CHASES WERE REINSTATED. THE LAST TIME WE WERE ON THIS BILL SENATOR PANSING BROOKS READ FROM A REPORT BASED ON A STUDY DONE BY A PROFESSIONAL--WITH NO CONNECTION TO NEBRASKA WHATSOEVER--AND HAD REVIEWED THE TYPES OF POLICIES GOVERNING CHASES THAT WERE IN VARIOUS CITIES. OMAHA WAS MENTIONED. AND PRIOR TO OMAHA HAVING RELAXED THE POLICY, THERE WAS A, RELATIVELY SPEAKING, LOW OR AT LEAST REASONABLE... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...IF YOU THINK ANY OF THESE CHASES CAN BE REASONABLE, A RELATIVELY REASONABLE NUMBER OF CHASES. WHEN THE POLICE DIVISION RELAXED THAT POLICY, THE NUMBER OF CHASES SKYROCKETED. THAT WAS IN OMAHA. YOU CANNOT TRUST THE POLICE TO DO THAT WHICH WE AS POLICYMAKERS AND LAWMAKERS HAVE AN OBLIGATION TO DO. MY PHILOSOPHY WAS TO MAKE RESPONSIBLE THE POLITICAL SUBDIVISION, THE POLITICAL LEADERS WHO GOVERN WHATEVER THE LAW ENFORCEMENT AGENCY WAS ENGAGED IN THESE CHASES. THAT AGENCY WOULD BE GOVERNED AND RESTRICTED BY THE POLITICAL SUBDIVISION OR THAT MONEY WOULD BE PAID TO THE INNOCENT THIRD PARTIES. AND IF ENOUGH WAS PAID, THEN THAT POLITICAL SUBDIVISION, THE POLITICIANS WOULD TELL THE POLICE, YOU'VE GOT TO DO SOMETHING ABOUT REDUCING THESE CHASES. [LB188]

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PRESIDENT FOLEY: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: BUT YOU ARE NEXT IN THE QUEUE, SENATOR CHAMBERS, YOU MAY CONTINUE. [LB188]

SENATOR CHAMBERS: THANK YOU. IF ENOUGH...IF IT COSTS THE POLITICAL SUBDIVISION OR THE TAXPAYERS ENOUGH MONEY THEN THERE WOULD COME AN OUTCRY TO TERMINATE MOST OF THESE CHASES, BECAUSE OFTEN IT WOULD START WITH A MINOR TRAFFIC INFRACTION. IN SOME INSTANCES, THEY FOUND OUT THE PERSON HAD DONE NOTHING WHATSOEVER, NOTHING. BUT WHEN THE PERSON BECAME AWARE THAT A POLICE CAR WAS BEHIND THE PERSON, THE PERSON TOOK OFF BECAUSE OF FEAR OF THE POLICE. AND WHEN PEOPLE FEAR THE POLICE TO THAT EXTENT, THE POLICE ARE DOING SOMETHING WRONG. AND ENOUGH THINGS HAVE HAPPENED AROUND THIS COUNTRY SO PEOPLE CAN NO LONGER BLIND THEIR EYES AND SAY, WELL, THE POLICE ALWAYS DO THE RIGHT THING. THEY DON'T. AND THERE'S NO WAY TO CALL THEM TO ACCOUNT OTHER THAN BY MAKING THE POLITICAL SUBDIVISION WHICH EMPLOYES THEM PAY MONEY. AND NOW WHAT SENATOR WATERMEIER WANTS TO DO IS TO RESTRICT THE PERSONS WHO CAN RECEIVE COMPENSATION WHEN THEY ARE SERIOUSLY INJURED IN ONE OF THESE POLICE CHASES AND THE PERSON IS THE PASSENGER, NOT THE DRIVER. THE PERSON DID NOT PROVOKE, ENCOURAGE, OR COERCE THE DRIVER INTO FLEEING. THIS PERSON HAD NOTHING TO DO WITH THAT WHATSOEVER. IF THE OFFICER DECIDES THAT THE PASSENGER IS GOING TO BE THE FOCAL POINT, AT THE TIME THAT THE OFFICER REPORTS THE CHASE, WHICH THEY'RE REQUIRED TO DO, THEN THAT INFORMATION IS CONVEYED. AND YOU HAVE A BASIS FOR SAYING, THIS PASSENGER IS NOT IN THE EXEMPTED CATEGORY TO RECEIVE COMPENSATION FOR AN INJURY, BECAUSE THAT PASSENGER'S CONDUCT CONTRIBUTED TO THE REASON FOR THE CHASE. AND IF THE OFFICER INDEED KNEW THAT THIS PERSON WAS WANTED AND INITIATED THE CHASE, YOU COULD SPECULATE--AND FROM CIRCUMSTANTIAL EVIDENCE, WHICH AT LAW HAS AS MUCH VALIDITY AS DIRECT EVIDENCE--THAT THE CHASE WAS INITIATED BECAUSE THE DRIVER WAS MADE AWARE BY THIS PASSENGER WHO IS WANTED THAT THEY'RE TRYING TO GET ME SO WE GOT TO GET OUT OF HERE. THAT BRINGS THE PERSON WITHIN THE EXISTING LAW OF HAVING DONE SOMETHING TO ENCOURAGE OR INCITE OR EGG THE DRIVER ON AND COULDN'T RECOVER. BUT IT COULD NOT BE A SITUATION WHERE THAT INDIVIDUAL WHO IS THE PASSENGER DID NONE OF THOSE THINGS AND THE CHASE HAD NOTHING TO DO WITH THE PASSENGER WHATSOEVER. AND THE PASSENGER IS INJURED. THEN

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AFTER THE FACT, A DISCOVERY IS MADE THAT THIS GUY WHO WAS A PASSENGER HAD DONE SOMETHING WRONG. THEREFORE THIS PASSENGER SHOULD NOT RECOVER. THAT PASSENGER FOR THE PURPOSE OF THIS LAW IS AS INNOCENT AS SOMEBODY WALKING DOWN THE STREET AND BECOMING A VICTIM, AN INJURED INDIVIDUAL AS A RESULT OF THIS CHASE IN WHICH THIS INJURED PEDESTRIAN PLAYED NO PART. THAT IS REASONABLE. SENATOR WATERMEIER WOULD BE REASONABLE. BUT THOSE IN THE LOBBY WILL NOT ALLOW IT. AND SINCE I HAVEN'T COMPLETED WHAT I WANT TO SAY, I'M GOING TO PUT MY LIGHT ON AGAIN. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. (VISITORS INTRODUCED.) SENATOR SCHNOOR, YOU'RE RECOGNIZED. [LB188]

SENATOR SCHNOOR: THANK YOU, SIR. I WILL STAND OPPOSED TO THIS BRACKET MOTION. AND I WOULD LIKE TO KIND OF GO BACK TO SENATOR SCHUMACHER'S AMENDMENT AND TALK ABOUT THIS PURSUIT ISSUE. A DISPATCHER...IT TALKS ON THIS...IT TALKS ABOUT THE...I BETTER LOOK AT IT, MAKE SURE I'M READING THE RIGHT INFORMATION. THE PURSUING LAW ENFORCEMENT OFFICER GENERALLY IDENTIFIES THE PASSENGER--GENERALLY IDENTIFIES, WELL, THAT'S PRETTY VAGUE--AND THE EXISTENCE OF THE WARRANT OR SUCH UNDERLYING FELONY TO THE SUPERVISING LAW ENFORCEMENT OFFICER OR THE NEBRASKA STATE PATROL DISPATCH SYSTEM. WELL, FIRST OFF, THE DISPATCHER HAS NO AUTHORITY ON WHETHER THEY'RE GOING TO ENGAGE IN A PURSUIT OR NOT. AND THE SUPERVISOR IS, AT PRESENT, IS NOT CONTACTED. BUT THIS IS JUST PUTTING...PUTTING PRETTY HEAVY RESTRICTIONS ON THESE LAW ENFORCEMENT OFFICERS FROM DOING THEIR JOB. AND I'D LIKE TO COMPARE THAT TO A RULES OF ENGAGEMENT FOR THE MILITARY. AND COLONEL GARRETT ISN'T AROUND. BUT IN THE MILITARY, YOU KNOW, THAT BEFORE WE CONDUCT ANY COMBAT OPERATIONS, WE HAVE RULES OF ENGAGEMENT. AND DEPENDING ON THE TIME FRAME, WHETHER IT'S BEGINNING OF A WAR, BEGINNING OF AN ASSAULT, THE RULES OF ENGAGEMENT DIFFER. BUT WE'RE ALWAYS TOLD THOSE BEFORE WE GO. BUT WHEN WE GET TO WHERE LIKE THIS, THEY'RE SO RESTRICTIVE THAT YOU HAVE TO START ASKING PERMISSION BEFORE YOU CAN DO ANYTHING, YOU KNOW, THAT TENDS TO HAPPEN TO THE FOLKS IN THE MILITARY. AND IT PUTS...IT REALLY HAMPERS THEM FROM DOING THEIR JOB. YOU KNOW, WE HEARD ABOUT BAD RULES OF ENGAGEMENT, YOU KNOW, DURING THE VIETNAM WAR. THERE'S BAD RULES OF ENGAGEMENT GOING ON NOW WHERE OUR TROOPS HAVE TO CALL FOR PERMISSION TO DO ANYTHING. AND THIS IS THE ANALOGY THAT I'M GOING TO USE FOR THIS, FOR THIS AMENDMENT, BECAUSE IT HAMPERS LAW ENFORCEMENT FROM DOING THEIR

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JOB BY FORCING THEM TO ASK PERMISSION TO SIMPLY CONDUCT IN A CHASE. FOR SOMEBODY...THAT CHASE COULD BE SOMEBODY...THAT THEY HAVE NO IDEA WHO THE DRIVER EVEN IS. IT'S HIGHLY LIKELY THAT THEY HAVE NO CLUE WHO THE PASSENGER IS. SO I WILL STAND OPPOSED TO THE BRACKET MOTION AND OPPOSED TO THE AMENDMENT. THANK YOU, SIR. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHNOOR. SENATOR WATERMEIER, YOU'RE RECOGNIZED. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. LIEUTENANT GOVERNOR. I SHOULDN'T DO THAT. I STAND IN OPPOSITION TO THE BRACKET MOTION. AND I DO WANT TO JUST STAND AND REITERATE A LITTLE BIT. SENATOR CHAMBERS HAD SAID IT WAS DISAPPOINTING TO HIM THAT I DIDN'T ALLOW THE BODY TO VOTE ON HIS AMENDMENT, BECAUSE IT WAS IDENTICAL TO MY AMENDMENT THAT WE JUST PASSED HERE EARLIER, AM2199. AND I WILL ADMIT IT WAS SIMILAR TO THAT. BUT IT DID NOT GO AS FAR AS I HAD PROMISED THE BODY. AND WE HAD PROMISED THE BODY ABOUT 20 MINUTES TILL 12:00 THAT DAY, ABOUT 15 MINUTES BEFORE A CLOTURE MOTION, SO I WASN'T GOING TO TRY TO DRAG AND EXPLAIN EXACTLY WHAT I WAS DOING WITH THAT MOTION AND HOW IT WAS DIFFERENT. I'M ALWAYS AFRAID OF AGREEING TO A FLOOR AMENDMENT FOR THAT VERY REASON THAT IT MAY NOT BE EXACTLY WHAT YOU THINK WHEN YOU SCRIBBLE IT OUT ON A PIECE OF PAPER. AND SO I HAD TOLD THOSE INDIVIDUALS THAT WE HAD WORKED WITH, ALLOW ME TO GET THAT AMENDMENT DRAFTED AND PUT ON. AND IT WAS ACTUALLY ALREADY DRAFTED ON PUTTING ON SELECT FILE, BUT WE WEREN'T GOING TO GET TO IT THAT DAY BECAUSE OF THE WAY THE CLOTURE MOTION WAS ADVANCED. SO I JUST WANT TO BE ON RECORD AS STATING THAT I WAS IN SUPPORT OF SENATOR CHAMBERS' AMENDMENT THAT DROPPED A AND B OF THE ORIGINAL SECTION OF THE BILL, BUT I HAD ACTUALLY CHANGED A WORD IN E WHICH SIGNIFICANTLY MADE A DIFFERENCE TO THAT BILL. AND MY WORD WAS TO THE BODY AND THOSE INDIVIDUALS THAT WE WORKED ON IT THAT I WOULD GET THAT AMENDMENT IN FRONT OF THIS BILL IN THE BEST THAT I COULD. AND I APPRECIATE WHAT HAD HAPPENED THIS MORNING. YOU STUCK WITH ME; WE GOT THAT AMENDMENT PASSED. THIS BILL IS EXACTLY THE WAY I WOULD LIKE TO SEE IT PASSED AS FAR AS THE WAY I'VE HAD DISCUSSIONS WITH OTHER MEMBERS IN THE BODY. I'M GOING TO OPPOSE THE BRACKET MOTION. I'M GOING TO OPPOSE AM2140 FROM SENATOR SCHUMACHER, AND I'LL ASK FOR A GREEN VOTE ON LB188. SO THANK YOU, MR. LIEUTENANT GOVERNOR. [LB188]

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PRESIDENT FOLEY: THANK YOU, SENATOR WATERMEIER. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE, ALL THAT SENATOR WATERMEIER SAID IS THAT HE'S GOING TO HAVE THE BODY TAKE THE TIME THAT I INTEND TO TAKE. I DON'T KNOW IF WE'LL FINISH THE FOUR HOURS ON SELECT FILE TODAY. SO TODAY WILL BE BURNED, TOMORROW IS ANOTHER DAY. BUT WE WILL REACH THE FOUR HOURS, BUT WE'LL REACH IT DISCUSSING THIS BILL. AND I ASSURE YOU THAT I WILL TAKE MY TWO HOURS ON IT ON FINAL READING. AND THIS CAN POISON THE WELL. THERE ARE PEOPLE VOTING FOR THIS, IN MY OPINION, NOT BECAUSE THEY THINK IT'S GOING TO BENEFIT THE PUBLIC OR ADVANCE THE LEGITIMATE INTEREST OF LAW ENFORCEMENT, BUT FOR OTHER REASONS THAT THEY DARE NOT STATE ON THE FLOOR. AND I'LL TELL YOU ALL THIS, I HAVE A BILL THAT MEANS A GREAT DEAL TO ME. IT MAY NOT GET OUT OF COMMITTEE. BUT EVEN IF IT DOES, THEN WITH THIS TURN THAT THE SESSION IS TAKING, I DON'T KNOW IF WE'LL HAVE ANYMORE CONSENT CALENDAR BILLS. I DON'T KNOW IF WE'LL HAVE A CONSENT CALENDAR. WE'RE A LITTLE BIT FURTHER THAN HALFWAY ALONG. MY VIEWS DON'T MATTER TO THE BODY. SO WHAT DIFFERENCE SHOULD IT MATTER TO ME THAT THERE ARE THOSE IN THE BODY WHO HAVE BILLS THAT MEAN SO MUCH TO THEM. BUT TIME NOT ONLY IS ON MY SIDE, TIME IS MINE AND I WILL TAKE THE TIME. AND IF THIS BILL HAD BEEN HANDLED IN A WAY THAT IS STRAIGHT UP AND ABOVE BOARD, THAT WOULD HAVE BEEN ONE THING. SENATOR WATERMEIER WAS TROTGING IN AND OUT OF HERE TO SEE WHAT THE LOBBYISTS WERE TELLING THEM. AND THERE WAS ONE POINT WHERE THE LOBBYISTS WHO WERE DICTATING TO HIM SAID, DON'T ACCEPT THAT BECAUSE WE DON'T HAVE TO ACCEPT IT. SO IT WAS IN DESPERATION THAT HE HAD TO ACCEPT WHAT THE LOBBY TOLD HIM TO REJECT WHEN I OFFERED IT. HE THINKS THAT I FORGET BECAUSE I'M SO OLD. THERE ARE SOME THINGS I DON'T REMEMBER BECAUSE I NEVER TENDED TO THEM AT THE TIME THEY OCCURRED. THEREFORE, THEY WERE NOT ENTRENCHED IN MY MEMORY. BUT IF I PAY ATTENTION TO SOMETHING WHILE IT'S HAPPENING, AN ELEPHANT WILL FORGET IT BEFORE I WILL. AND AN ELEPHANT, UNDER ORDINARY CIRCUMSTANCES, WILL LIVE MUCH LONGER THAN I WILL. THIS IS DETERMINING THE NATURE OF THE SESSION FOR ME, NOT ANYBODY ELSE, BUT FOR ME. AND EVERYTHING I DO WILL BE UNDER THE RULES. AND THERE'S NOTHING ANYBODY CAN DO TO STOP ME FROM USING THE RULES. IF SOMETHING IS INEXORABLE, THAT MEANS THERE CAN BE NO NEGOTIATION, NO MODIFICATION. THERE WILL BE NO CHANGE, NO YIELDING. SO DON'T COME TO ME AFTER THE DIE IS CAST AND SAY I WANT TO DO IT DIFFERENTLY. SENATOR WATERMEIER AND HIS LOBBY FRIENDS

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OUT THERE LED THE LEGISLATURE DOWN THE WRONG PATH. YOU DON'T EVEN CARE WHAT THE PATH IS BECAUSE YOU HAVE GOT YOUR MIND MADE UP. BUT I'M GOING TO KEEP DISCUSSING THE ISSUES. AS FAR AS HOW UNWISE LAW ENFORCEMENT PEOPLE ARE, THERE WAS A SITUATION THAT OCCURRED OUTSIDE OF WHAT WOULD BE CONSIDERED MY IMMEDIATE COMMUNITY JUST A FEW MONTHS AGO. I WAS AT A HOUSE WHERE THEY WERE HAVING A MEMORIAL SERVICE FOR A PERSON. THE PERSON HAPPENED TO HAVE BEEN MY BROTHER. I LOOKED DOWN THE STREET AND I SAW TWO OR THREE CRUISERS AT THE BOTTOM OF THE HILL. AND I WONDERED WHAT WAS GOING ON AS ANYBODY WOULD. SO THEN, TWO OR THREE MORE CRUISERS CAME. AND I GOT IN MY CAR AND DROVE AS CLOSE TO IT AS I COULD GET... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: DID YOU SAY TIME? [LB188]

PRESIDENT FOLEY: THAT WAS JUST ONE MINUTE, SENATOR. [LB188]

