

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

Floor Debate
February 25, 2016

[LB131 LB136 LB188 LB270 LB275 LB371 LB447 LB447A LB448 LB467 LB471 LB474A
LB474 LB665 LB666 LB667 LB695 LB698 LB699 LB702 LB704 LB712 LB716 LB730
LB737 LB751 LB759 LB760 LB761 LB771 LB772 LB775 LB805 LB828 LB829 LB830
LB835 LB853 LB876 LB884 LB897 LB900 LB902 LB914A LB922 LB934 LB938 LB947
LB954 LB973 LB975 LB986 LB987 LB994 LB1016 LB1022 LB1059 LB1070 LB1100
LB1109 LR437 LR438 LR451 LR452 LR453 LR454 LR455]

SPEAKER HADLEY PRESIDING

SPEAKER HADLEY: GOOD MORNING, LADIES AND GENTLEMEN. WELCOME TO THE GEORGE W. NORRIS LEGISLATIVE CHAMBER FOR THE THIRTY-THIRD DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, SECOND SESSION. OUR CHAPLAIN FOR TODAY IS PASTOR ROGER CRISER FROM HARRISON STREET BAPTIST CHURCH IN LA VISTA, NEBRASKA, SENATOR SMITH'S DISTRICT. PLEASE RISE.

PASTOR CRISER: (PRAYER OFFERED.)

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

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

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

ASSISTANT CLERK: MR. PRESIDENT, ON PAGE 332 ADD SENATOR KRIST TO LB1016. THAT'S ALL I HAVE. (LEGISLATIVE JOURNAL PAGE 715.) [LB1016]

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

ASSISTANT CLERK: MR. PRESIDENT, ENGROSSED LEGISLATIVE BILLS: LB131, LB136, LB270, LB275, LB471, LB474, LB474A, LB665, LB666, LB667, LB695, LB699, LB702, LB737, LB751, LB759, LB760, LB761, LB771, LB775E, LB853 AND LB876 WERE RECEIVED BY THE GOVERNOR ON FEBRUARY 18, 2016, AND WERE SIGNED AND DELIVERED TO THE SECRETARY OF STATE ON FEBRUARY 24. IN ADDITION TO THAT, YOUR COMMITTEE ON JUDICIARY REPORTS LB829, LB835 BOTH TO

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GENERAL FILE WITH AMENDMENTS. I HAVE A REPORT OF REGISTERED LOBBYISTS FOR THE CURRENT WEEK, AS WELL AS AN ANNOUNCEMENT THAT REPORTS HAVE BEEN FILED ELECTRONICALLY WITH THE LEGISLATURE IN COMPLIANCE WITH STATE LAW AND ARE AVAILABLE THROUGH THE WEB SITE. AMENDMENT TO BE PRINTED TO LB938 FROM SENATOR SMITH. YOUR COMMITTEE ON ENROLLMENT AND REVIEW REPORTS LB772, LB1059, LB730, LB830, LB704, ALL TO SELECT FILE. NEW RESOLUTIONS: LR451 BY SENATOR STINNER, THAT WILL BE LAID OVER; LR452 BY SENATOR BOLZ IS A STUDY RESOLUTION AND WILL BE REFERRED TO REFERENCE COMMITTEE. THAT'S ALL I HAVE AT THIS TIME. (LEGISLATIVE JOURNAL PAGES 715-724.) [LB131 LB136 LB270 LB275 LB471 LB474 LB474A LB665 LB666 LB667 LB695 LB699 LB702 LB737 LB751 LB759 LB760 LB761 LB771 LB775 LB853 LB876 LB829 LB835 LB938 LB772 LB1059 LB730 LB830 LB704 LR451 LR452]

SPEAKER HADLEY: THANK YOU, MR. CLERK. WE WILL NOW PROCEED TO THE FIRST ITEM ON THE AGENDA.