SENATOR CHAMBERS: OH, THANK YOU....AND GOT OUT OF MY CAR. AND I ASKED SOME PEOPLE ACROSS THE STREET FROM THE HOUSE WHAT WAS GOING ON. THEY SAID THE POLICE THOUGHT THAT A CERTAIN PERSON WAS IN THAT HOUSE, BUT HE, IN FACT, WASN'T. AND I KNEW THE PEOPLE IN THE HOUSE I WAS AT, AT THE TIME. SO TO CUT THROUGH A LOT OF THINGS THAT WERE HAPPENING, TIME PASSING, CRUISERS CAME AT THE TOP OF THE HILL AND MY CAR WAS...I COULDN'T GET OUT IF I WANTED TO. OTHER COPS STARTED WALKING TOWARD THE HOUSE AND THEY HAD A DOG. SO I ASKED, WHO IS IN CHARGE? AND A SERGEANT WENT AND GOT A LIEUTENANT. AND I SAID, LIEUTENANT, I KNOW YOU AND ALL THESE GUYS KNOW WHO I AM. THIS IS MY COMMUNITY. I KNOW THE PEOPLE INVOLVED. DON'T SEND THE OFFICERS INTO THE HOUSE. [LB188]

PRESIDENT FOLEY: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, MR. CHAMBERS. SENATOR SCHUMACHER, YOU'RE RECOGNIZED. [LB188]

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SENATOR SCHUMACHER: THANK YOU, MR. LIEUTENANT GOVERNOR. WOULD SENATOR SCHNOOR YIELD TO A QUESTION? [LB188]

PRESIDENT FOLEY: SENATOR SCHNOOR, WOULD YOU YIELD, PLEASE? [LB188]

SENATOR SCHNOOR: YES, SIR. [LB188]

SENATOR SCHUMACHER: THANK YOU, SENATOR SCHNOOR. SENATOR SCHNOOR, YOU SPENT ABOUT FIVE MINUTES TALKING ABOUT RULES OF ENGAGEMENT AND THE NECESSITY UNDER MY AMENDMENT TO ASK PERMISSION. HAVE YOU READ MY AMENDMENT? [LB188]

SENATOR SCHNOOR: I WAS REFERRING TO THAT...I DON'T HAVE IT PULLED UP. [LB188]

SENATOR SCHUMACHER: HAVE YOU READ MY AMENDMENT? [LB188]

SENATOR SCHNOOR: NOT IN ITS ENTIRETY, NO. [LB188]

SENATOR SCHUMACHER: HAVE YOU READ MY AMENDMENT IN ITS PARTIALITY? [LB188]

SENATOR SCHNOOR: YES, I HAVE. [LB188]

SENATOR SCHUMACHER: WHERE DID YOU SEE THE WORD "ASK PERMISSION" OR ANYTHING ABOUT PERMISSION? [LB188]

SENATOR SCHNOOR: THAT'S WHEN...THE QUESTION...WHEN I WAS QUESTIONING YOU PREVIOUSLY, THAT'S WHAT I WAS TALKING ABOUT WHERE IT SAYS ABOUT THE PATROL SUPERVISOR OR THE DISPATCHER. [LB188]

SENATOR SCHUMACHER: THE AMENDMENT SAYS, IF YOU HAD READ IT, THEY NEED TO REPORT TO THE DISPATCHER. NOTHING ABOUT GET PERMISSION FROM THE DISPATCHER OR THE STATE PATROL OFFICE. NOTHING AT ALL ABOUT PERMISSION. BUT THEY NEED TO IDENTIFY WHAT THEY'RE DOING SO AFTER THE FACT THEY CAN'T GO LOOKING FOR SURPRISES AND SAY, WOW, WE LUCKED OUT ON THAT ONE. WE FOUND A JOINT IN HIS POCKET. [LB188]

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SENATOR SCHNOOR: WHICH IS WHAT THEY DO ALREADY. [LB188]

SENATOR SCHUMACHER: THEN THAT'S FINE. THERE'S NOTHING ADDED...RESPONSIBILITY ADDED IF THAT'S WHAT THEY DO ALREADY. THERE IS NOTHING IN THAT LANGUAGE...AND I CHALLENGE YOU TO POINT TO ME ANYTHING IN THAT LANGUAGE THAT SAYS THEY HAVE TO ASK THE PERMISSION OF THE DISPATCHER TO ENGAGE IN PURSUIT. THERE ISN'T. IS SENATOR WATERMEIER IN...SENATOR WATERMEIER, WOULD YOU YIELD TO A QUESTION? [LB188]

PRESIDENT FOLEY: SENATOR WATERMEIER, WOULD YOU YIELD, PLEASE? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR SCHUMACHER: SENATOR WATERMEIER, I'VE TRIED TRACING THROUGH THE BILL, THE JUDICIARY AMENDMENT, AND THE AMENDMENT OF YOURS THAT WE JUST PASSED. TELL ME, IS THE LANGUAGE THAT...IF THE PERSON IS SOUGHT TO BE APPREHENDED STILL IN THE BILL AS ITS PRESENT STATUS? [LB188]

SENATOR WATERMEIER: YES, I BELIEVE SO. HANG ON A SECOND...WHO IS SOUGHT TO BE APPREHENDED BY THE LAW ENFORCEMENT PERSONNEL. [LB188]

SENATOR SCHUMACHER: OKAY. SO ANYBODY WHO IS SOUGHT TO BE APPREHENDED, WOULD AN UNDOCUMENTED WORKER BE SOUGHT TO BE APPREHENDED? [LB188]

SENATOR WATERMEIER: YOU KNOW, I'LL LEAVE THAT UP TO THE LEGAL SCHOLARS HERE TO DECIDE ABOUT THE WARRANTS AND HOW THAT ALL WORKS. [LB188]

SENATOR SCHUMACHER: NO, NO. WOULD THEY BE SOUGHT AND APPREHENDED? [LB188]

SENATOR WATERMEIER: I DON'T KNOW. I DO NOT KNOW THAT. [LB188]

SENATOR SCHUMACHER: OKAY. SO WE DON'T...HOW IS AN OFFICER SUPPOSED TO KNOW THAT IF YOU DON'T? [LB188]

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SENATOR WATERMEIER: THAT'S WHAT THE...I WILL BELIEVE THAT THE JUDGES IN THAT SUPREME COURT...THESE CASES WILL DECIDE THAT. [LB188]

SENATOR SCHUMACHER: YOU KNOW, YOU CAN GO ASK LOBBY TO TELL YOU WHAT SOUGHT TO BE APPREHENDED. BUT IT APPEARS TO ME IF SOME...IF THERE'S A...INS IS LOOKING FOR UNDOCUMENTED WORKERS, EVERY UNDOCUMENTED WORKER IS NOW A SOUGHT TO BE APPREHENDED PERSON. WHAT IF THE PERSON IS SOUGHT TO BE APPREHENDED PURSUANT TO A WITNESS WARRANT? IS HE NON-INNOCENT WHERE A JUDGE SAYS WE'VE GOT A CRITICAL WITNESS? IN ORDER FOR HIS PROTECTION, GO BRING HIM IN. WHAT IF IT TURNS OUT THAT THAT'S WHAT THEY WERE SOUGHT TO BE APPREHENDED FOR? STILL NOT INNOCENT? [LB188]

SENATOR WATERMEIER: I'M GOING TO SAY, THAT'S UP TO THE...I CAN'T ANSWER THAT, SENATOR SCHUMACHER. [LB188]

SENATOR SCHUMACHER: WHAT IF THE PERSON IS A STATE SENATOR WHO LEFT THE CHAMBER WITHOUT PERMISSION AND IS BEING BROUGHT BACK IN BY THE STATE PATROL PURSUANT TO THE PROCEDURES OF THIS BODY? THEY'RE SOUGHT TO BE APPREHENDED AND RETURNED TO THIS BODY, AREN'T THEY? [LB188]

SENATOR WATERMEIER: YOU MAY VERY WELL DEFINE IT THAT WAY. I CAN'T, SENATOR SCHUMACHER. [LB188]

SENATOR SCHUMACHER: WELL, BUT WAIT A MINUTE. WE'RE WRITING THE LAW. AND IF WE'RE GOING TO PREVENT A CASE TO GO TO THE SUPREME COURT SAYING, WELL, GOLLY GEE WHIZ, WHAT DID THAT LEGISLATURE MEAN NOW... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR SCHUMACHER: ...THEN WE SHOULD WRITE IT. WE SHOULD KNOW WHAT WE MEAN WHEN WE SAY, SOUGHT TO BE APPREHENDED. SOUNDS TO ME LIKE ANYBODY THE OFFICER WANTS TO DETAIN IS FAIR GAME...INNOCENT, NON-INNOCENT, WHATEVER. THE AMENDMENT, AM2140, THAT IS BEFORE THE BODY FIXES THESE PROBLEMS WITH SUFFICIENT CERTAINTY THAT WE CAN MOVE ON. AND I HAVE EVERY REASON TO BELIEVE THAT IF WE PROCEED ON THAT, THEN WE WILL SAVE A WHOLE LOT OF TIME AND ALSO PASS A GOOD LAW INSTEAD OF

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ONE THAT WE'RE ALREADY SAYING, WE'RE GOING TO HAVE THE ASK THE JUDGES WHAT WE MEANT BECAUSE, GOSH, WE DON'T KNOW. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHUMACHER. SENATOR CHAMBERS, YOU'RE RECOGNIZED TO CLOSE ON YOUR BRACKET MOTION. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, TO CONTINUE THE EXAMPLE I WAS GIVING, DESPITE MY GREAT TEMPTATION TO TAILGATE ON WHAT SENATOR SCHUMACHER WAS ELICITING FROM SENATOR WATERMEIER, HE DOESN'T KNOW WHAT HE'S TALKING ABOUT. HE DOESN'T KNOW WHAT THE BILL IS TALKING ABOUT AND YOU ALL LIKE LEMMINGS, BLIND AS BATS--LET ME NOT PUT THAT ON THE BATS--FOLLOWING ALONG, YOU'RE NOT FOLLOWING SENATOR WATERMEIER, YOU'RE FOLLOWING THE LOBBY. THEY'RE RUNNING THIS, THIS MORNING. SENATOR GARRETT, SENATOR GROENE, SENATOR FRIESEN, SENATOR LINDSTROM, SENATOR HILKEMANN, SENATOR KOLTERMAN, I COULD GO RIGHT DOWN THAT BOARD, AND ASK THEM QUESTIONS ON THIS BILL AND THEY COULDN'T ANSWER THEM. WHY? BECAUSE THE LOBBYISTS HAVE SET THE TONE. AND THE LOBBYISTS ARE NOT TO BE CHALLENGED. BUT WE HAVE MORE IN THE SESSION AND WHEN THEIR BILLS COME UP, I AM GOING TO REMIND THEM OF THIS DAY. THIS IS NOT A BILL THAT MEANS ANYTHING TO ME IN TERMS OF WHAT I WILL GET FROM IT. I AM TRYING TO PROTECT THE RIGHTS OF PEOPLE WHO ARE INJURED IN CHASES, WHICH IN SOME CASES SHOULD NEVER HAVE OCCURRED IN THE FIRST PLACE. AND THESE PEOPLE WHO TALK ABOUT BEING CONCERNED ABOUT THE PUBLIC, DON'T CONSIDER THOSE PEOPLE A PART OF THE PUBLIC, AND THAT'S THE DIFFERENCE BETWEEN THEM AND ME. THEY PICK AND CHOOSE. IF THEY DON'T LIKE SOMEBODY, THAT PERSON HAS NO RIGHTS. A LOT OF THE PEOPLE WHO BENEFIT FROM THE RULES AND THE LAWS THAT I GET IN PLACE, I DON'T LIKE AT ALL. AND IF I WAS VINDICTIVE LIKE SOME OF MY COLLEAGUES, I WOULD DELIBERATELY REFRAIN FROM BRINGING THOSE LAWS BECAUSE THEY'RE GOING TO BENEFIT MORE OF MY FOES THAN IT WILL THE PEOPLE THAT I CARE ABOUT. BUT I HAVE A JOB IN THIS POSITION AND A RESPONSIBILITY. AND ON THAT INCIDENT I WAS TELLING YOU ABOUT, THAT'S WHAT I INTENDED AND WAS ATTEMPTING TO ASSUME BY TELLING THE OFFICERS, DON'T SEND THE DOG IN, LET ME GO IN THE HOUSE. AND THIS LIEUTENANT SAID, WELL, I COULDN'T LET YOU DO THAT. I SAID, WELL, IF I STARTED ACROSS THE STREET TO GO IN, WHAT ARE YOU GOING DO? HE SAID, I'D HAVE TO STOP YOU. I SAID, YOU'D SHOOT ME? HE SAID, WELL, NO, WE WOULD HAVE SOMEBODY TACKLE YOU. I SAID, AND SUPPOSE THEY COULDN'T TACKLE ME, THEN WHAT? WELL, I HOPE THAT WOULDN'T HAPPEN, HE SAID. THEN HE

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CAME UP WITH A STRATAGEM. HE SAID, SUPPOSE YOU GOT HURT? I SAID, HURT BY WHOM? YOU SAID THE COPS AREN'T GOING TO SHOOT ME. HE SAID, BY SOMEBODY IN THE HOUSE. I SAID, WELL, IF I JUST GOT HURT, YOU WOULD GET A COMMENDATION. AND IF I GOT KILLED, YOU'D GET A PROMOTION. AND AFTER ALL WAS SAID AND DONE, YOU KNOW WHAT HE CAME BACK TO ME AND SAID? SENATOR, WITH THE CLARITY OF VISION OF 20-20 HINDSIGHT, I SHOULD HAVE LET YOU GO IN THE HOUSE. THE PERSON WAS NOT IN THE HOUSE. THEY TOOK THE DOG IN AND SENT ABOUT SIX COPS IN THE HOUSE AND THEY HAD GUNS DRAWN. THAT'S IN MY COMMUNITY, I'D SAID NOT MY IMMEDIATE COMMUNITY, BUT OVERALL. I SHOULD HAVE SAID NOT MY NEIGHBORHOOD. AND I WAS WILLING, IF THERE WAS A RISK, TO ASSUME IT. DON'T ENDANGER THE COPS. AND TO SHOW HOW UNREASONABLE THEY ARE AND AFTER THE FACT THEY TRY TO MAKE SOMETHING RIGHT. A WHITE GUY WHO HAD SHOT AT DEPUTIES WHO WAS SAID TO BE MENTALLY CHALLENGED IN ONE WAY OR ANOTHER BECAUSE THEY HAD A COMMITMENT PAPER FOR HIM; HE HAD SHOT AT THEM ALREADY. HE'S OBVIOUSLY UPSET. SO WHY SEND THE DOG IN? WHAT IS HE GOING TO DO? NOBODY IS OBLIGATED TO ALLOW A FEROCIOUS ANIMAL TO ATTACK AND RIP HIM OR HER LIMB FROM LIMB, SO HE SHOT THE DOG. THE COPS WERE RESPONSIBLE FOR THAT DOG'S DEATH. THE MAN HAD TRIED TO SHOOT THEM, THEN WHY SEND THEM INTO THE HOUSE WHERE THE MAN IS ARMED? HE WILL SHOOT. AND THE DOG IS JUST DOING WHAT THESE HUMAN BEINGS SENT HIM TO DO. THEN THE COPS ALL STARTED TEARING UP... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...AND HAD A CEREMONY FOR THE DOG AT A CHURCH, AND NOBODY TALKED ABOUT WHAT I'M TALKING ABOUT. THE DOG'S LIFE WAS THROWN AWAY THROUGH POLICE STUPIDITY. WHO ON THIS FLOOR WOULD SAY THAT A DOG THAT MEANS SOMETHING TO ME I'M GOING TO SEND INTO A HOUSE; AND THE DOG CAN'T MAKE AN ARREST? THE GUY HAS SHOT AT ME ALREADY. IF I CARED ABOUT THE ANIMAL, THE ANIMAL WOULDN'T HAVE GONE IN. THEN THE COP GOT TEARY-EYED. THAT'S THE GAME THAT THEY PLAY. AND THEY WON'T LISTEN TO ANYBODY BEFORE IT HAPPENS SO THAT THOSE THINGS CAN BE AVOIDED. SO THEY MURDERED THE MOUNTAIN LION. THEY ARE RESPONSIBLE FOR THE DEATH OF THE DOG. THEN THEY PLAYED LIKE THIS IS SUCH A GREAT LOSS. THEY DIDN'T CARE ABOUT THAT DOG. MR. PRESIDENT, I'M GOING ASK FOR A CALL OF THE HOUSE AND A ROLL CALL VOTE. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. THERE'S BEEN A REQUEST TO PLACE THE HOUSE UNDER CALL. THE QUESTION IS, SHALL THE HOUSE GO

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UNDER CALL? ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY.
RECORD, PLEASE, MR. CLERK. [LB188]

CLERK: 25 AYES, 0 NAYS TO PLACE THE HOUSE UNDER CALL, MR. PRESIDENT.
[LB188]

PRESIDENT FOLEY: 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 PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER
CALL. SENATORS KOLOWSKI, HADLEY, PANSING BROOKS, RIEPE, MORFELD,
COASH, STINNER, HUGHES, PLEASE RETURN TO THE FLOOR, THE HOUSE IS
UNDER CALL. SENATORS KOLOWSKI AND MORFELD, PLEASE RETURN TO THE
FLOOR, THE HOUSE IS UNDER CALL. SENATOR MORFELD, THE HOUSE IS UNDER
CALL. ALL MEMBERS ARE PRESENT. THE MOTION BEFORE US IS TO BRACKET
THE BILL. THERE'S BEEN A REQUEST FOR A ROLL CALL VOTE. MR. CLERK.
[LB188]

CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGES 708-709.) 2 AYES,
26 NAYS, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THE MOTION IS NOT ADOPTED. I RAISE THE CALL. MR. CLERK.
[LB188]

CLERK: MR. PRESIDENT, SENATOR CHAMBERS WOULD MOVE TO RECONSIDER
THE VOTE JUST TAKEN WITH RESPECT TO THE BRACKET MOTION. [LB188]

PRESIDENT FOLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED TO OPEN ON
YOUR RECONSIDERATION MOTION. [LB188]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. I'M GOING TO GO INTO
ANOTHER SITUATION INVOLVING LAW ENFORCEMENT. THIS TIME IT DOES NOT
INVOLVE THE OMAHA POLICE. LEGION WOULD BE THE NUMBER OF SPECIFIC
CASES I COULD BRING UP. THIS INVOLVES THE STATE PATROL. THERE WAS A
FARMER WHO LIVED IN CAIRO, NEBRASKA. HIS NAME WAS ARTHUR KIRK. HE
HAD A BANK LOAN AND IT WAS PAST DUE. SO FOR SOME REASON, THE BANKER
PREVAILED ON THE STATE PATROL AND THE SHERIFF TO GO OUT THERE. FIRST
THE SHERIFF WENT ON A BANK NOTE. THAT IS NOT A CRIMINAL MATTER. SO

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KIRK TOLD HIM, GET OFF MY PROPERTY. SO THE SHERIFF GOT OFF, BUT THEY NOTIFIED THE STATE PATROL. AND THE STATE PATROL CAME INTO THE PICTURE. THEY SURROUNDED THE FARMSTEAD. THEY CUT OFF ALL ROADS LEADING TO OR FROM THE HOME. KIRK WAS IN HIS HOUSE. NOT ONLY DID THEY HAVE THIS STATE PATROL PRESENCE, THERE WAS A FIXED WING AIRCRAFT CIRCLING THE MAN'S HOUSE. AND THIS IS INVOLVING A BANK LOAN, NOT A CRIME...THIS WHITE GUY, LIKE YOU ALL. AND YOU KNOW WHAT WOUND UP HAPPENING? THE STATE PATROL SHOT THE MAN DEAD ON HIS PROPERTY. THEY SAID HE CAME OUT AND SHOT AT THE STATE PATROL AND, THEREFORE, THEY KILLED HIM. THEY DREW A PATH ON THEIR DIAGRAM FROM HIS HOUSE TO WHERE HE SUPPOSEDLY WAS GOING AND THE POINT AT WHICH HE WAS SHOT. I DON'T TRUST THE POLICE, SO I WENT OUT TO THE MAN'S FAMILY. HE WAS A MEMBER OR SUPPOSED TO BE A MEMBER OF WHAT WAS KNOWN AS THE POSSE COMITATUS WHICH HAD NEBRASKANS TERRIFIED. AND WHEN I WENT OUT TO THE FARMSTEAD, THEY TOLD ME, THESE WHITE PEOPLE AND LAW ENFORCEMENT, ERNIE, DON'T GO OUT THERE. THEY HATE BLACK PEOPLE. I SAID SO THAT'S WHY YOU KILLED HIM, BECAUSE HE HATES BLACK PEOPLE? WELL, IF THAT'S WHY YOU KILLED HIM, YOU NEED TO KILL MEMBERS OF THE STATE PATROL AND MOST OF THE PEOPLE IN NEBRASKA. THAT'S NOT WHY YOU KILLED HIM. AND I'M GOING TO GO OUT THERE AND TALK TO THE FAMILY AND FIND OUT WHAT I CAN. SO I WAS ABLE TO GET SOME OF THE INFORMATION THAT THE STATE PATROL HAD. ONE OF THE FIRST QUESTIONS I ASKED, IF HE SHOT AT YOU, DID YOU BAG HIS HANDS SO THAT WE COULD SEE IF THERE WAS ANY GUN POWDER RESIDUE ON? NO. DID YOU CHECK HIS CLOTHING OR ANYTHING? NO. SO THE ONLY THING I HAVE TO GO ON THAT HE SHOT AT THE PATROL IS WHAT YOU SAID. WELL, YES. THEY DID NOT TAKE HIS WEAPON. IT WAS A LONG GUN. SO I LOOKED AT THE WEAPON. OH, NO, THE STATE PATROL DID HAVE IT, BECAUSE I SAW IT AT THE STATE PATROL HEADQUARTERS, I BELIEVE. AND WHEN I OPENED THE BREECH, YOU KNOW WHAT I SAW? I SAW A SHELL LODGED IN THERE AND YOU COULDN'T GET IT OUT. AND MY OLD MIND--IT WASN'T AS OLD THEN, SENATOR FRIESEN--BUT I REMEMBERED THE DRAWING WHERE WHEN HE FIRED IT THREW THE SHELL TO THE SIDE AND TOWARD THE BACK. SO I WENT TO THAT PLACE AND DIDN'T FIND A SPENT SHELL. BUT WHEN I SAW THAT GUN I SAID, WELL, NOW IF THERE'S THIS JAMMED SHELL IN THE CHAMBER, HOW WAS HE ABLE TO FIRE THE GUN? WELL, THEY COULDN'T THINK OF A QUICK ENOUGH ANSWER SO THEY DIDN'T FEEL THEY HAD TO ANSWER THAT TO ME. SO I DID SOME OTHER CHECKING, BECAUSE THEY SAID THEY HAD COMBED THE AREA. YOU KNOW WHAT I FOUND? I FOUND A FULL CLIP OF AMMUNITION IN HIS YARD. IF ANYBODY HAD WALKED THROUGH THE YARD, THEY WOULD HAVE SEEN IT, TOO. TO MAKE A LONG STORY SHORT, I WAS CRITICAL OF WHAT HAPPENED TO HIM. THE MEDIA TALKED TO ME

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ABOUT IT BECAUSE THEY KNEW I'D GONE OUT THERE. I SAID, THIS IS AS CLOSE TO POLICE MURDER AS ANYTHING THAT I SAW. AS THINGS WENT ON, THEN- SENATOR LORAN SCHMIT SAID HE WAS GLAD THAT I SAID SOMETHING, BECAUSE NO OTHER OFFICIAL IN THE STATE EVEN TWITCHED UNTIL I GOT INVOLVED. THERE WOUND UP BEING A REVIEW BY THE JUDICIARY COMMITTEE OF WHICH I WAS A MEMBER. THE GOVERNOR APPOINTED SOME GUY TO LOOK AT ALL OF THE INFORMATION. AND I DID SOME ADDITIONAL CHECKING AND I FOUND OUT THAT THE STATE PATROL HAD REFUSED TO ALLOW ANY MEMBER OF HIS FAMILY TO APPROACH THE HOUSE. I SAID WHY NOT? WELL, THEY WERE IN DANGER. I SAID, HE'S NOT SHOOTING AT THE PATROL. HE'S NOT GOING TO SHOOT A MEMBER OF HIS FAMILY. WHY DIDN'T YOU LET SOMEBODY GO THERE? WELL, THAT'S NOT THE WAY WE NEGOTIATE. INSTEAD, THEY HAD SOMEBODY TALKING TO HIM ON THE PHONE. AND FORTUNATELY FOR MY PURPOSES, THE CONVERSATION WAS RECORDED. AND THE ONE TALKING TO HIM ON THE PHONE WAS VERY PROVOCATIVE. I SAID, NOW THIS IS A TENSE SITUATION AND YOU'RE CHALLENGING HIM. IT SEEMS TO ME YOU SHOULD BE TRYING TO CALM HIM DOWN IF YOU THOUGHT THAT HE WAS IN AN AGITATED FRAME OF MIND. BUT THAT'S NOT WHAT YOU DID. HIS FAMILY WAS VERY GRATEFUL. AND 60 MINUTES FOUND OUT ABOUT IT AND AT THAT TIME, GERALDO WORKED FOR THEM OR 20/20, WHICHEVER ONE BARBARA WALTERS WORKED FOR. SO GERALDO RIVERA CAME OUT TO THE FARM, AND THE FAMILY WANTED ME THERE WHEN HE CAME. SO GERALDO RIVERA, WHO DRESSES IN A SUIT, CAME OUT THERE IN A LUMBERJACK SHIRT AND JEANS AND COWBOY BOOTS. AND I TOLD HIM, I SAID, MAN, YOU'RE BEING VERY PATRONIZING. THAT'S NOT THE WAY YOU ORDINARILY DRESS. YOU CAME OUT HERE TO BE ONE OF THE FOLKS, HUH? WHEN THEY PUT THE STORY ON, GERALDO RIVERA WAS TALKING, TELLING HOW THE GUY IS A RACIST. BUT DO YOU KNOW THAT NOWHERE IN THE STORY DID THEY MENTION THAT THE ONLY BLACK SENATOR IN THE LEGISLATURE WAS OUT THERE WORKING WITH THE FAMILY AND SEEING AFTER THE FAMILY'S INTEREST? DIDN'T MENTION THAT. BUT INSTEAD HE TALKED ABOUT WHAT THE POSSE COMITATUS WAS ABOUT AND HOW FEARFUL PEOPLE WERE THAT THEY WERE GOING TO BE ANARCHISTS AND TAKE OVER GOVERNMENTS AND SO FORTH. AND AS HE TALKED, I'LL NEVER FORGET BARBARA WALTERS. SHE GOT THAT PITIFUL, SYMPATHETIC LOOK ON HER FACE. AND SHE SAID THREE WORDS--TERRIBLE, TERRIBLE, TERRIBLE. AND WHEN I TALKED TO THE FAMILY, I SAID, DO YOU SEE WHAT THEY DID TO YOU ALL, AND YOU ALL ARE WHITE? WELL, WHEN I HAD GONE OUT TO THE STATE PATROL, THEY HAD PHOTOGRAPHED FOR THE MEDIA ALL THESE RIFLES THAT WERE STRUNG OUT ON THE TABLE. AND SO I LOOKED AT THEM. SOME OF THEM WERE VINTAGE WEAPONS. A LOT OF THEM HAD DUST IN THEM. MOST OF THEM WERE INOPERABLE. SO I ASKED, WHY DID YOU PUT

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ALL THESE OUT HERE? THEY COULDN'T BE USED FOR ANYTHING. IT'S MORE LIKE A COLLECTION. WELL, THEY WERE IN THE HOUSE. AND THEY HAD LITERATURE SPREAD OUT ON THE TABLE. AND IT WAS RACIST LITERATURE, THERE'S NO QUESTION ABOUT THAT. BUT I FELT AT THAT TIME AND DO NOW THAT YOU CAN FIND RACIST LITERATURE IN MOST OF THE HOMES OF WHITE PEOPLE IN THE RURAL AREAS. AND I SAY THAT BECAUSE OF THE KIND OF CALLS I STILL GET ON THE TELEPHONE, THE INSULTS, THE RACIAL SLURS, THE THREATS. BUT THAT'S BESIDE THE POINT. I TOLD THEM, I WENT INTO THIS MAN'S HOUSE AND YOU KNOW WHAT I SAW ON ALMOST EVERY WALL...IN EVERY ROOM ON A WALL? A CROSS WITH JESUS ON IT. SO WHY DIDN'T YOU TAKE THOSE CROSSES OFF THE WALL AND SPREAD THEM ON THE TABLE? I SAW BIBLES SCATTERED AROUND. WHY DIDN'T YOU BRING THE BIBLES? WHY DIDN'T YOU LAY THE BIBLES OUT HERE? YOU'RE TRYING TO CREATE A FALSE IMAGE. AND IF THIS MAN WAS ALL YOU SAY THAT HE WAS AND YOU'RE TRYING TO INFORM THE PUBLIC, ENLIGHTEN THEM, PUT EVERYTHING OUT THERE AND LET THE PUBLIC MAKE A DECISION. WHAT WAS THE CONCLUSION OF IT ALL? THE STATE PATROL CHANGED SOME OF ITS POLICIES AND PRACTICES FOR HOW THEY WOULD ENGAGE WITH A PERSON IF THEY HAD SURVEILLED AND FOR ANY REASON THERE WAS A STANDOFF, HOWEVER IT WAS DESCRIBED. NOT ONE WHITE OFFICIAL SAID A WORD. NOT ONE WHITE OFFICIAL WAS INTERESTED ENOUGH TO DO ANYTHING. AND THIS MAN WAS A RACIST BASED ON ALL OF THE EVIDENCE. WHY WOULD I GO OUT THERE WHEN THEY KILLED A RACIST? SHOULDN'T I BE HAPPY? [LB188]

SENATOR SCHEER PRESIDING

SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR CHAMBERS: I DO WHAT I THINK IS RIGHT AS A MEMBER OF THE LEGISLATURE BECAUSE OF THE OATH THAT I TOOK AND WHAT I SAID I WOULD DO WHEN I GOT IN THIS PLACE. WHITE PEOPLE DON'T FEEL LIKE THEY HAVE TO FOLLOW IT, BECAUSE THERE WERE 48 OTHERS IN THE LEGISLATURE, EVERY ONE OF THEM WHITE. NOBODY FROM THE GOVERNOR'S OFFICE; NOBODY FROM THE ATTORNEY GENERAL'S OFFICE; NO MINISTER; NOBODY ELSE BUT A BLACK MAN WHO WAS WARNED BY WHITE PEOPLE THE DANGER THAT I'D BE IN. AND I WENT ANYWAY. AND IF YOU CHECK NEWSPAPER ARTICLES FROM THAT TIME, YOU'LL SEE THAT I'M NOT FALSIFYING ANYTHING. AND THAT'S WHAT I DEAL WITH. THEN I HAVE TO COME HERE AND DEAL WITH THIS KIND OF TRASH LEGISLATION WHERE ONCE AGAIN YOU ALL ARE SAYING THAT SOMEBODY WHO IS INJURED AS A RESULT OF A CHASE WHICH MAY HAVE BEEN TOTALLY UNWARRANTED

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SHOULD NOT HAVE THOSE INJURIES COMPENSATED FOR. IT COULD BE A FAMILY MEMBER. CRIMINALS HAVE FAMILIES. CRIMINALS HAVE CHILDREN WHO LOVE THEM. CRIMINALS LOVE MEMBERS OF THEIR FAMILY. [LB188]

SENATOR SCHEER: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR CHAMBERS. SENATOR KRIST, YOU'RE RECOGNIZED. [LB188]

SENATOR KRIST: THANK YOU, MR. PRESIDENT. GOOD MORNING AGAIN, COLLEAGUES, AND GOOD MORNING, NEBRASKA. I HAVEN'T STOOD UP AND SAID ANYTHING ABOUT THIS BILL SINCE WE FIRST STARTED IT A FEW DAYS AGO. I DO AGREE THAT WE NEED TO ESTABLISH THE NEXUS. I DO AGREE THAT THE AMENDMENT, AM2140, MAKES THIS BILL BETTER. I DON'T UNDERSTAND THE MAYBE LACK OF COOPERATIVE EFFORT BETWEEN NIRMA AND OTHER CONCERNS, OTHER AGENCIES, OTHER PARTS OF THIS DISCUSSION. I THINK THE GOAL HERE IS TO REDUCE THE NUMBER OF HIGH-SPEED CHASES, NOT TO REDUCE THE LIABILITIES ON THOSE WHO WOULD CONDUCT HIGH-SPEED CHASES. NOW THINK ABOUT THAT FOR JUST A SECOND. WHAT THIS BILL WOULD DO IS REDUCE THE LIABILITY ON THE LOCAL MUNICIPALITY, STATE PATROL, WHOEVER THAT WOULD BE CONDUCTING HIGH-SPEED CHASES. I'M TALKING ABOUT PUBLIC SAFETY. I WANT TO REDUCE THE NUMBER OF HIGH-SPEED CHASES. YOU KNOW WHY LINCOLN IS NOT LOBBYING ON THIS ISSUE? BECAUSE LINCOLN DOESN'T HAVE HIGH-SPEED CHASES. THEY HAVE POLICIES IN PLACE THAT REALLY DISCOURAGE RUNNING THROUGH THE MIDDLE OF TOWN AT HIGH SPEEDS AND HURTING PEOPLE, INCLUDING THE PEOPLE WHO ARE DRIVING THE VEHICLES WHO ARE IN PURSUIT. I CAN'T CONTROL WHAT IS GOING TO GO ON, ON THIS FLOOR, BUT I CAN ASK THE QUESTION. I WOULD LOVE FOR SENATOR CHAMBERS--AND WE KNOW WHERE YOU STAND ON THIS BILL--TO WITHDRAW THE BRACKET MOTION. LET'S HAVE A VOTE ON AM2140. LET'S MAKE IT A BETTER BILL. LET'S PUT IN THAT NEXUS THAT DEVELOPS AN INCENTIVE TO REDUCE HIGH-SPEED CHASES OR IF THEY HAVE TO HAPPEN, THEY HAPPEN FOR THE RIGHT REASONS. AND IF THE AMENDMENT PASSES, THEN CONSIDER VOTING YES ON LB188. THE ALTERNATIVE IS, WE'RE GOING TO CLOTURE. I DON'T THINK IT'S WORTH THE...IT'S NOT A WASTED EFFORT ASKING THE QUESTION ONCE AGAIN. LET'S GET TO TAKE THE VOTE ON AM2140. AND IF IT DOESN'T PASS, SENATOR CHAMBERS, THEN PUT PRIORITY MOTION AFTER PRIORITY MOTION AFTER

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PRIORITY MOTION AND I'LL HELP YOU GET TO THE POINT WHERE WE HAVE TO TAKE IT TO A CLOTURE VOTE. THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR KRIST. SENATOR SCHUMACHER, YOU'RE RECOGNIZED. [LB188]

SENATOR SCHUMACHER: THANK YOU, MR. PRESIDENT, MEMBERS OF THE BODY. WOULD SENATOR WATERMEIER YIELD TO SOME QUESTIONS? [LB188]