ASSISTANT CLERK: MR. PRESIDENT, THE FIRST BILL THIS MORNING IS LB188, THE BILL WHICH IS ON SELECT FILE. PREVIOUSLY THE BODY HAD ADOPTED THE AMENDMENT BY SENATOR WATERMEIER. WHEN THE BODY ADJOURNED YESTERDAY, THERE WAS A MOTION PENDING TO RECOMMIT LB188 TO JUDICIARY COMMITTEE. THAT WAS OFFERED BY SENATOR CHAMBERS. THAT IS THE FIRST ITEM FOR CONSIDERATION THIS MORNING. [LB188]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED TO GIVE A BRIEF OVERVIEW OF YOUR MOTION TO RECOMMIT. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, WE HAVE ALMOST RUN THE CLOCK ON THIS BILL BEFORE THEY CAN TAKE A CLOTURE VOTE. RIGHT NOW, I HAVE A MOTION TO RECOMMIT TO COMMITTEE, WHICH IS A PRIORITY MOTION, SO THAT WE CAN GO AHEAD AND RUN THE CLOCK. AND AS WE DEBATE THE MOTION, IF THERE ARE MORE THINGS I HAVE TO SAY I WILL, BUT FOR THE OPENING, I THINK THAT SHOULD BE SUFFICIENT CLARIFICATION. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR CHAMBERS. SENATOR KINTNER, YOU'RE RECOGNIZED. [LB188]

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SENATOR KINTNER: WELL, THANK YOU, MR. PRESIDENT. JUST A BIT OF HOUSEKEEPING FIRST. SOMEBODY LEFT THIS COFFEE CUP HERE ON MY DESK, AND IT'S BEEN FULL OF COFFEE FOR TWO DAYS, SO IF THIS IS YOURS, YOU CAN COME GET IT. YOU KNOW, I'VE...I GOT IN A LITTLE LATE YESTERDAY AND THIS ISSUE HAS GONE DOWN MORE RABBIT HOLES. WE'VE TALKED ABOUT MORE THINGS. I DON'T KNOW, I'M NOT EVEN SURE THEY HAVE ANYTHING TO DO WITH IT. WE'VE WANDERED IN AND OUT ON THE ISSUE. I KIND OF WANT TO GET BACK TO WHAT THIS IS ABOUT. I'D LIKE TO SEE IF SENATOR WATERMEIER WOULD YIELD TO A FEW QUESTIONS. [LB188]

SPEAKER HADLEY: SENATOR WATERMEIER, WILL YOU YIELD? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR KINTNER: NOW, SENATOR WATERMEIER, AGAIN FOR THE FIVE-THOUSANDTH TIME, WHAT IS THE BASIC ISSUE WE'RE TRYING TO SOLVE HERE? [LB188]

SENATOR WATERMEIER: WELL, THE WAY I HAD IT PRESENTED TO ME FOUR YEARS AGO WAS A BASIC ISSUE THAT INNOCENT THIRD PARTY WAS NOT CLEARLY DEFINED. IT WAS THIS HUGE, BROAD, WIDE DEFINITION OF WHO WAS AN INNOCENT THIRD PARTY. AND THE SUPREME COURT HAD GIVEN US SOME GUIDANCE WORKING BEHIND THE GLASS WITH, I THINK, THEY'RE VERY QUALIFIED ATTORNEYS, BOTH SIDES OF THE ISSUES, ON THE TRIAL SIDE AND ON THE PEOPLE THAT ACTUALLY TRY THESE CASES. AND IT'S A VERY, VERY FEW NUMBER OF PEOPLE THAT ACTUALLY ARE INVOLVED WITH THIS EVERY DAY. THIS NEEDED TO HAPPEN. WE NEEDED TO CLEARLY DEFINE WHO AN INNOCENT THIRD PARTY IS, AND THAT'S MY BIG PICTURE ISSUE OF IT. THE ARGUMENT ABOUT...LOOKING ABOUT WHETHER WE SHOULD HAVE MORE EXTENDED DEBATES ON POLICE PURSUIT, THAT HASN'T HAD A PUBLIC HEARING ON THIS BILL. IT REALLY DOESN'T HAVE ANYTHING TO DO WITH IT. I APPRECIATE THE ARGUMENT. MAYBE THE NET INTENT IS TO REDUCE POLICE PURSUITS, BUT WHAT ALL WE'RE DOING TODAY IS CLEARLY DEFINING WHO IS INNOCENT AND WHO IS INNOCENT AS A THIRD PARTY. [LB188]

SENATOR KINTNER: NOW, IT'S BEEN AMENDED NOW. WHAT HAS THE AMENDMENT CHANGED? [LB188]