SENATOR SCHEER: SENATOR WATERMEIER, WILL YOU YIELD? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR SCHUMACHER: SENATOR WATERMEIER, I'M GOING TO DESCRIBE A SITUATION AND THEN WE'RE GOING TO ANALYZE IT TO SEE WHETHER THE OUTCOME IS FAIR AND JUST. WE HAVE AN AUTOMOBILE AT A STOP SIGN, BUT IT DOESN'T QUITE STOP. OR MAYBE THE AUTOMOBILE IS BY THE SENATE PARKING LOT EAST OF THE BUILDING HERE AND THE PERSON MAKES A TURN WITHOUT SIGNALING 140 FEET AHEAD OF TIME. I THINK THAT'S A TRAFFIC VIOLATION THAT IS FREQUENTLY MADE AND ONE THAT'S USED WHEN YOU DON'T SIGNAL 140 FEET AHEAD OF TIME AS A PRETEXT FOR A STOP OR A DESIRE TO APPREHEND. AND THE OFFICER THROWS ON THE RED LIGHTS AND HEADS OUT AND INSTEAD OF THE CAR PULLING OVER, IT TAKES OFF. AND IN THE BACKSEAT OF THE CAR ARE A COUPLE OF PEOPLE MAKING OUT, AND ONE OF THEM HAS A HALF-CONSUMED MARIJUANA CIGARETTE IN HIS OR HER POCKET. AND AS THE PURSUIT GOES ON, THEY RUN THROUGH AN INTERSECTION AND HIT SOMEBODY WHO IS CROSSING THE PEDESTRIAN WALK. THERE'S AN ACCIDENT AFTERWARDS AND BOTH THE PEOPLE IN THE BACKSEAT ARE DECEASED. AND THE PEDESTRIAN IS ALSO DECEASED. THEY LOAD UP THE BODIES IN A HEARSE, TAKE THEM IN FOR AN AUTOPSY. RIGHT THERE ON THE AUTOPSY TABLE, THEY USE A SCISSORS. THEY CUT OFF THE CLOTHING BEFORE THEY BEGIN CUTTING, AND THERE THEY DISCOVER IN THE POCKET OF BOTH THE PEDESTRIAN AND ONE OF THE PARTIES IN THE BACKSEAT A HALF-SMOKED JOINT. NOTHING IN THE OTHER PARTY IN THE BACKSEAT. AND THEY TAKE THOSE HALF-SMOKED JOINTS DOWN TO THE LAB AND TEST THEM FOR DNA. AND LO AND BEHOLD THEY FIND ON BOTH OF THEM THAT THE JOINT HAD BEEN SHARED. IT HAD BEEN DISTRIBUTED. IT'S ALL IT TAKES TO MAKE SOMETHING CHARGEABLE AS A FELONY OF DISTRIBUTING MARIJUANA. NOW ACCORDING TO THE WAY THIS BILL IS PROPOSED WITHOUT AM2140, THE PARTY WHO IS A PEDESTRIAN WHO HAD BEEN

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SHARING A MARIJUANA CIGARETTE WOULD BE ABLE TO RECOVER DAMAGES. THE PARTY WHO IS IN THE BACKSEAT, WHO SAID NOTHING TO AGGRAVATE THE SITUATION, WOULD NOT BE...AND WHO HAD THE JOINT, WOULD NOT BE ABLE TO RECOVER DAMAGES, BUT THE OTHER PARTY WOULD BE ABLE TO RECOVER DAMAGES. CAN YOU DISTINGUISH FOR ME WHY THE PARTIES ARE TREATED DIFFERENTLY. [LB188]

SENATOR WATERMEIER: I NEED TO GO TO LAW SCHOOL SO I CAN GET AN IMAGINATION LIKE THAT. I COULDN'T QUITE FOLLOW ALL OF THAT, BUT I THINK WHAT YOU WERE GETTING AT AND YOU DEFINED THAT PERSON ON THE...PEDESTRIAN WOULD CERTAINLY BE INNOCENT. THAT'S NOT A DEBATE IN THIS BILL. YOU'RE COMING BACK TO THE PEOPLE IN THE BACK OF THE SEAT WHO HAD SHARED A JOINT AND THAT MIGHT HAVE GOTTEN MIXED UP WITH SOMEONE ACTUALLY ON THE STREET? [LB188]

SENATOR SCHUMACHER: NO, NO. THE ONE PARTY YOU JUST DECLARED TO BE INNOCENT. [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR SCHUMACHER: HE WAS KILLED IN THE PURSUIT. HE HAD SHARED A JOINT WITH SOMEBODY. HE IS CLEAR...WOULD HAVE BEEN HAD HE BEEN APPREHENDED, CLEARLY CHARGEABLE AS A FELONY. [LB188]

SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR SCHUMACHER: NOW THE PERSON IN THE BACKSEAT OF THE CAR, SAME SITUATION AND YOU'RE SAYING THAT THERE IS A DIFFERENCE IN THE TREATMENT THAT YOU WOULD PROPOSE BETWEEN THOSE TWO PARTIES. [LB188]

SENATOR WATERMEIER: YES. BECAUSE HE... [LB188]

SENATOR SCHUMACHER: AND HOW DO YOU ARTICULATE A LEGAL PRINCIPLE AS TO WHY THOSE TWO EQUALLY BEHAVING PARTIES, NEITHER DID ANYTHING, SHOULD BE TREATED DIFFERENTLY? [LB188]

SENATOR WATERMEIER: BECAUSE...IF I...CAN I ANSWER? [LB188]

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SENATOR SCHUMACHER: SURE. [LB188]

SENATOR WATERMEIER: OKAY. BECAUSE THE IDEA IS WHEN THAT POLICE PURSUIT STARTED--AND WE HAD GONE OVER THIS I THINK ON GENERAL FILE SEVERAL TIMES--NO MATTER HOW THAT POLICE PURSUIT MAY HAVE ORIGINALLY INITIATED, WHETHER IT'S A TAILLIGHT, SWERVING, WHATEVER IT IS, THE POLICE OFFICER STARTED THE INITIATION OF THE CHASE. THE PERSON IN THE BACKSEAT, KNOWING HE PROBABLY...POTENTIALLY COULD BE CONCERNED ABOUT BEING CAUGHT, WOULD TELL THE DRIVER, HEY, LET'S TAKE OFF. THE DRIVER COULD HAVE BEEN COMPLETELY INNOCENT, WOULD NOT HAVE WANTED TO HAVE DONE IT. BUT THE BILL...GO AHEAD. [LB188]

SENATOR SCHUMACHER: THANK YOU, SENATOR WATERMEIER. WE'RE RUNNING OUT OF TIME. THAT'S THE POINT. WHAT HE... [LB188]

SENATOR SCHEER: TIME, SENATOR. THANK YOU, SENATOR WATERMEIER AND SENATOR SCHUMACHER. SENATOR CHAMBERS, YOU ARE RECOGNIZED. [LB188]

SENATOR CHAMBERS: MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE, WHEN SOMEBODY REACHES OUT TO ME IN A REASONABLE, RATIONAL WAY WITH A FULL UNDERSTANDING OF THE ISSUES, THEN I WILL BE RESPONSIVE. I'M NOT TAKING TIME BECAUSE I WANT TO TAKE TIME. I WANT TO GET THIS BILL IN A FORM WHERE IT CAN PASS AND GIVE SENATOR WATERMEIER SOMETHING, BUT WHERE IT DOES NOT DEPRIVE THOSE WHO SHOULD BE ENTITLED. UNDER THE POLICY WHICH LED TO THE FORMULATION OF THIS LAW IN THE FIRST PLACE, WHERE SUCH A PERSON WOULD BE DENIED RECOVERY, IT'S NOT GOING TO HURT THE BUDGET OF THE POLITICAL SUBDIVISION AT ALL. SOME ARE SELF-INSURERS. OTHERS HAVE INSURANCE. THIS IS JUST A MEAN-SPIRITED ATTEMPT TO DO WHAT'S BEING DONE WITH THIS BILL. BUT BASED ON WHAT SENATOR KRIST SAID, ALLOW A VOTE ON THE AMENDMENT PENDING AND THEN GO AHEAD AND DO WHAT I THINK I OUGHT TO DO, I'M GOING TO, AT THIS POINT, MR. PRESIDENT, WITHDRAW MY PENDING RECONSIDERATION MOTION. [LB188]

SENATOR SCHEER: NO OBJECTIONS, SO ORDERED. WE ARE NOW MOVING TO AM2140, SENATOR SCHUMACHER'S AMENDMENT. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED. [LB188]

SENATOR PANSING BROOKS: THANK YOU, MR. PRESIDENT. I RISE IN SUPPORT OF SENATOR SCHUMACHER'S AMENDMENT, AM2140. AGAIN, WE HAVE TO MAKE

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CERTAIN THAT WE UNDERSTAND WHAT THE POLICY IS, WHAT'S GOING ON IN THE COUNTRY. THE GENERAL POLICY IS TO LIMIT THE NUMBER OF POLICE CHASES THAT THERE ARE IN OUR STATE, IN OUR COMMUNITIES. AGAIN AND AGAIN, THE STATISTICS SHOW THAT THERE ARE A HIGH NUMBER OF DEATHS FROM THE HIGH-SPEED CHASES THAT OCCURRED. IN 2014, USA TODAY REPORTED THAT A TOTAL OF 385 PEOPLE DIED ACROSS THE U.S. IN HIGH-SPEED CHASES IN 2014. A HUGE PERCENTAGE OF THOSE, THEY SAID...THE CHAIRMAN OF THE PURSUIT SAFETY COUNCIL SAID THAT THEY WERE UNNECESSARY. APPROXIMATELY 73 OF THE PEOPLE KILLED IN 2014 WERE BYSTANDERS AND 77 WERE PASSENGERS IN THE FLEEING VEHICLES. TWELVE OF THOSE KILLED WERE CHILDREN AGED 14 OR YOUNGER, INCLUDING AN INFANT WHO HAD NOT YET TURNED 1; 5 WERE POLICE OFFICERS. AGAIN, THE WHOLE TREND ACROSS THIS COUNTRY IS NOT TO ENCOURAGE AND GRANT IMMUNITY TO COMMUNITIES WHO ARE PRACTICING HIGH-SPEED CHASES. INSTEAD, THE TREND IS TO TRY TO LIMIT THEM, TO TRY TO SAY ARE THERE OTHER POSSIBILITIES, OTHER ALTERNATIVES. TECHNOLOGY TODAY IS PROGRESSING LEAPS AND BOUNDS. THERE'S TECHNOLOGY FOR LICENSE PLATE TRACKING SOFTWARE. PREVIOUSLY, ON GENERAL FILE I MENTIONED THE FACT THAT THERE'S SOMETHING CALLED GPS BULLETS. AND THEY'RE ROUGHLY THE SIZE OF A SOUP CAN AND THEY ARE FITTED WITH A STRONG ADHESIVE AND THEY ARE LAUNCHED AT THE CAR AND BASICALLY CAN FOLLOW THE CAR FOR ABOUT I THINK--HOW MANY HOURS--FOR UP TO TEN HOURS. SO, AGAIN, RATHER THAN PLACING PEOPLE IN OUR COMMUNITY AT RISK, LET'S ADOPT SENATOR SCHUMACHER'S AMENDMENT. WE NEED TO HAVE A NEXUS ABOUT WHY IN THE WORLD PEOPLE ARE...WHY THE POLICE ARE CHASING A VEHICLE. AND TO CHASE THEM AND THEN LATER START DOING A SEARCH AND SAY, OH, WELL, WE WERE OKAY IN CHASING THIS PERSON BECAUSE THEY HAD A PENDING FELONY ON A MARIJUANA CHARGE SO WE DON'T HAVE TO PAY FOR THEM. GUESS WHAT? WE'RE GOING TO PAY FOR THEM ONE WAY OR THE OTHER. AND THIS SEEMING ATTEMPT TO GRANT IMMUNITY TOWARDS HIGH-SPEED CHASES IS REALLY NOT THE WAY...IT'S NOT A GOOD POLICY. IT'S NOT WHAT WE SHOULD BE DOING AS A STATE. AND WE NEED TO BE HELPING THE POLICE WITH ALL SORTS OF OTHER METHODS LIKE GETTING THEM THE GPS BULLETS, MAKING SURE THEY HAVE THE LICENSE TRACKING TECHNOLOGY. THOSE ARE MUCH SAFER ALTERNATIVES FOR OUR LAW ENFORCEMENT TO USE. AND WE NEED TO MAKE SURE THAT A POLICE CHASE IS DONE AS A LAST-DITCH EFFORT AND A LAST CHANCE TO ACTUALLY GET SOMEBODY RATHER THAN JUST IN THE NATURAL COURSE OF BUSINESS. SO, AGAIN, I'LL GIVE THE REST OF MY TIME TO SENATOR SCHUMACHER. THANK YOU. [LB188]

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SENATOR SCHEER: SENATOR SCHUMACHER, YOU'RE YIELDED 1:19. [LB188]

SENATOR SCHUMACHER: THANK YOU, MR. CHAIRMAN. TO PICK UP ON THE DISCUSSION I WAS HAVING WITH SENATOR WATERMEIER WHEN TIME RAN OUT, WE WERE TALKING ABOUT THE PEDESTRIAN WHO HAD A HALF-SMOKED JOINT THAT HAD BEEN SHARED WITH SOMEBODY AND THE PERSON IN THE BACKSEAT OF THE CAR HAD A HALF-SMOKED JOINT THAT HAD BEEN SHARED WITH SOMEBODY. AND SENATOR WATERMEIER WAS SAYING THAT HE JUSTIFIED TREATING THE TWO DIFFERENTLY, EVEN THOUGH THEY ARE BOTH EQUALLY DEAD AFTER THE PURSUIT, BECAUSE THE PERSON IN THE CAR EGGED THE DRIVER ON, SAID, LET'S GET OUT OF HERE. WELL, READ AM2140. AM2140 SAYS IF YOU EGG THE DRIVER ON, YOU'RE DEAD MEAT. YOU'RE NOT AN INNOCENT PARTY ANYMORE. SO WHAT ARE WE ARGUING ABOUT? THIS IS NOT LEGAL TRICKERY. IT'S AN ATTEMPT TO CLEARLY STATE SO LAW ENFORCEMENT AND SO THE COURTS UNDERSTAND WHAT WE'RE TALKING ABOUT. AND THIS NONSENSE THAT REMAINS IN THE BILL THAT IF A LAW ENFORCEMENT OFFICER DESIRES TO APPREHEND YOU, THEN YOU'RE DEAD MEAT TOO. THAT IS JUST NOT GOOD LAW. AM2140 WORKS. LET'S MOVE ON WITH LIFE. IF IT DOESN'T WORK, THEN LET'S SPEND ANOTHER SIX HOURS ON THIS THING. THANK YOU. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR SCHUMACHER AND PANSING BROOKS. SENATOR WATERMEIER, YOU'RE RECOGNIZED. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. I RISE IN OPPOSITION TO AM2140 AS I STATED EARLIER WHEN WE HAD STUDIED THIS AMENDMENT OVER YESTERDAY, IN SECTION (b) OF THIS AMENDMENT PLACES A HIGHER HURDLE IN FRONT OF THE COUNTIES, CITIES, AND THE STATES IN EXISTING LAW. UNDER EXISTING LAW, A PASSENGER IS NOT AN INNOCENT THIRD PARTY IF THEY ARE SOUGHT TO BE APPREHENDED IN THE FLEEING VEHICLE. UNDER THE PROPOSED AMENDMENT, THEY WOULD STILL BE INNOCENT THIRD PARTY EVEN IF THEY WERE SOUGHT TO BE APPREHENDED IF A LAW ENFORCEMENT OFFICER DID NOT IDENTIFY THEM AND REPORT THIS TO THE SUPERVISING OFFICER. THIS IS A SIGNIFICANT EXPANSION IN MY MIND OF WHAT THE LAW WAS INTENDED AND EVEN FURTHER THAN WHAT WE HAVE TODAY. I APPRECIATE THE DEBATE THAT'S COMING BEHIND ME FROM SENATOR PATTY PANSING BROOKS. I APPRECIATE THE DEBATE ABOUT IN LINCOLN THEY DON'T HAVE EXTENDED OR EVEN POLICE PURSUITS AT ALL. LET'S GET BACK TO LB188. THAT'S NOTHING TO DO WHETHER...AT WHAT LEVEL WE SHOULD HAVE POLICE PURSUITS. THIS IS ABOUT DEFINING ONE THING--WHO IS INNOCENT AND WHO IS NOT, WHO IS AUTOMATICALLY CONSIDERED INNOCENT. THIS BILL...IF YOU WANT TO HAVE A

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DEBATE ON POLICE PURSUITS, THAT'S GREAT. THAT'S WHAT WE SHOULD DO IN THIS BODY. WE DEBATE POLICY IN THIS BODY. THAT'S WHAT I BELIEVE WE DO. THE DEBATE ABOUT WHETHER WE SHOULD HAVE POLICE PURSUITS AND HOW TO MICROMANAGE THEM FROM WHAT I HEARD BEHIND ME, THAT'S FOR ANOTHER DAY. WE DIDN'T HAVE A PUBLIC HEARING ON THAT FOR ONE THING. WE NEED TO HAVE A PUBLIC HEARING ON WHETHER WE'RE GOING TO DO SOMETHING LIKE THAT. MY PUBLIC HEARING HAD ONE THING WE TALKED ABOUT--INNOCENT THIRD PARTY. THAT'S WHAT WE'RE VOTING ON HERE TODAY. GET IT BACK TO WHAT THIS BILL DOES. I STAND IN OPPOSITION TO AM2140. AND I'M ASKING FOR YOUR GREEN LIGHT ON LB188. THANK YOU, MR. PRESIDENT.
[LB188]

SENATOR SCHEER: THANK YOU, SENATOR WATERMEIER. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB188]

SENATOR CHAMBERS: MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, ONE THING THAT SENATOR WATERMEIER DOES THAT I FIND VERY OBJECTIONABLE, WHEN PEOPLE RAISE ISSUES AND HE DOESN'T HAVE THE ANSWER, HE SAYS THAT'S NOT WHAT WE'RE TALKING ABOUT. YES, IT IS. WE'RE TALKING ABOUT ALL OF THESE THINGS. AND BECAUSE HE DOESN'T KNOW THE ANSWER IS NO REASON FOR US TO TAKE IT OFF THE TABLE. HE SHOULD JUST ADMIT, IN THESE WORDS, I DON'T KNOW WHAT I'M TALKING ABOUT. THEY DIDN'T EXPLAIN THAT TO ME IN THE LOBBY. HE DOESN'T EVEN KNOW THE FORM OF THE BILL RIGHT NOW WITH THE ADOPTION OF HIS AMENDMENT. HE KEEPS BRINGING UP THINGS THAT ARE COVERED BY HIS AMENDMENT AND HE DOESN'T KNOW IT BECAUSE HE DOESN'T KNOW WHAT THAT AMENDMENT DID. THEY TOLD HIM, ACCEPT IT, AND HE ACCEPTED IT. IF HE TALKS ABOUT YOUR EGGING SOMEBODY ON, THAT'S THE AMENDMENT THAT ALLOWS THAT PASSENGER TO BE EXEMPTED FROM RECOVERY. THAT'S IN THE BILL. AND WHAT WE'RE TRYING TO DO, NOT MAKE IT EASIER FOR POLITICAL SUBDIVISIONS TO SANCTION MORE POLICE CHASES BECAUSE THEY'RE NOT GOING TO BE LIABLE TO PEOPLE WHO ARE HARMED WHO SHOULD BE COMPENSATED. WE ARE TRYING TO MOVE TOWARD WHAT IS JUST IN AN ORDERLY, JUST SOCIETY. WE ARE SEEKING JUSTICE AND FOR HIM TO SAY THIS GOES BEYOND THE EXISTING LAW, THAT'S NOT TRUE. THE LAW IS ON THE BOOKS. HE SAYS A COURT OPINION AS HE INTERPRETS IT, BUT NOT AS HE INTERPRETS IT, AS THE LOBBYISTS INTERPRETED IT FOR HIM. WE ARE GOING TO HAVE SOME TEST VOTES. SO I'M NOT GOING TO SAY A LOT ON THIS AT THIS POINT BECAUSE I WANT TO GIVE THOSE AN OPPORTUNITY TO SPEAK WHO HAVE SOMETHING TO SAY. BUT I'M GOING TO LOOK AT THE NUMBER OF VOTES THAT THEY GET. AND I HOPE THE LOBBY WILL LOOK AT THAT ALSO. IF YOU GIVE