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SENATOR WATERMEIER: WELL, FROM MY ORIGINAL PROPOSAL FROM FOUR YEARS AGO I ALLOWED THE...THE COMMITTEE, THE JUDICIARY COMMITTEE AMENDED IT WITH WHAT WAS ORIGINALLY A SECTION E, WE'RE TALKING ABOUT ONLY TO FELONS. AND THEN I HAD A SECOND AMENDMENT THAT I OFFERED BETWEEN GENERAL AND SELECT THAT TOOK OUT A AND B OF THE OLD SECTION. SO IT'S REALLY VERY, VERY FINELY DEFINED RIGHT NOW. IT'S VERY NARROW. AND I WOULD SAY IF THE POLICE PURSUIT ACTIVITIES, IF WE WENT FROM 0 TO 100 YEARS AGO AND AS FAR AS WHO WOULD ACTUALLY BE ABLE TO CLAIM INNOCENT THIRD PARTY, WE MIGHT REDUCE THAT NUMBER DOWN TO 95 PERCENT TODAY. WE'RE STILL GOING TO HAVE 95 PERCENT OF THE POPULATION THAT'S GOING TO BE ABLE TO CLAIM INNOCENT. [LB188]

SENATOR KINTNER: WHAT HAVE OTHER STATES DONE ON THIS? [LB188]

SENATOR WATERMEIER: NO OTHER STATES HAVE DONE THIS. WE'RE THE ONLY STATE IN THE NATION THAT HAS STRICT LIABILITY AND THAT SOMEONE COULD TAKE A LAW ENFORCEMENT AGENCY TO COURT OVER A POLICE PURSUIT. WE'RE THE ONLY STATE IN THE NATION. [LB188]

SENATOR KINTNER: WHO OPPOSES THIS? WHO'S THE MAIN, DRIVING FORCE OUTSIDE THE BODY THAT OPPOSES THIS, IF ANYBODY? [LB188]

SENATOR WATERMEIER: WELL, I THINK PEOPLE IN GENERAL THAT WANT TO MAKE OUR POLICE PURSUITS LESS WOULD OPPOSE TRYING TO DEFINE THIS. BUT IN MY ARGUMENT, THAT'S JUST NOT OUTSIDE OF WHAT WE'RE TRYING TO DO. WE'RE TRYING TO GET DOWN TO THE BASICS ABOUT WHO WOULD BE CLASSIFIED AS INNOCENT. [LB188]

SENATOR KINTNER: AND WHO STANDS TO BENEFIT IF THIS BILL BECOMES A LAW? [LB188]

SENATOR WATERMEIER: WELL, THE WAY THE BILL IS TODAY, I MEAN, I DON'T KNOW REALLY WHO IS GOING TO BENEFIT FROM THIS. I MEAN, IF A PERSON IS INJURED IN A CASE, THEY COULD POTENTIALLY TAKE A CITY OR A COUNTY TO COURT IN A CIVIL ACTION, NOT INTO THE CRIMINAL COURTS OBVIOUSLY, THROUGH A CIVIL ACTION AND POTENTIALLY CLAIM A MILLION DOLLARS OF LOSS. IF IT'S IN THE STATE, IT'S...WE ARE UNLIMITED AS FAR AS THE POTENTIAL, SO THERE WOULD BE THAT POTENTIAL. [LB188]

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SENATOR KINTNER: WELL, THE TAXPAYERS WOULD BE OFF THE HOOK. WOULDN'T THEY BENEFIT SOMEWHAT FROM THIS? [LB188]

SENATOR WATERMEIER: WELL, I THINK IT...INDIRECTLY THE TAXPAYERS HAVE AN ISSUE WITH THIS, BUT I GUESS I JUST BROUGHT THIS ARGUMENT BACK TO WHAT'S RIGHT AND WRONG. I MEAN, WHO SHOULD BE COLLECTING A MILLION DOLLARS FROM THE STATE OF NEBRASKA? SOMEONE THAT MAY HAVE POTENTIALLY BEEN... [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR WATERMEIER: ...PART OF THE POLICE PURSUIT WHO MAY HAVE ACTUALLY NOT BEEN INVOLVED IN WHY THE POLICE PURSUIT STARTED, BUT CERTAINLY WOULD HAVE ENGAGED IN, WOULD HAVE PROMOTED IT. AND SO WE'RE DOING AS MUCH AS I WOULD DARE TO DO TO DEFINE THIS IN STATUTE BECAUSE I'VE NEVER BEEN A FAN OF VERY SPECIFICALLY PUTTING IT IN STATUTE. AND I KNOW THERE ARE THOSE THAT WILL ARGUE ON THE LEGAL SIDE OF IT THAT IT HAS TO BE CLEARLY DEFINED. AND SO THAT'S WHAT I'VE DONE IS TRY TO NARROW IT AS VERY...AS NARROW AS I COULD. [LB188]