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THEM 33 VOTES ON ANYTHING, THEN THEY'RE JUSTIFIED IN FEELING THEY CAN GET CLOTURE AND THEY'RE GOING TO GIVE ME THAT TIME. I'M DEALING WITH THE REALITIES NOW. AS BRIEF A PERIOD OF TIME AS WE'VE BEEN ON THIS FLOOR, THERE CANNOT BE A PERSON ON THIS FLOOR NOW WHO THINKS THAT I'M WORN OUT AND THAT I'M TIRED PHYSICALLY. MENTALLY I HAVE TO STRUGGLE TO STAY ENGAGED BECAUSE I GET TIRED OF SEEING AND HEARING SENATOR WATERMEIER MANIFEST HIS LACK OF KNOWLEDGE AND LACK OF UNDERSTANDING. IF I WANTED TO JUST BE MEAN, I COULD BEGIN TO ASK MEMBERS OF THE LEGISLATURE WHO VOTED WITH SENATOR WATERMEIER WHAT THE LAW MEANS, BUT I WOULDN'T TAKE IT THAT FAR. I WOULD JUST ASK THEM, WHAT DOES IT SAY AT THIS POINT? THEY DON'T KNOW. I'VE BEEN HERE LONG ENOUGH TO BE AWARE OF THAT. THEY ARE NOT THE PROBLEM. THE LOBBY IS THE PROBLEM. AND THAT'S WHY SENATOR WATERMEIER KEEPS STANDING UP AND SAYING AUTHORITATIVELY, THIS IS WHAT I WANT. I WANT IT PASSED THIS WAY. WELL, I DON'T WANT IT PASSED THAT WAY. SO HE HAS DRAWN THE LINE IN THE SAND. BUT I'LL HAVE AT LEAST ONE OTHER PERSON WHO WILL HELP ME IN MY EFFORT WHICH MEANS I'LL BE GRANTED ADDITIONAL TIME IF I NEED IT, AND WE WILL WIND UP AT A CLOTURE VOTE. WILL THEY GET 33? I HOPE NOT. THEN IT WILL TEACH THE LOBBY SOMETHING. FIRST OF ALL,... [LB188]

SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...UNDERSTAND WHAT THE BILL WILL SAY RIGHT NOW AND THAT I'VE AGREED TO. THE BILL SAYS RIGHT NOW THAT IF A PASSENGER HAS ENCOURAGED, PROVOKED, OR TO USE THE ALL ENCOMPASSING WORD, EGGED ON THE DRIVER AND THAT PASSENGER SHOULD BE HURT WHEN THE DRIVER HAS AN ACCIDENT, THAT PASSENGER CANNOT RECOVER, THAT IS IN THE LAW, THAT'S IN THE BILL RIGHT NOW. I WILL ACCEPT THAT. WHAT SENATOR WATERMEIER IS TELLING YOU BECAUSE THE LOBBY TOLD HIM TO TELL YOU AND HE DOESN'T UNDERSTAND IT, YOU CANNOT AFTER THE FACT MANUFACTURE A BASIS TO DENY THE PASSENGER RECOVERY. YOU DIDN'T EVEN KNOW THIS ABOUT THE PASSENGER, THAT'S NOT WHY YOU WERE CHASING. BUT LO AND BEHOLD, AS A LEGAL STRATAGEM FOR A POLITICAL SUBDIVISION THAT DOES NOT WANT TO COMPENSATE THE PERSON WHO WAS HURT... [LB188]

SENATOR SCHEER: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: YOU SAID TIME? [LB188]

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SENATOR SCHEER: YES. [LB188]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR CHAMBERS. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED. [LB188]

SENATOR PANSING BROOKS: THANK YOU, MR. PRESIDENT. WHEN I WAS TALKING TO SENATOR WATERMEIER, HE WAS SAYING...I WAS TRYING TO TALK TO HIM ABOUT WHAT HIS MAIN CONCERNS WERE WITH AM2140. AND HE WAS SAYING THAT BASICALLY SENATOR SCHUMACHER'S AMENDMENT GUTS THE BILL. SENATOR SCHUMACHER, COULD YOU STAND UP AND EXPLAIN HOW A GREAT PORTION OF HIS BILL REMAINS? [LB188]

SENATOR SCHEER: SENATOR SCHUMACHER, WILL YOU YIELD? [LB188]

SENATOR SCHUMACHER: I CERTAINLY WILL. THE ESSENCE OF THE BILL IS INTACT. WE'VE READY GOTTEN RID OF A LOT OF BAD IDEAS OUT OF THE BILL, THE FIRST PARAGRAPH AND THE LAST PARAGRAPH. SO WHAT THE LOBBYIST DREAM CHILD IS GETTING PARED DOWN AND IT'S MORE NOT OF LAW ENFORCEMENT, BUT A BUTTING HEADS KIND OF THING. WHAT IS LEFT AFTER A VERY CLEAR STATEMENT OF THE LAW IN AM2140 IS...VERY CLEARLY STATES THAT IT IS THE BURDEN OF PROOF ON THE SUBDIVISION. A PERSON IS NOT INNOCENT--IN A VERY COMMONSENSE WAY--IF THEY PROMOTED, PROVOKED, OR PERSUADED THE DRIVER TO RUN OR IF THE PASSENGER WAS SUBJECT TO AN ARREST WARRANT FOR A FELONY--THAT'S A PAPER ISSUED BY A JUDGE SAYING BRING HIM TO ME--OR A FELONY TRIGGERED BY THE PASSENGER TRIGGERED THE PURSUIT. AND JUST TO MAKE SURE IT ISN'T AN AFTER-THE-FACT DECLARATION BY THE OFFICER, WELL, I KNEW HE WAS WANTED FOR A FELONY, THAT IN THE COURSE OF THE PURSUIT, AS THEY ALWAYS DO ANYWAY, THEY GET ON THE HORN AND THEY CALL IN TO DISPATCH AND THEY SAY, I'M IN PURSUIT OF THIS VEHICLE FOR THUS AND SUCH, SO WE HAVE A RECORD THAT THEY KNEW AHEAD OF TIME AND THAT THAT ACTIVITY CAUSED THE PURSUIT. ONE OF THE FINE POINTS WHERE THERE'S STILL DISAGREEMENT APPARENTLY IS THAT WHETHER OR NOT CONDUCT IS CHARGEABLE OR AMOUNTING TO A FELONY. WELL, THERE IS A WHOLE LOT OF THINGS IN THE WORLD CONSIDERING THE BROAD DISCRETION WE GIVE TO PROSECUTORS, THE BROAD IMMUNITY WE GIVE TO PROSECUTORS TO CHARGE A LOT OF THINGS. YOU DON'T EVEN HAVE TO HAVE PROBABLE CAUSE TO CHARGE. YOU JUST CHARGE. COUNTY COURT MAY

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BOUNCE YOU ON A PRELIMINARY HEARING, BUT LOTS OF THINGS, INCLUDING THE SHARING OF THAT JOINT IS CHARGEABLE AS A FELONY. THIS BILL REMAINS INTACT AND STRONG. AND I THINK THE LESSON OF THE LAST FEW BILLS THAT WE'VE HAD IS THAT WHEN YOU RUN A BILL, UNDERSTAND IT; OTHERWISE THE LOBBY WILL RUN YOU. DOES THAT ANSWER YOUR QUESTION? [LB188]

SENATOR PANSING BROOKS: YES. THANK YOU, SENATOR SCHUMACHER.
SENATOR WATERMEIER, COULD YOU ANSWER A COUPLE OF QUESTIONS? [LB188]

SENATOR SCHEER: SENATOR WATERMEIER, WILL YOU YIELD, PLEASE? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR PANSING BROOKS: SENATOR WATERMEIER, DID YOU HEAR THE COMMENTS BY SENATOR SCHUMACHER? [LB188]

SENATOR WATERMEIER: YEAH, I HEARD THE GIST OF WHAT HE WAS TALKING ABOUT, YES. [LB188]

SENATOR PANSING BROOKS: OKAY. AND HOW DO YOU FEEL THAT YOUR BILL IS GUT BY THIS AND JUST TOTALLY TAKEN APART BY THIS AMENDMENT OF AM2140? [LB188]

SENATOR WATERMEIER: BECAUSE WE HAVE A VERY WIDE INTERPRETATION THAT'S NOT BEING CALLED INNOCENT THIRD PARTY TODAY. I'M WILLING TO NARROW THAT DOWN AND THE WAY I READ THE BILL IS IT PLACES A HIGHER HURDLE ON THE COUNTIES TO PROVE THIS. UNDER EXISTING LAW, A PASSENGER IS NOT INNOCENT ALREADY. WE'RE TAKING IT HIGHER. WE'RE TAKING IT TO A HIGHER LEVEL. I APPRECIATE ALL OF THIS DISCUSSION. IT'S YOUR TIME, I WON'T TAKE YOUR TIME. [LB188]

SENATOR PANSING BROOKS: OKAY. CAN YOU EXPLAIN TO ME THOUGH WHAT THE HIGHER LEVEL IS? I STILL DON'T UNDERSTAND THAT UNDER THE LAW. ARE YOU GETTING THAT INFORMATION FROM SOMEBODY IN PARTICULAR? [LB188]

SENATOR WATERMEIER: AS YOU READ THE AMENDMENT, AM2140... [LB188]

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SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR WATERMEIER: I CAN'T EXACTLY SEE WHERE HE ADDS THIS ON COMPARED TO MY BILL. I APOLOGIZE. I'LL HIGHLIGHT THIS AND I'LL TALK TO YOU ABOUT IT OFF THE MIKE. [LB188]

SENATOR PANSING BROOKS: OKAY. I GIVE THE REST OF MY TIME TO SENATOR CHAMBERS. [LB188]

SENATOR SCHEER: SENATOR CHAMBERS, YOU'RE GIVEN 45 SECONDS. [LB188]

SENATOR CHAMBERS: THANK YOU. AND THAT'S LONG ENOUGH FOR ME TO INDICATE, THAT FOR THIS MORNING WHILE THIS AMENDMENT IS BEING DISCUSSED, I WILL NOT HAVE ANYTHING ELSE TO SAY SO THAT YOU CAN GET A VOTE IF YOU'RE ABLE TO. THANK YOU. AND THANK YOU, SENATOR PANSING BROOKS. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR CHAMBERS, SENATOR WATERMEIER, SENATOR SCHUMACHER, AND SENATOR PANSING BROOKS. SENATOR SCHUMACHER, YOU'RE RECOGNIZED. [LB188]

SENATOR SCHUMACHER: THANK YOU, MR. PRESIDENT, MEMBERS OF THE BODY. I THINK WHAT SENATOR WATERMEIER WAS TRYING TO SAY WHEN HE SAYS, WELL, THIS CHANGES SOMETHING. WELL, WHAT THIS DOES DO IS CLEARLY STATE WHERE THE BURDEN OF PROOF REMAINS. BUT IF YOU WILL RECALL THE EARLIER PORTIONS OF THIS DEBATE BEFORE WE GOT TO TODAY, SENATOR WATERMEIER REPEATEDLY GOT BEFORE THIS BODY AND SAYS THE BURDEN OF PROOF IS ON THE SUBDIVISION THAT SPONSORS THE OFFICERS DOING THE CHASE, REPEATEDLY. AND I ASKED HIM, OTHER PEOPLE ASKED HIM, AND IF YOU WERE HERE LISTENING TO THE DEBATE, YOU HEARD HIM SAY IT REPEATEDLY. THIS WRITES IT DOWN IN CLEAR LANGUAGE WHEN IT SAYS WHERE THE BURDEN OF PROOF IS SUSTAINED BY THE AGENCY. THAT DIDN'T INCREASE ANYTHING, UNLESS SENATOR WATERMEIER DIDN'T UNDERSTAND THE BILL THAT HE INTRODUCED WHEN WE HAD IT ON PRIOR DAYS OF DEBATE. EVERYTHING ELSE IS SUBSTANTIAL, IS PRETTY MUCH THE SAME WITH THE EXCEPTION THAT CHARGEABLE OR CONDUCT IS CHARGEABLE AS A FELONY. AND AS I POINTED OUT, ANYTHING IS CHARGEABLE AS A FELONY. JUST A LITTLE CREATIVITY BY A PROSECUTOR AND AFTER THE FACT, YOU'VE GOT MAGIC. WHAT MY BILL SAYS IS FELONY ARREST OR FELONY COMMITTED IMMEDIATELY PRIOR TO THE

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PURSUIT--CLEAR LANGUAGE. AND AS SUCH, IT MAKES THE BILL A BETTER BILL. IT TELLS THE COURTS WHAT WE MEAN. SUBJECT TO PURSUIT OR APPREHENSION IS ONE OF THE LANGUAGE IN THE EXISTING BILL BEFORE THIS AM2140 WOULD ACT ON. WELL, GEE WHIZ, POLICE CAN DESIRE TO APPREHEND YOU FOR JUST ABOUT ANYTHING, INCLUDING LEAVING THIS ROOM WITHOUT PERMISSION. THIS IS COMMON SENSE AND SENATOR KRIST CLEARLY ARTICULATED A GOOD POSITION. WE CAN MOVE ON BY AMENDING AM2140 INTO THE BILL WHICH HAS SUBSTANTIVELY ALL THE THINGS THAT ARE LEGITIMATELY DESIRABLE BY COMMUNITIES AND LAW ENFORCEMENT AND PEOPLE TRYING TO REDUCE THESE CHASES YET STILL NOT GIVE A FREE PASS TO THE REAL WRONGDOER. ALL THAT IS IN AM2140. WE CAN VOTE IT UP, WE CAN MOVE ON, OR WE CAN SIT HERE. AND MOST LIKELY FROM EVERYTHING I'VE BEEN ABLE TO INTERPRET OFF THAT BOARD, THIS IS GOING TO GO DOWN IN A FILIBUSTER IF IT ISN'T. AND SO LET'S...I HAVE NOT HEARD ANYTHING FROM SENATOR WATERMEIER THAT CRITIQUES AM2140 IN A SUBSTANTIVE WAY. I DON'T THINK HE UNDERSTANDS THE BILL. I DON'T THINK THAT WHEN HE IS TOLD BY THE LOBBY THAT THIS SHIFTS THE BURDEN OF PROOF, HE'S THE ONE THAT TOLD US WHAT THE BURDEN OF PROOF WAS. AM2140 WRITES IT DOWN. SO GUTTING THE BILL, THAT JUST SOUNDS LIKE ECHOING THE ROTUNDA. AND AS SUCH, I THINK WE HAVE A GOOD PROPOSITION BEFORE US. LET'S MOVE ON WITH LIFE. WE ARE NOW IN A POINT WHERE WE HAVE A LOT OF BILLS THAT CANNOT STAND THE KIND OF DELAY OVER SOMETHING THAT REALLY DIDN'T NEED TOO MUCH FIXING TO BEGIN WITH. THANK YOU. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR SCHUMACHER. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED. [LB188]

SENATOR PANSING BROOKS: THANK YOU. I JUST WANT TO ADD ONE MORE THING. SENATOR SCHUMACHER'S AMENDMENT ADDS THE NEXUS BY SAYING THAT THE INNOCENT THIRD PARTY IS SUBJECT TO ARREST PURSUANT TO AN ARREST WARRANT OR FOR A FELONY, WHICH IS THE PROXIMATE CAUSE OF THE PURSUIT. THAT'S A LEGAL PHRASE THAT IS NECESSARY TO BE ABLE TO ENFORCE AND TO BE ABLE TO ALLOW THAT CHASE. SO AGAIN, WE HAVE LITERALLY LAWYERS ON BOTH SIDES OF THE AISLE ARGUING FOR THIS, AND WE HAVEN'T HAD ANY OF THE LAWYERS WITHIN THE BODY STANDING UP SAYING THAT THIS ISN'T NECESSARY. SO AGAIN, WE'RE ARGUING A LEGAL POINT HERE THAT I BELIEVE IS A WAY TO MAKE OUR LAWS BETTER. AND I APPRECIATE SENATOR SCHUMACHER. I'LL GIVE HIM THE REST OF MY TIME. [LB188]

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SENATOR SCHEER: SENATOR PANSING BROOKS, I APOLOGIZE. THAT WAS YOUR THIRD TIME AND I FORGOT TO MENTION IT WHEN YOU CAME TO THE MIKE. SENATOR SCHUMACHER, YOU'RE YIELDED 3:50. [LB188]

SENATOR SCHUMACHER: WELL, FOLKS, I THINK I'VE SAID ALL THAT NEEDS TO BE SAID. THE BIG PROBLEM WITH THIS BILL FROM THE VERY BEGINNING WAS IT WAS SAYING A PERSON WAS NO LONGER INNOCENT MERELY BECAUSE OF HIS PRESENCE IN THE VEHICLE UNDER SOME CONDITIONS INITIALLY, AND THERE WAS NO RELATIONSHIP NEEDED IN THE ORIGINAL BILL BETWEEN PRESENCE IN THE VEHICLE AND THE CHASE. WE'VE NOW, WITH AM2140, NARROWED IT DOWN TO THE PRESENCE IN THE VEHICLE AND THE CHASE HAVE GOT TO BE RELATED, SOME NEXUS, NEXUS OF EGGING ON THE DRIVER, NEXUS OF BEING PURSUED FOR A FELONY, EITHER BECAUSE A JUDGE HAS SAID PURSUE HIM OR BECAUSE IT WAS COMMITTED JUST PRIOR TO THE ENGAGEMENT OF THE PURSUIT. WE NOW ARE FOCUSING A LITTLE BIT, I THINK, MAYBE, AS TO WHERE THE BURDEN OF PROOF LIES, BECAUSE SENATOR WATERMEIER HAS REPEATEDLY SAID THAT THIS GUTS THE BILL BECAUSE IT MAKES IT HARDER THAN IT WAS. HE TOLD US THAT IT WAS HIS INTENT THAT THE BURDEN OF PROOF REMAIN WITH THE CITY OR THE COUNTY OR THE PURSUING AGENCY RIGHT FROM THE VERY BEGINNING. NOW I'VE GOT TO WONDER WHETHER OR NOT HE UNDERSTOOD WHAT THE LOBBY WAS SAYING, BECAUSE WHEN WE PUT IT IN WRITING WE NOW GOT THESE PROTESTATIONS. AND THEN WE HAVE THIS NEBULOUS LANGUAGE ABOUT WANTING TO BE ENGAGED IN CONDUCT CHARGEABLE, WHICH I THINK A FAIR STATEMENT IS THAT'S ANYTHING. AND WE ALSO HAVE THE LANGUAGE APPARENTLY STILL IN THE BILL, "SOUGHT TO BE APPREHENDED" WHICH COULD BE AN UNDOCUMENTED WORKER, THEY'RE SOUGHT; A LEGISLATOR LEAVING THE CHAMBER WITHOUT PERMISSION, THEY CAN BE SOUGHT. A MATERIAL WITNESS IN A CRIME CAN BE SOUGHT. THE OFFICER MAYBE JUST THINKS THAT, GEE, THAT'S A GOOD LOOKING BLONDE BEHIND THE WHEEL, I'LL SOUGHT HER. SO ALL THOSE THINGS GET FIXED BY AM2140. IT'S A GOOD AMENDMENT. IT WILL ENABLE US TO MOVE ON. WE'VE HEARD NO GOOD LEGAL TALK ON THE FLOOR AS TO WHY THERE'S ANY PROBLEM WITH THIS BILL AFTER AN AMENDMENT OF AM2140. THANK YOU. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR SCHUMACHER. SENATOR WATERMEIER, YOU'RE RECOGNIZED. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. I RISE STILL IN OPPOSITION TO AM2140. LET ME BRING EVERYBODY BACK TO THE DISCUSSION. AS I SAID, IT WAS EVEN BROUGHT UP EARLIER HERE ABOUT POLICY POINTS AND

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LAWMAKING. I STILL BELIEVE THIS IS A POLICY POINT. I APPRECIATE THE ARGUMENT THAT'S COMING FROM BEHIND ME, BUT THIS IS WHY I BELIEVE AM2140 IS UNJUSTIFIED AND TAKES THE BILL FURTHER. IF YOU READ ON LINE 9 THE WORD "THE PROXIMATE CAUSE OF THE PURSUIT," THAT IS THE NEXUS OF IT. IF YOU'RE GOING TO FORCE THE LAW AGENCY, THE COURT SYSTEM TO PROVE THAT THAT PERSON WAS PART OF THE ORIGINAL...THEY ROBBED A BANK, THEY RAN OUT AND EVEN THOUGH THEY'RE IN THE BACKSEAT, THAT'S THE ONLY REASON THEY WOULD BE INNOCENT, SO MANY OF THESE CASES WOULD NOT GET...THAT'S EXACTLY WHY NEBRASKA IS IN THE PROBLEM THAT THEY ARE. THE NEXUS OF THIS ARGUMENT IS WHAT I'VE BEEN DEBATING ON THIS BILL FOR TWO WEEKS AND ACTUALLY, I'LL GO BACK. IT'S BEEN FOUR YEARS ON THIS BILL. THIS BILL CAME TO ME FOUR YEARS AGO. I INTRODUCED IT THREE YEARS AGO AS LB881 IN THE JUDICIARY COMMITTEE. I REINTRODUCED IT LAST YEAR AS LB188. IT CAME OUT OF THE COMMITTEE WITH AN AMENDMENT THAT MADE THE BILL BETTER. THIS MORNING WE PASSED AM2199 I BELIEVE IT WAS THAT MADE THE BILL EVEN NARROWER. AND I WILL TELL YOU THAT THIS AMENDMENT, AM2140, TAKES THE LAW FURTHER, EVEN FURTHER THAN THE EARLY '80s. THE PROXIMATE CAUSE OF THE PURSUIT MEANS IT'S A NEXUS. THAT'S WHY I DON'T BELIEVE IT DOES. IT DOES NOT HAVE TO BE A NEXUS TO THE RACE...THE PURSUIT. THE OTHER LANGUAGE IN THIS IS: AND PRIOR TO THE TERMINATION OF THE PURSUIT, THE PURSUING LAW ENFORCEMENT OFFICER GENERALLY, AT 2:00 IN THE MORNING--THIS IS WHERE THE IMAGINATION...I MUST LEARN TO HAVE BETTER IMAGINATION--GENERALLY IDENTIFIES THE PASSENGER AND THE EXISTENCE OF A WARRANT AND/OR SUCH UNDERLYING FELONY TO THE SUPERVISING LAW ENFORCEMENT OFFICER TO THE NEBRASKA STATE PATROL DISPATCH SYSTEM. REALLY? WE ARE PRODUCING POLICY IN THIS BODY. IS THAT REALISTIC? WE NEED TO NARROW THIS DEFINITION DOWN FOR STRICTLY WHAT IS INNOCENT THIRD PARTY. I STAND IN OPPOSITION TO AM2140. I'VE TRIED NOT TO MAKE THIS PERSONAL. PEOPLE HAVE MADE IT PERSONAL TO ME. BUT I'M TELLING YOU THIS IS VERY SIMPLE--IDENTIFYING AND DEFINING INNOCENT THIRD PARTY. I STAND IN OPPOSITION TO AM2140 AND FOR LB188. THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR WATERMEIER. SEEING NO OTHERS WISHING TO SPEAK, SENATOR SCHUMACHER, YOU'RE RECOGNIZED TO CLOSE. [LB188]

SENATOR SCHUMACHER: THANK YOU, MR. PRESIDENT, MEMBERS OF THE BODY. I DON'T SEE ANY NEED TO CONTINUE TO REPEAT SOME VERY SIMPLE AND OBVIOUS PRINCIPLES. WHAT I GATHERED FROM SENATOR WATERMEIER'S LAST

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COMMENTS WAS HE HAS SOME PROBLEM WITH THE OFFICER WHO IS NOW ENGAGED IN A PURSUIT--WHICH WE'VE ALREADY DEEMED TO BE DANGEROUS, HIGH SPEED--GETTING ON THE PHONE AND SAYING...NOT ON THE PHONE, ON THE MICROPHONE SAYING, I'M ENGAGED IN PURSUIT OF A VEHICLE, LICENSE NUMBER SUCH AND SUCH, AND DESCRIBING WHAT THEY ALREADY DESCRIBE. WHY ARE THEY DOING IT? WHERE ARE THEY AT? DO THEY NEED BACKUP? IF THEY AREN'T DOING IT, I DON'T THINK THERE'S A LAW ENFORCEMENT AGENCY IN THIS STATE THAT DOESN'T HAVE A RADIO CONTACT ONCE A HIGH-SPEED PURSUIT IS ENGAGED IN, REQUIRED BACK TO DISPATCH. IS THAT WHAT WE'RE TALKING ABOUT? SENATOR WATERMEIER WAS SILENT ON THE ISSUE OF THIS NEBULOUS "SOUGHT TO BE APPREHENDED BY LAW ENFORCEMENT" OR THE FACT THAT ANYTHING IS CHARGEABLE AS A FELONY AFTER THE FACT BY A PROSECUTOR MAYBE LOOKING TO GIVE COVER TO THE CHASE. THIS IS A GOOD LITTLE AMENDMENT. IT FIXES THE PROBLEM WITH LB188 AND LETS US MOVE ON. I WOULD ENCOURAGE THE BODY TO VOTE FOR AM2140 AND DISPOSE OF THIS MATTER THIS MORNING. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR SCHUMACHER. THE QUESTION IS, SHALL THE AMENDMENT TO LB188 BE ADOPTED? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. 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. MR. CLERK. [LB188]

CLERK: 29 AYES, 0 NAYS, MR. PRESIDENT, TO PLACE THE HOUSE UNDER CALL. [LB188]

SENATOR SCHEER: RECORD, MR. CLERK. 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 PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. SENATORS KRIST, GLOOR, BOLZ, HARR, GROENE, McCOLLISTER, AND EBKE, THE HOUSE IS UNDER CALL. SENATOR BOLZ, SENATOR BURKE HARR, THE HOUSE IS UNDER CALL. SENATOR BURKE HARR, THE HOUSE IS UNDER CALL. PLEASE RETURN TO THE CHAMBER. WE'RE ALL ACCOUNTED FOR. THERE HAS BEEN A REQUEST FOR A ROLL CALL VOTE IN REGULAR ORDER...IN REVERSE, EXCUSE ME, IN REVERSE ORDER. MR. CLERK. [LB188]

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CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGES 709-710.) 16 AYES, 22 NAYS, MR. PRESIDENT, OR EXCUSE ME, 16 AYES, 21 NAYS ON THE AMENDMENT. [LB188]

SENATOR SCHEER: THE AMENDMENT FAILS. DISCUSSION ON THE ADVANCEMENT OF LB188 TO E&R. THE CALL IS RAISED. WE HAVE A PRIORITY MOTION, MR. CLERK. [LB188]

CLERK: MR. PRESIDENT, SENATOR CHAMBERS WOULD MOVE TO RECOMMIT LB188 TO THE JUDICIARY COMMITTEE. [LB188]

SENATOR SCHEER: THANK YOU, MR. CLERK. SENATOR CHAMBERS, YOU'RE RECOGNIZED TO OPEN ON YOUR MOTION. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, ON THAT VOTE, THOSE WHO ARE FOR THIS BAD BILL, BASED ON WHAT WAS ON THE BOARD, HAD 21 VOTES OR WHATEVER IT WAS. BUT ANYWAY, THEY'RE A GOOD DISTANCE FROM 33. THOSE WHO WERE AGAINST WHAT THIS BILL IS DOING BASED ON WHAT WAS ON THE BOARD WERE 16, I THINK, AND SEVERAL NOT VOTING. THEY NEED...ALL WE NEED ARE 17 VOTES TO PREVENT THEM FROM GETTING CLOTURE. WE'LL FIND OUT WHEN WE TAKE THAT CLOTURE VOTE WHERE WE ARE. SENATOR WATERMEIER IS LOCKED IN BY THE LOBBY. I'M GOING TO MAKE THIS CHALLENGE TO YOU ALL. HERE'S WHAT I TOLD SENATOR HADLEY, THAT IF SOMETHING HAPPENED THAT TURNED ME AGAINST ALLOWING A CONSENT CALENDAR WITHOUT ME TAKING TIME ON EVERY BILL, I WOULD LET HIM KNOW. WE'RE AT THAT POINT NOW. THE LOBBY HAS DICTATED THE COURSE THAT THIS LEGISLATURE IS TAKING. YOU HAVE A SENATOR LEADING YOU WHO DOES NOT UNDERSTAND THE BILL. SOME OF YOU ALL HAVE BILLS THAT YOU WANT, AND I'M GOING TO LOOK AT THE VOTES. I DON'T WANT TO AMBUSH ANYBODY. AND THAT MEANS THAT MY CHALLENGE IS BEING ACCEPTED OR I'M BEING CHALLENGED TO EITHER SHOW THAT I'M A FAT MOUTH WHO CANNOT DELIVER ON WHAT I SAY OR AM I GOING TO SHOW THAT MY WORD MEANS SOMETHING. SO THOSE OF YOU ALL WHO HAVE COMPLICATED, CONTROVERSIAL BILLS ANYWAY, ARE YOU GOING TO BE LED DOWN THIS PATH? SEE, WHAT YOU NEED TO REALIZE TODAY, I'M NOT THE ONLY ONE WHO HAS EXPLAINED THE PROBLEMS WITH THIS BILL. SENATOR SCHUMACHER HAS BENT OVER BACKWARDS, SENATOR PANSING BROOKS, ALL THREE OF US UNDERSTAND THE LAW AND SENATOR WATERMEIER DOES NOT. SO IF YOU'RE NOT GOING TO GO BY WHAT IS LOGICAL, I'M GOING TO USE THE RULES. THIS BILL IS GOING TO

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CLOTURE HERE AND IF YOU GET IT HERE, IT'S GOING TO GO TO CLOTURE ON FINAL READING. AND OTHER BILLS ARE GOING TO HAVE TO GO TO CLOTURE ALSO. AND I'M SAYING FOR THE RECORD, IF WE GET...IF THIS BILL GOES AND A CONSENT CALENDAR COMES OUT HERE, I'M GOING TO MAKE SURE THAT THE FULL 15 MINUTES WILL BE TAKEN ON EVERY BILL. EVERY BILL ON CONSENT CALENDAR THAT IS CONSIDERED WILL GET A VOTE. SO HOW MANY HOURS ARE YOU GOING TO SPEND ON CONSENT CALENDAR? FOUR BILLS TAKING 15 MINUTES APIECE WILL BE ONE HOUR; EIGHT BILLS, TWO HOURS; TWELVE BILLS, THREE HOURS. ARE YOU WILLING OR EVEN IF YOU ARE, IS THE SPEAKER WILLING TO GIVE ALL OF THAT TIME JUST TO RUN A BUNCH OF BILLS ACROSS THE BOARD BECAUSE THEY'RE NOT CONTROVERSIAL? MAYBE THEY'RE NOT NEEDED. BUT I ASSURE YOU THAT I WILL TAKE THE FULL 15 MINUTES ON EVERY BILL ON A CONSENT CALENDAR IF THERE IS ANOTHER CONSENT CALENDAR. AND I'M GOING TO LOOK AT OTHER BILLS ALSO. THE LOBBY HAS SET THE TONE. YOU'RE ALLOWING THE LOBBY TO SET THE TONE. DON'T GET HUNG UP ON THE FACT THAT I'M THE ONE EXPLAINING THIS TO YOU. THE AMENDMENT THAT SENATOR WATERMEIER, PURSUANT TO THE LOBBY, THAT I HAD OFFERED AND YOU ALL FOLLOWED HIM AND VOTED AGAINST IT. THEN YOU HAD TO TURN AROUND, SWALLOW SPIT, AND VOTE FOR IT. AND THE ONLY DIFFERENCE I CAN SEE, HE'S A WHITE GUY AND I'M A BLACK GUY. THAT'S WHAT'S IN PLAY HERE. WHAT IS HAPPENING HERE IS WHAT THE ESTABLISHMENT "REPELICANS" ARE GOING TO HAVE TO DO WITH DONALD TRUMP. AFTER TELLING THE WHOLE WORLD HOW UNFIT HE IS TO BE PRESIDENT, INCLUDING GOVERNOR RICKETTS' FAMILY. THEY'RE GOING TO ALL HAVE TO TURN AROUND AND SWALLOW SPIT AND SAY SUPPORT DONALD TRUMP, SUPPORT HIM, THE MAN WHO WE ALL SAID-- THE WE IS ME QUOTING THEM--SAID HE'S UNFIT, BUT NOW VOTE FOR HIM. YEAH, HE'S STILL UNFIT, HE'S UNPREDICTABLE, HE'S ALL OF THOSE THINGS, BUT VOTE FOR HIM. AND THAT'S THE PLIGHT THAT THE "REPELICANS" HAVE CREATED FOR THEMSELVES. THE PLIGHT THAT THIS BODY HAS CREATED FOR ITSELF IS TO FOLLOW A MAN WHO DOESN'T EVEN UNDERSTAND THE BILL THAT HE HAS YOU ALL VOTING FOR. I'M HOPING THAT THE 16 WHO VOTED FOR SENATOR SCHUMACHER'S BILL AND AT LEAST ONE MORE AMONG THOSE WHO WERE NOT VOTING WILL VOTE OR THEY'LL CONTINUE TO NOT VOTE WHEN THE CLOTURE VOTE COMES. BUT IN ANY CASE, I'M GOING TO BE ON THIS FLOOR. YOU SAW HOW MANY PEOPLE HAD LEFT. LOOK AT THE CHAMBER NOW. YOU ALL ARE THE ONES WHO CAN'T STAY HERE AND DEAL WITH WHAT WE'RE CONFRONTING. I AM HERE. I GET HERE EARLIER. THERE ARE NOT A LOT OF CARS IN THE PARKING LOT WHEN I COME HERE, AND I STAY AND I'M ON THIS FLOOR. BUT THERE'S NO REASON FOR ME TO STAY ON THE FLOOR. I CAN SIT IN MY OFFICE. THEN WHEN I SEE TIME COMES FOR A VOTE OR THAT I'M ABOUT TO HAVE TO SPEAK, I CAN RUN