SENATOR KINTNER: WELL, THANK YOU, SENATOR WATERMEIER. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR KINTNER. SENATOR SCHILZ, YOU'RE RECOGNIZED. [LB188]

SENATOR SCHILZ: GOOD MORNING, MR. PRESIDENT, MEMBERS OF THE BODY. THANK YOU FOR THE OPPORTUNITY AGAIN THIS MORNING TO STAND UP AND SPEAK. AND I'VE BEEN ABSENT FOR A COUPLE DAYS, AND I APOLOGIZE FOR THAT, BUT I'M BACK AND I'M TRYING TO GET CAUGHT UP ON THIS. SO AS I LOOK AT THIS AND I HOPE THAT PEOPLE CAN COME TOGETHER ON SOME COMMONSENSE FIXES TO ISSUES LIKE THIS WHERE WE SEEM TO BE AT A STANDSTILL. I KNOW FOR SURE THAT IT'S ALWAYS GOOD TO KEEP THOSE LINES OF COMMUNICATION OPEN, AND HOPEFULLY THAT'S OCCURRING. YOU KNOW, I AM GOING TO SIT AND LISTEN. I'M REACQUAINTING MYSELF WITH THE BILL AND WHAT IT DOES. I WANT TO MOVE FORWARD CAUTIOUSLY, BUT I DO THINK THAT SENATOR WATERMEIER IS ON THE RIGHT TRACK HERE. IS IT EXACTLY AS IT SHOULD BE? IN THE END WE'LL FIND OUT, BUT I'M STICKING WITH SENATOR

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WATERMEIER RIGHT NOW. AND IF HE WOULD LIKE THE REST OF MY TIME, HE CAN HAVE IT. [LB188]

SPEAKER HADLEY: SENATOR WATERMEIER, YOU'RE YIELDED 3:40. [LB188]

SENATOR WATERMEIER: THANK YOU, SENATOR SCHILZ, I APPRECIATE THAT. I JUST WANT TO REMIND PEOPLE ON MY OPENING TESTIMONY. I THOUGHT I WAS GOING TO BE ABLE TO DO THIS, SO I'LL JUST START READING THIS. YESTERDAY THE BODY ADOPTED AM2199, WHICH WAS A COMPROMISE AGREEMENT THAT HAD BEEN WORKED OUT TOWARD THE END OF GENERAL FILE DEBATE. THE AMENDMENT STRUCK SECTIONS A AND B FROM THE BILL AND NARROWED THE OLD SUBSECTION E SO THAT IT APPLIED TO FELONIES COMMITTED WHILE IN THE FLEEING VEHICLE OR IMMEDIATELY--AND THAT WAS THE AMENDMENT THAT I HAD OFFERED--IMMEDIATELY PRIOR TO ENTRY INTO THE VEHICLE. AS THE BILL NOW READS, THERE ARE THREE REASONS FOR WHICH A PASSENGER IN A FLEEING VEHICLE SHALL NOT BE CONSIDERED AN INNOCENT THIRD PARTY. THE FIRST IS RELETTERED SECTION...SUBSECTION A WHICH PROVIDES THAT ANY PASSENGER IN A FLEEING VEHICLE WHO "PROMOTES, PROVOKES, OR PERSUADES THE DRIVER TO ENGAGE IN FLIGHT FROM LAW ENFORCEMENT PERSONNEL" IS THEN NOT AN INNOCENT THIRD PARTY FOR PURPOSES OF AUTOMATIC RECOVERY OF DAMAGES FROM THE TAXPAYERS. THIS LANGUAGE IS TAKEN DIRECTLY FROM EXISTING NEBRASKA COURT DECISIONS. IT IS SIMPLY A CODIFICATION OF EXISTING CASE LAW. THE SECOND POINT IS A RELETTERED SUBSECTION B WHICH PROVIDES THAT ANY PASSENGER IN A FLEEING VEHICLE WHO IS SOUGHT TO BE APPREHENDED BY A LAW ENFORCEMENT PERSONNEL IS THEN NOT SUBJECT TO BE AN INNOCENT THIRD PARTY FOR PURPOSES OF THE AUTOMATIC RECOVERY OF DAMAGES FROM THE TAXPAYER. THIS LANGUAGE IS ALSO TAKEN FROM EXISTING NEBRASKA CASE LAW. RELETTERED SUBSECTION C IS FROM THE JUDICIARY COMMITTEE AMENDMENT ADOPTED ON GENERAL FILE PLUS ONE IMPORTANT ADDITION. IT PROVIDES THAT A PASSENGER WHO "HAS ENGAGED IN CONDUCT CHARGEABLE AS, OR AMOUNTING TO, A FELONY WHILE IN OR IMMEDIATELY"...WE HAD CHANGED THE WORD "RECENT" TO "IMMEDIATELY," PRIOR TO ENTRY INTO...THE FLEEING VEHICLE" IS NOT AUTOMATICALLY ENTITLED TO RECOVERY OF DAMAGES FROM THE TAXPAYERS, AND THUS MUST PROVE NEGLIGENCE IN ORDER TO RECOVER DAMAGES. IF THE POLICE DEPARTMENT IS AT NEGLIGENT, IF THEY ARE NEGLIGENT IN ANY ONE THING THAT THEY'VE DONE, THEY'RE STILL GOING TO BE ABLE TO COLLECT A MILLION DOLLARS FROM THE STATE, THE CITY, OR THE CITY OR THE COUNTY AND POTENTIALLY EVEN MORE THAN THAT FROM THE STATE. SO IF THEY'RE NEGLIGENT, YEAH, WE'RE NOT REMOVING THAT. WE'RE NOT REMOVING THAT