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UP HERE LIKE YOU ALL DO, JOIN THE RANKS OF THE MISSING. BUT I ENJOY BEING ON THE FLOOR, OBSERVING MY COLLEAGUES, LEARNING BY OBSERVING. THEN WHEN I DISCUSS THE NATURE OF THIS LEGISLATURE AND HOW THOSE WHOSE LEGISLATURE IT IS BEHAVE. I DOCUMENT IT BY WHAT I OBSERVED...I HAVE OBSERVED. I'M ON THIS FLOOR LONGER THAN ANYBODY. I'M ON THIS FLOOR MORE TIME THAN ANYBODY ELSE, ANYBODY, ANYBODY. BUT I DON'T HAVE TO BE HERE. I HAVE A HIGHER STANDARD FOR MYSELF THAN ANYBODY COULD IMPOSE ON ME. AND I'M NOT GOING TO BE LED BY SOMEBODY TO VOTE FOR SOMETHING THAT MAKES NO SENSE TO ME, THAT THE ONE PRESENTING IT CANNOT EXPLAIN AND DOESN'T UNDERSTAND. HE'S LIKE WHAT SOME OF THESE PEOPLE DOWN SOUTH DID AND THIS REALLY WAS REPORTED SEVERAL TIMES, WHEN THEY WERE GOING TO BE REQUIRED TO DESEGREGATE THE SCHOOLS. AND IT WAS CALLED "INNERGRASHION" DOWN THERE, I-N-N-E-R-G-R-A-S-H-I-O-N, "INNERGRASHION." AND WHEN THESE REPORTERS WOULD ASK THEM, WELL, WHAT DOES "INNERGRASHION" MEAN, THEY SAY, WELL, I DON'T KNOW, BUT THERE WILL BE THOSE WHO DO KNOW. AND THOSE WHO DO KNOW TOLD ME. WELL, ACTUALLY, THEY DON'T SAY THERE ARE THOSE WHO DO KNOW, THERE ARE THEM WHICH DOES KNOW. WHEN I WAS AT FORT LEONARD WOOD, THAT'S IN THE OZARK MOUNTAINS. AND A LOT OF PEOPLE WERE AT FORT LEONARD WOOD WHO SPOKE WITH A TWANG AND USED A DIFFERENT KIND OF GRAMMAR, DIFFERENT KIND OF SENTENCE STRUCTURE, DIFFERENT VOCABULARY. BUT SINCE I WANTED TO COMMUNICATE WITH THEM, I FAMILIARIZED MYSELF WITH WHAT THESE WORDS WHICH AT THAT TIME WERE STRANGE TO ME, BUT I NEVER TRIED TO TALK LIKE THEM. THEY MIGHT SAY, WELL, MAN, WHAT'S GOING ON? (INAUDIBLE). I DIDN'T TALK LIKE THAT. I TALKED THE WAY THAT I TALK, BUT I LEARNED THE WORDS THAT THEY USED. I WOULDN'T DO LIKE GERALDO RIVERA AND PUT ON A COWBOY OUTFIT BECAUSE I'M GOING TO TALK TO SOMEBODY WHO I, IN MY MIND, PERCEIVE TO BE COWBOYS. AND IF I DRESS LIKE THEM, THEN THAT'S GOING TO SOMEHOW GIVE ME ENTREE, WHICH I WOULDN'T HAVE OTHERWISE. I'M NOT GOING TO PUT ON A SUIT BECAUSE I'M GOING AROUND PEOPLE WHO WEAR SUITS. I'M GOING TO BE ME, FOR BETTER OR FOR WORSE. FROM MY POINT OF VIEW, IT'S NOT BETTER, IT'S BEST. AND QUOTING POPEYE, THE ONE WHOM I RESPECT AND OFTEN REFER TO AS THE GREATEST THINKER AND PHILOSOPHER EVER PRODUCED BY THIS SOCIETY, I YAM WHAT I YAM, AND THAT'S ALL THAT I YAM. [LB188]

SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR CHAMBERS: BUT WHEN I SAY THAT'S ALL THAT I YAM, THAT'S NOT A PUT DOWN SAYING I AIN'T MUCH. NO. I'M MORE THAN ANYTHING ELSE BASED

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ON HOW I PERCEIVE MYSELF BECAUSE I WILL STAND AND OTHERS WON'T. SO I'M AHEAD OF THEM RIGHT AWAY. I CAN BEHAVE IN A WAY THAT SEEMS VINDICTIVE, BUT IT'S NOT. I'M PLAYING ACCORDING TO THE RULES, AND THAT'S WHAT I'M SHOWING RIGHT NOW THAT I INTEND TO DO AND I WILL CONTINUE IT TOMORROW. SENATOR GARRETT IS GOING TO HAVE SOME BILLS OUT HERE THAT HE WANTS, BUT HE DOESN'T CARE ABOUT THEM. HE WANTS ME TO DO WHAT I SAID THAT I'M GOING TO DO. HE EXPECTS ME TO DO IT, AND HE WOULDN'T RESPECT ME IF I DIDN'T. THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR CHAMBERS. SENATOR EBKE, YOU'RE RECOGNIZED. [LB188]

SENATOR EBKE: THANK YOU, MR. PRESIDENT. I WONDER IF SENATOR WATERMEIER WOULD YIELD TO A QUESTION OR TWO. [LB188]

SENATOR SCHEER: SENATOR WATERMEIER, WILL YOU YIELD, PLEASE? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR EBKE: THANK YOU, SENATOR WATERMEIER. I'M WONDERING IF YOU COULD KIND OF REFRESH OUR MEMORY ON KIND OF THE HISTORY OF THIS BILL. [LB188]

SENATOR WATERMEIER: THE HISTORY FOR ME ON THIS BILL STARTED FOUR YEARS AGO WHEN I GOT A CALL FROM A CONSTITUENT, (INAUDIBLE) COUNTY COMMISSIONER HAD CALLED IN REGARD TO AN ISSUE THAT HAPPENED IN PLATTE COUNTY. I TOOK THE ISSUE UP FOUR YEARS AGO. WE RESEARCHED IT, WE STUDIED IT. I INTRODUCED A BILL THREE YEARS AGO INTO JUDICIARY. IT DID NOT COME OUT OF THERE IN ITS FORM. I REINTRODUCED IT THE NEXT YEAR IN THE VERY SAME FORM, AND THEN I ACCEPTED A COMMITTEE AMENDMENT OUT OF JUDICIARY COMMITTEE THAT HAD WORKED VERY, VERY HARD ON THAT BILL AND I THINK HAD DONE THE BILL JUSTICE AND THEN PROVED IT. AND SO IT CAME OUT OF THAT JUDICIARY HEARING, EXCUSE ME, JUDICIARY COMMITTEE WITH THAT PASSED AMENDMENT. AND SO NOW WE'RE IN ITS SECOND YEAR. IT SET THERE ON WORKSHEET ORDER. AND I LOOKED AT IT EARLY ON IN DECEMBER WHEN I SAW THE WORKSHEET ORDER AND REALIZED IT MAY NOT HAVE A CHANCE BECAUSE EVEN THE SPEAKER HAD SAID PROBABLY NO BILLS THAT ARE ON WORKSHEET ORDER WOULD BE ADVANCED. AND WE HAD DEBATED...SENATOR HADLEY AND I DEBATED IT A COUPLE OF DIFFERENT TIMES.

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AND THEN ALL OF A SUDDEN, PEOPLE'S PRIORITY BILLS DID NOT SHOW UP ON THE FLOOR. SO WE STARTED WORKING ON WORKSHEET ORDER BILLS, WHICH IS WHAT WE DO EVERY YEAR IN THE BODY. THEY'RE FAIR GAME. BUT NO ONE REALLY I DON'T THINK ANTICIPATED IT BECAUSE THEY HADN'T PRIORITIZED, THEY HADN'T GOTTEN THE WORK DONE ON THEIR PRIORITY BILL. EVEN MY OWN PRIORITY BILL WAS NOT READY AND SO IT JUST GOT TO WORKSHEET ORDER. AND IF MY UNDERSTANDING IS RIGHT, LB188 IS PROBABLY THE LAST BILL THAT WE'RE GOING TO GET TO ON WORKSHEET ORDER, WHICH IS WHAT WE DO EVERY YEAR. I GUESS I HAVEN'T RESPONDED TO THE ACCUSATIONS THAT WE'RE WASTING EVERYBODY'S TIME BECAUSE THIS IS LEGITIMATE. I DIDN'T HIDE IT BEHIND ANYBODY'S BACK. IT'S JUST THE WAY IT IS. [LB188]

SENATOR EBKE: THANK YOU, SENATOR WATERMEIER. AND I APPRECIATE THAT. YOU KNOW, AS ONE OF THE FRESHMAN SENATORS, IT'S GOOD TO KNOW A LITTLE BIT HOW THE SYSTEM WORKS. PEOPLE WERE ASKING ME AS WE WERE GETTING READY FOR THE SESSION, YOU KNOW, WHAT DO YOU THINK IS GOING TO HAPPEN THIS YEAR? WHAT'S GOING TO COME OUT? AND, YOU KNOW, MY COMMENT TO EVERYBODY WAS, WELL, I DON'T THINK, ASIDE FROM CONSENT CALENDAR THINGS, I DON'T THINK THAT WE'RE GOING TO SEE MUCH BESIDES PRIORITY BILLS. AND SO AS YOU, I GUESS, I WAS A LITTLE SURPRISED WHEN THIS ONE CAME ON THE FLOOR AND WE HAD ANOTHER ONE EARLY ON THAT WASN'T A PRIORITY AS WELL THAT WAS FAIRLY CONTROVERSIAL. SO IT'S BEEN INTERESTING TO SEE HOW THIS WORKS. SO I APPRECIATE THAT THIS WAS A...THAT THIS WAS JUST THE NORMAL COURSE OF EVENTS. [LB188]

SENATOR WATERMEIER: YEP. [LB188]

SENATOR EBKE: NOTHING SPECIAL HAPPENED OUT OF THIS, CORRECT? [LB188]

SENATOR WATERMEIER: THAT'S RIGHT. [LB188]

SENATOR EBKE: THANK YOU. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR WATERMEIER AND SENATOR EBKE. SENATOR KRIST, YOU'RE RECOGNIZED. [LB188]

SENATOR KRIST: THANK YOU, MR. PRESIDENT. AND, AGAIN, GOOD MORNING, COLLEAGUES AND NEBRASKA. I APPRECIATE THE CAMARADERIE AND THE

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INTENT FOR SENATOR CHAMBERS TO TAKE A TEST VOTE ON THAT AMENDMENT. UNFORTUNATELY, I THINK THAT AMENDMENT WAS THE ONLY WAY THAT I COULD SUPPORT LB188. SO I THINK IT'S CLEAR THAT I'M NOT THERE FOR CLOTURE AND I WILL NOT VOTE FOR THE BILL, EVEN IF CLOTURE IS SUCCESSFUL. HAVING SAID THAT, I'M GOING TO SAY IT AGAIN ON THE RECORD FOR THOSE OF YOU WHO ARE HERE THAT WEREN'T HERE BEFORE. IF YOU WANT TO REDUCE HIGH-SPEED CHASES AND IF YOU'RE REALLY CONCERNED WITH THE SAFETY OF THE CITIZENS OF ANY MUNICIPALITY OR OUR ROADS ACROSS THIS STATE, THEN YOU DISCOURAGE THE NUMBER OF HIGH-SPEED CHASES THAT ARE OUT THERE. I WAS JUST TALKING TO ONE OF MY COLLEAGUES AND HE SAID, IN MY AREA THERE'S A POLICY AGAINST HIGH-SPEED CHASES IN THIS CITY AND THAT CITY AND THIS CITY. AND THERE'S POLICIES FOR HIGH-SPEED CHASES IN UNUSUAL CIRCUMSTANCES HERE AND THERE AND A FEW OTHER PLACES. THIS IS NOTHING MORE THAN NIRMA TRYING TO MAKE SURE THAT THEIR LIABILITIES ARE REDUCED. TO ME, IT'S COUNTERINTUITIVE THAT IF THEY'RE NOT WORRIED ABOUT THEIR LIABILITIES THERE WILL BE MORE EVIDENCE AND THERE WILL BE MORE INSTANCES OF HIGH-SPEED CHASES. I KNOW OF A HIGH-SPEED CHASE THAT ALMOST TOOK MY WIFE AND IT SIMPLY WAS THIS: A VERY RESPECTABLE BUT POTENTIALLY A LITTLE ZEALOUS YOUNG OFFICER DECIDED THAT, BY GOD, HE WAS GOING TO CATCH THAT PERSON BEFORE HE WENT INTO THE NEXT JURISDICTION. EVERYBODY HAS GOT RADIOS. EVERYBODY IS IN CONTACT WITH EVERYONE. THERE WAS NO REASON FOR HIM TO BE GOING 90 MILES AN HOUR BETWEEN L STREET AND Q STREET ON 84th STREET AT THAT PARTICULAR TIME OF THE DAY, BUT HE DID. AND AGAIN I'LL REITERATE AND SENATOR CAMPBELL CAN ELABORATE, THIS DOESN'T HAPPEN IN LINCOLN BECAUSE THEY DON'T DO HIGH-SPEED CHASES IN LINCOLN. THERE'S A REASON WHY THEY DON'T DO HIGH-SPEED CHASES IN LINCOLN. THERE IS NO STRAIGHT ROAD IN LINCOLN. YOU CAN'T GET ANYPLACE FROM ANYPLACE ELSE IN LINCOLN. JUST KIDDING. THE POINT IS PUBLIC SAFETY. AND THE POINT IS THAT IF YOU'RE GOING TO CHASE SOMEBODY DOWN IN A HIGH-SPEED CHASE, THEN THERE NEEDS TO BE A REASON TO DO THAT AND THERE NEEDS TO BE A COMPELLING REASON THAT WOULD CREATE THE NEED FOR THAT HIGH-SPEED CHASE. AND THE OFFICER AND THE MUNICIPALITY THAT HE WORKS FOR, THE PUBLIC...THE POLITICAL SUBDIVISION THAT HE WORKS FOR NEEDS TO SHARE IN THE RESPONSIBILITY AND THE LIABILITY FOR WHAT HAPPENS IF. LET'S KEEP THE BALANCE IN THE FAVOR OF THE CITIZENS IN THIS ONE. SENATOR CHAMBERS HAS BEEN VERY CLEAR. THIS IS A PIECE OF LEGISLATION THAT HE WAS VERY PASSIONATE ABOUT AND HELPED PUT INTO PLACE YEARS AGO. I DON'T SHARE THAT SAME COMMITMENT TO KILLING THE BILL. BUT I HAVE TO TELL YOU THAT WITHOUT THAT AMENDMENT, I CAN'T SUPPORT THE BILL. AND I ASK YOU TO RECONSIDER

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IF YOU DIDN'T SUPPORT THE AMENDMENT, RECONSIDER YOUR CLOTURE VOTE. BECAUSE A CLOTURE VOTE IN THIS PARTICULAR CASE, GIVEN THAT TEST VOTE, IS A VOTE FOR LB188. AGAIN, WHEN WE GET TO THE POINT, BECAUSE WE'RE OBVIOUSLY GOING TO GET THERE TOMORROW MORNING OR WHENEVER IT COMES UP ON THE SCHEDULE AGAIN, I'M ASKING YOU TO VOTE NO ON CLOTURE AND NO ON LB188 IF WE DO SUCCEED WITH THE CLOTURE MOTION. THANK YOU. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR KRIST. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE, AGAIN, FOR THE RECORD, THERE'S NOTHING IN THIS BILL THAT BENEFITS ME PERSONALLY. IT'S NOT AS THOUGH THIS IS MY BILL WHICH I THINK IS BEING UNFAIRLY ATTACKED. IT'S NOT THAT. I'VE LOST BILLS ON THE FLOOR BEFORE AND I WILL AGAIN. WHEN IT COMES TO SERIOUS BILLS, MEANINGFUL BILLS, I PROBABLY HAVE LOST MORE BILLS THAN ANYBODY WHO HAS EVER BEEN IN THIS LEGISLATURE. IF I THINK THAT THE ATTACK AGAINST THE BILL IS FOR THE WRONG REASON, THEN I WILL GET MY POUND OR MY TON OF FLESH. THIS IS NOT LIKE THAT. I HAVE STATED WHY I SUPPORT SENATOR SCHUMACHER'S AMENDMENT. IT'S NOT BECAUSE I LIKE SCHUMACHER, I DO LIKE HIM, BUT I'VE DISAGREED WITH HIM ON ISSUES AND VOTED CONTRARY TO IT. MY THOUGHT WAS THAT IF A MAN WHOM YOU ALL CAN RESPECT WILL TAKE THE TIME AND METICULOUSLY EXPLAIN IN HOWEVER MUCH DETAIL IS NEEDED TO EXPLAIN IT, YOUR GOOD JUDGMENT, YOUR INTELLIGENCE, YOUR RATIONALITY WOULD COME TO THE FLOOR AND YOU WOULD SUPPORT IT. THERE ARE PEOPLE WHO SAT NOT VOTING. THEY KNOW HIS AMENDMENT IS GOOD, BUT THEY'RE NOT GOING TO VOTE AT ALL. THEY COULDN'T BRING THEMSELVES TO VOTE AGAINST IT, BUT THEY WOULDN'T VOTE FOR IT. WELL, ON CLOTURE, JUST DON'T VOTE AND THAT'S GOOD ENOUGH. BUT WHETHER YOU VOTE CLOTURE AND CONTINUE TO VOTE TO SUPPORT THIS BILL, THERE IS A PRICE YOU'RE GOING TO PAY. AND I DON'T CARE WHAT ANYBODY ON THIS FLOOR THINKS ABOUT WHAT I'M SAYING. I DON'T CARE WHAT STEPS ANYBODY TAKES TO TRY TO "PUNISH" ME. ALL THAT DOES IF I'M A FIRE-EATING DRAGON, YOU JUST POUR GASOLINE AND GASOLINE IS AN ACCELERANT AND YOU'LL GET MORE FIRE. I CAN TAKE THE FIRE. YOU CAN'T BECAUSE YOU HAVE PEOPLE PULLING YOU, PULLING YOUR STRINGS AND TELLING YOU WHAT YOU BETTER DO. YOU GOT SOME BILLS OUT HERE WHICH I CAN IDENTIFY WHICH WILL TAKE A LOT OF TIME ANYWAY BECAUSE THEY'RE CONTROVERSIAL. SO I DON'T HAVE TO DO ALL OF THE KILLING MYSELF. BUT PERIODICALLY, I CAN JUST THROW A PRIORITY MOTION TO REMIND YOU THAT

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I'M HERE AND THAT I'M GOING TO SET THE AGENDA. ACTUALLY, I DON'T SET THE AGENDA. THE SPEAKER SETS THE AGENDA, BUT I SET THE TONE AND I WILL CONTROL THE FLOW OF DEBATE. AND I WANT SOMEBODY TO STAND ON THIS FLOOR AND CHALLENGE ME, NOT JUST BY SAYING WORDS, BECAUSE YOU WON'T STICK TO YOUR WORDS. I WANT YOU TO CHALLENGE ME BY MEETING ME ON THE FLOOR AND BESTING ME. USE THE RULES TO WHIP ME IN THE WAY I USE THE RULES TO WHIP YOU. THAT'S THE CHALLENGE I'M TALKING ABOUT. DON'T SHOW ME HOW WELL YOU CAN SHADOW BOX IN FRONT OF A MIRROR. MOVE TOWARD ONE WHO CAN HIT BACK. I'M STILL JUST 1 OUT OF 49. IF YOU COULD GET EVERYBODY IN HERE OR 25 TO VOTE WITH YOU ON EVERYTHING OR 33 ON EVERYTHING, YOU CAN STOP WHATEVER I TRY TO DO. YOU CAN STOP ME COLD, BUT YOU CAN'T STOP ME IMMEDIATELY. I'M GOING TO GET, AS SHYLOCK SAID, MY POUND OF FLESH AND I WILL NOT BE PREVAILED ON TO DO OTHERWISE. WE CAN ONLY LIVE ONE MINUTE AT A TIME, ONE INSTANT. I USED TO THINK BECAUSE I REFER TO SENATOR BLOOMFIELD... [LB188]

SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...AS MY VERSION OF JOHNNY CASH SAID THAT HE KNEW EVERYTHING THAT HAD EVER BEEN WRITTEN ABOUT JOHNNY CASH. BUT I SANG A SONG ABOUT JOHNNY CASH THAT HE HADN'T HEARD. HE HADN'T HEARD IT. IT GOES (SINGING): JOHNNY CASH IS DEAD AND HIS HOUSE BURNED DOWN. JOHNNY CASH IS DEAD AND HIS HOUSE BURNED DOWN. WHO'S GOING TO TAKE THAT BLACK GUITAR, SING ABOUT THINGS THE WAY THEY ARE? JOHNNY CASH IS DEAD AND HIS HOUSE BURNED DOWN. SENATOR BLOOMFIELD HADN'T HEARD THAT SONG. HOW MANY OF YOU ALL HAD HEARD IT BEFORE? YOU DON'T KNOW WHAT I KNOW. YOU DON'T KNOW WHAT'S OF INTEREST TO ME. BUT I'LL TELL YOU ONE THING YOU CAN COUNT ON. IF I TELL YOU THAT I'M GOING DO SOMETHING ON THIS FLOOR, I WILL DO IT. I BACKED OFF ONCE THIS MORNING PURSUANT TO WHAT SENATOR KRIST PERSUADED ME WAS A WISE COURSE, AND I DID BACK OFF. BUT WHAT I'M SAYING NOW, NO, NO. THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR CHAMBERS. SENATOR WATERMEIER, YOU'RE RECOGNIZED. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. I STILL RISE IN OPPOSITION TO RECOMMITTING THIS TO THE COMMITTEE. COMMITTEE HAD A REALLY GOOD CHANCE TO LOOK AT THIS IN THE LAST THREE YEARS.

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OBVIOUSLY, THE COMMITTEE STRUCTURE HAD CHANGED, THOSE ON THE COMMITTEE HAD CHANGED. WE HAD A GOOD, PRODUCTIVE COMMITTEE AMENDMENT OUT OF THE JUDICIARY. BUT, OH THESE SEEDS OF DOUBT; OH THESE SEEDS OF DOUBT THAT KEEP GETTING PLANTED. OH, WE SHOULD TRY TO REDUCE THE POLICE PURSUITS. WHAT ABOUT THIS AND WHAT ABOUT THAT? NOW WE HAVE THE SEEDS OF DOUBT PLANTED OUT THERE. LET ME BRING YOU BACK TO WHERE WE ON THIS BILL. IF YOU WANT TO HAVE AN ARGUMENT ABOUT POLICE PURSUITS AND WHETHER WE SHOULD HAVE...ENCOURAGE THEM OR DISCOURAGE THEM OR OUTLAW THEM, BRING A BILL. WE'LL HAVE A PUBLIC HEARING. THIS IS NOT A PRODUCTIVE PLACE TO DO THAT. SENATOR KRIST BROUGHT UP HIS OPINION, BUT THIS IS NOT THE PLACE TO DEBATE WHETHER WE SHOULD OR SHOULDN'T HAVE POLICE PURSUITS. WE NEED TO HAVE A PUBLIC HEARING ON THAT AND DEBATE IT. BRING YOU BACK TO WHAT THIS BILL DOES. AND I THINK IT WAS A FAIR BET THAT WE VOTED DOWN AM2140. THERE ARE PEOPLE THAT DIDN'T VOTE. I RESPECT THAT. THAT'S FINE. THIS IS A POLICY DECISION FOR THE STATE OF NEBRASKA ON HOW DO WE DEFINE INNOCENT THIRD PARTY. IT'S STRICTLY THAT AND NOTHING ELSE. LET'S CONCENTRATE AND KEEP YOUR EYE ON THE BALL. IT LOOKS LIKE WE'LL BE AT ABOUT 10:15 TOMORROW MORNING. THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR WATERMEIER. SENATOR SEILER, YOU'RE RECOGNIZED. [LB188]

SENATOR SEILER: MR. SPEAKER, MEMBERS OF THE UNICAMERAL, WOULD SENATOR WATERMEIER YIELD FOR A QUESTION? [LB188]

SENATOR SCHEER: SENATOR WATERMEIER, WILL YOU PLEASE YIELD? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR SEILER: I HAVE A QUESTION NOW THAT SCHUMACHER'S BILL HAS BEEN VOTED DOWN. WHO HAS THE BURDEN OF PROOF IN THIS CASE? [LB188]

SENATOR WATERMEIER: WELL, THE WAY I'VE LEARNED TO UNDERSTAND THIS PROCEDURE, IF WE'RE TALKING ABOUT SOMEONE IN THE BACKSEAT AND WHETHER A FELONY WAS COMMITTED, YOU WOULD HAVE A CRIMINAL CASE THAT WOULD COME UP AND THAT PERSON WOULD HAVE TO BE CONVICTED BY THE LAW ENFORCEMENT ON THAT FELONY. BUT IF YOU'RE TALKING ABOUT THE CIVIL CASE THAT TALKS ABOUT THE STRICT LIABILITY, I BELIEVE AND I STILL

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BELIEVE, THAT THAT PERSON WOULD HAVE TO BRING A CASE TO THE COUNTY AND AT THAT POINT IN TIME, THE COUNTY WOULD HAVE TO SAY, NO, YOU ARE NOT INNOCENT. THEY HAVE TO PROVE ALL OF THOSE THINGS. SO IF THAT'S WHAT YOU'RE GETTING AT, THAT'S THE WAY I WOULD ANSWER THAT QUESTION. [LB188]

SENATOR SEILER: SO YOU'RE SAYING UNDER THE TORTS CLAIM...POLITICAL SUBDIVISION TORT CLAIMS ACT, THE BURDEN OF PROOF WILL BE ON THE INNOCENT PARTY WHO HAS GOT STRICT LIABILITY? IS THAT WHAT YOU JUST SAID? [LB188]

SENATOR WATERMEIER: NO. THE WAY I UNDERSTAND IT, THE BURDEN OF PROOF WOULD STILL BE ON THE COUNTIES AND THE CITIES TO PROVE THAT THEY WERE NOT INNOCENT. THEY WOULD STILL HAVE...THE INNOCENT PARTY, THAT PERSON THAT IS... [LB188]

SENATOR SEILER: WHERE DOES IT SAY THAT IN THE STATUTE? I CAN'T FIND... [LB188]

SENATOR WATERMEIER: I'M SORRY, I DON'T KNOW THAT. IT GOES BACK TO THE ORIGINAL BILL AS FAR AS I'M CONCERNED. [LB188]

SENATOR SEILER: OKAY. [LB188]

SENATOR WATERMEIER: I... [LB188]

SENATOR SEILER: WELL, I HAVE A QUESTION AS TO WHETHER OR NOT A COURT CAN ACTUALLY DETERMINE FROM THE STATUTES THAT WE'RE PASSING WHERE THAT BURDEN OF PROOF IS. THAT'S WHAT BOTHERS ME. THANK YOU. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR WATERMEIER. THANK YOU, SENATOR SEILER. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, YOU HEARD FROM ANOTHER LAWYER. NOW WHO ARE YOU ALL GOING TO PAY ATTENTION TO? FORGET ME. THE OTHER LAWYERS HAVE TRIED TO BE VERY MEASURED IN WHAT THEY SAY. BUT REMEMBER, I WORK HARDER MORE OFTEN AND HAVE LESS PATIENCE BECAUSE I DO THIS ON A LOT OF BILLS

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WHERE SENATORS DON'T KNOW WHAT THEY'RE TALKING ABOUT. IF WHAT SENATOR WATERMEIER SAID THROUGH ALL THE GARBLED PRESENTATION IS WHAT HE MEANS, SENATOR SCHUMACHER'S AMENDMENT SAID THE SAME THING, BUT IT STATED IT IN THE LAW. SENATOR WATERMEIER, WITHOUT KNOWING IT, SAID THE SAME THING THAT SENATOR SCHUMACHER'S AMENDMENT SAID. AND IF ANY OF YOU ALL WERE LISTENING, YOU HEARD IT. AND YOU WONDER WHY I GET FRUSTRATED. WE'RE NOT THIRD-GRADE CHILDREN, BUT THAT'S THE MENTALITY LEVEL HERE. HE SAID IN RESPONSE TO WHAT SENATOR SEILER WAS ASKING, WHERE DO YOU SEE IT WRITTEN IN THE STATUTE? IT'S NOT THERE. YOU CAN'T BE SURE. BUT WHAT HE SAID THE WAY IT'S SUPPOSED TO BE WAS WHAT SENATOR SCHUMACHER'S AMENDMENT SAID THAT YOU VOTED DOWN FOLLOWING HIM WHO IS FOLLOWING THE LOBBY. ALL OF YOU WHO VOTED WITH HIM, YOU DON'T KNOW OR YOU DON'T CARE. WHY DO YOU THINK THESE LAWYERS ARE TELLING YOU THESE THINGS? THEY'RE NOT DOING IT FOR ME, BUT IT MEANS NOTHING TO YOU. AND AS FAR AS THE SILLINESS OF NOT BEING ABLE TO DISCUSS AN ISSUE HERE UNLESS YOU BRING A BILL, THAT'S THE CRAZIEST THING I'VE HEARD SINCE I'VE BEEN IN THIS LEGISLATURE. WELL, THAT DIDN'T HAVE A PUBLIC HEARING. IF YOU WANT TO DISCUSS WHETHER THERE SHOULD BE HIGH-SPEED CHASES, BRING A BILL. NO, YOU DON'T HAVE TO BRING A BILL. MOST OF THE THINGS WE DISCUSS HAVE NOT HAD A PUBLIC HEARING. WHY, WHEN YOU SENATORS LET SOMETHING SILLY LIKE THAT BE SAID AND YOU DON'T CHALLENGE IT, THEY THINK YOU ALL ARE AS SILLY AS THE ONE WHO SAID IT AND THAT HE'S REPRESENTING WHAT YOU BELIEVE. WELL, HE'S NOT SPEAKING FOR ME. I DON'T HAVE TO HAVE BROUGHT A BILL AND I WON'T BRING A BILL. AND NOBODY IS GOING TO TELL ME HOW I SHOULD MAKE THE POINTS THAT I INTEND TO MAKE ON THIS FLOOR. I WILL COMPLY WITH THE RULE THAT WE SPEAK A CERTAIN AMOUNT OF TIME, BUT I KNOW WHAT I'M TALKING ABOUT. BUT IF SOMEBODY SHOWS ME I DON'T, I WILL ACKNOWLEDGE IT AND HAVE MY EDUCATION IMPROVED. THAT MAN KNOWS AS MUCH AS THAT POST SUPPORTING THAT BALCONY KNOWS ABOUT WHAT WE'RE TALKING ABOUT. HE DIDN'T EVEN KNOW WHAT HE WAS SAYING WHEN HE ANSWERED SENATOR SEILER. HE DIDN'T KNOW WHAT HE WAS SAYING. AND THAT WILL HELP YOU ALL UNDERSTAND SINCE I QUOTE THE BIBLE SO MUCH, WHAT JESUS MEANT WHEN HE SAID, FORGIVE THEM FOR THEY KNOW NOT WHAT THEY DO. THEY KNEW THEY WERE STICKING A SWORD IN HIS...THE SPEAR IN HIS SIDE. THEY KNEW WHAT THAT ACT WAS, BUT THEY DIDN'T KNOW THE SIGNIFICANCE OF IT, THAT'S WHAT HE WAS TALKING ABOUT. SENATOR WATERMEIER COULD REPEAT AGAIN THE WORDS HE SAID BUT HE DOESN'T KNOW WHAT THEY MEAN, BECAUSE AS CHAUCER SAID: HE, LIKE THE PARROT, WAS REALLY QUITE DENSE; HE REPEATED THE WORDS, BUT HE DIDN'T GET THE

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SENSE. HE SAID WHAT SENATOR SCHUMACHER'S AMENDMENT WOULD HAVE PUT INTO THE STATUTE. HOW DO YOU ALL FEEL? AT LEAST YOU WERE SMART ENOUGH NOT TO STAND UP HERE AND PLAY LIKE YOU KNOW SOMETHING. IT'S BETTER TO SIT QUIET AND LET PEOPLE THINK YOU'RE A FOOL THAN TO SPEAK AND REMOVE ALL DOUBT. THAT'S A MAXIM. BUT I'M GOING TO REPEAT THOSE THINGS ON THIS FLOOR, BECAUSE WE ARE TO MAKE LAW. AND HE KEEPS SAYING, WELL, THAT'S A POLICY. EVERYTHING WE DO IS A POLICY. [LB188]

SENATOR SCHEER: ONE MINUTE. [LB188]

SENATOR CHAMBERS: THAT MEANS WE SET THE STANDARD BY THE LAWS THAT WE PUT IN PLACE. WE DON'T ENFORCE THE LAW. WE PUT WORDS IN THE STATUTE BOOKS WHICH ARE BACKED BY THE COERCIVE POWER OF THE STATE. THE STATE CAN COMPEL YOU TO COMPLY WITH THE LAW; AND IF YOU CHOOSE STILL NOT TO COMPLY, THEN THERE'S A PUNISHMENT THAT YOU SERVE. THAT'S THE COERCIVE POWER OF THE STATE BEING BROUGHT TO BEAR. AND IF ANY COLLECTION OF PEOPLE WANT TO PUT SOMETHING ON A PAPER AND THEY DON'T HAVE THE POWER TO ENFORCE IT, THEY'RE NOT A STATE REGARDLESS OF WHAT THEY CALL THEMSELVES. THAT'S WHY THE ISLAMIC STATE SO-CALLED IS NOT A STATE. BUT YOU ALL DON'T CARE ABOUT THESE THINGS. I DO. BUT YOU ALL ARE GOING TO HAVE A CHANCE TO SPEND AT LEAST TWO MORE HOURS WITH ME TOMORROW OR AN HOUR AND SOMETHING IF SENATOR WATERMEIER'S RECKONING IS CORRECT BECAUSE I'M GOING TO TAKE US TO CLOTURE. WE'LL SEE HOW YOU VOTE AND THEN WE'LL SEE WHAT I DO. WON'T WE? THAT'S WHAT WE WILL DO. [LB188]

SENATOR SCHEER: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB188]

SENATOR SCHEER: THANK YOU, SENATOR CHAMBERS. MR. CLERK. [LB188]

CLERK: MR. PRESIDENT, YOUR COMMITTEE ON JUDICIARY CHAIRED BY SENATOR SEILER REPORTS LB1075, LB1098 TO GENERAL FILE; LB744, GENERAL FILE WITH AMENDMENTS; AND LB839 INDEFINITELY POSTPONED. I HAVE A NEW RESOLUTION, LR450 FROM SENATOR JOHNSON. THAT WILL BE LAID OVER. SENATOR HANSEN OFFERS LB831A. (READ LB831A BY TITLE FOR THE FIRST TIME.) SENATOR KOLTERMAN WOULD LIKE TO PRINT AN AMENDMENT TO LB447. AND, MR. PRESIDENT, UNANIMOUS CONSENT REQUEST, SENATOR CAMPBELL

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ASKS UNANIMOUS CONSENT THAT THE HEALTH COMMITTEE HEARING SCHEDULED FOR THURSDAY BE HELD AT 1:30 AS OPPOSED TO 1:00 P.M. (LEGISLATIVE JOURNAL PAGES 710-713.) [LB1075 LB1098 LB744 LB839 LR450 LB831A LB447]

SENATOR SCHEER: WITH NO OBJECTION, SO ORDERED.

CLERK: MR. PRESIDENT, PRIORITY MOTION: SENATOR CHAMBERS WOULD MOVE TO RECESS UNTIL 12:30.

SENATOR SCHEER: 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. MR. CLERK.

CLERK: 20 AYES, 8 NAYS TO PLACE THE HOUSE UNDER CALL, MR. PRESIDENT.

SENATOR SCHEER: 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 PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. SENATORS BOLZ, BURKE HARR, COASH, KOLOWSKI, MURANTE, KINTNER, McCOLLISTER, MORFELD, THE HOUSE IS UNDER CALL. PLEASE RETURN TO THE CHAMBER. SENATOR BOLZ, BURKE HARR, MORFELD, MURANTE, KINTNER, THE HOUSE IS UNDER CALL. PLEASE RETURN TO THE CHAMBER. SENATOR BOLZ, SENATOR KINTNER, PLEASE RETURN TO THE CHAMBER. THE HOUSE IS UNDER CALL. SENATOR KINTNER, THE HOUSE IS UNDER CALL. PLEASE RETURN TO THE CHAMBER. SENATOR KINTNER, WILL YOU PLEASE RETURN TO THE CHAMBER? THE HOUSE IS UNDER CALL. WE ARE ALL PRESENT AND ACCOUNTED FOR. THE QUESTION BEFORE US IS, SHALL WE RECESS UNTIL 12:30? THIS IS NOT ADJOURNMENT. THERE HAS BEEN A CALL FOR A ROLL CALL IN REVERSE ORDER. THE QUESTION BEFORE US IS, SHALL WE RECESS TILL 12:30 TODAY? THIS IS NOT AN ADJOURNMENT MOTION. THIS IS A RECESS MOTION. MR. CLERK.

CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGE 713.) 11 AYES, 28 NAYS, MR. PRESIDENT, TO RECESS.

SENATOR SCHEER: THE MOTION FAILS. MR. CLERK.

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

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CLERK: MR. PRESIDENT, SENATOR FRIESEN WOULD MOVE TO ADJOURN THE BODY UNTIL THURSDAY, FEBRUARY 25, AT 9:00.

SENATOR SCHEER: THERE'S BEEN A REQUEST FOR A ROLL CALL VOTE IN REGULAR ORDER. MR. CLERK. THE VOTE IN FRONT OF YOU IS TO ADJOURN FOR THE DAY.

CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGE 714.) 36 AYES, 4 NAYS TO ADJOURN.

SENATOR SCHEER: MOTION PASSES. WE ARE ADJOURNED.