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ISSUE IF THE LAW ENFORCEMENT AGENCY IS NEGLIGENT IN THE PROCEDURES THAT THEY HAVE BEEN REQUIRED TO DO. THE ADDITIONAL WORD OF "IMMEDIATELY" MAKES IT VERY CLEAR THIS SECTION DEALS ONLY WITH FELONIES JUST PRIOR TO THE FLIGHT FROM LAW ENFORCEMENT AND IN NOT OLD CRIMES OR ONES WHICH HAVE ALREADY BEEN PROSECUTED. THIS PROVISION IS CONSISTENT WITH AND EVEN MORE NARROW THAN THE CONCURRING OPINION IN THE WERNER CASE WHICH POINTED OUT THE LEGISLATURE COULD DEFINE... [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR WATERMEIER: ...INNOCENT THIRD...THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: SENATOR BRASCH, YOU'RE RECOGNIZED. [LB188]

SENATOR BRASCH: THANK YOU, MR. PRESIDENT, AND GOOD MORNING, COLLEAGUES. TODAY WE'RE RETURNING TO A POINT WHERE WE'RE DISCUSSING THE MERITS AND THE GAPS, THE PROBLEMS THAT PERHAPS MAY BE IN THIS BILL, AND I HAD MY LIGHT ON YESTERDAY WHEN IT TIMED OUT. YESTERDAY WAS A WHOLE DIFFERENT DAY. SENATOR CHAMBERS HAD SUNG US A SONG, QUOTED POPEYE, YOU KNOW, THE DIALOGUE WAS REALLY ROLLING ON THIS, AND I AM LISTENING CLOSELY. I WILL CONTINUE LISTENING CLOSELY. AND ONE THING THAT CAUGHT MY EAR WAS WHEN SENATOR KRIST HAD SAID THE STATEMENT THAT HIS AMENDMENT OR THIS BILL WILL REDUCE THE AMOUNT OF CHASES. I WOULD LIKE SENATOR KRIST TO YIELD TO A QUESTION. [LB188]

SPEAKER HADLEY: SENATOR KRIST, WILL YOU YIELD? [LB188]

SENATOR KRIST: CERTAINLY. [LB188]

SENATOR BRASCH: THANK YOU, SENATOR KRIST. I WANTED TO LET YOU KNOW I WAS GOING TO ASK YOU A QUESTION, BUT I DIDN'T WANT TO INTERRUPT YOUR CONVERSATION. [LB188]

SENATOR KRIST: NO, I APPRECIATE THAT. [LB188]

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SENATOR BRASCH: WHY DO YOU BELIEVE THAT THIS BILL WILL REDUCE CHASES? OR EXPLAIN THAT STATEMENT. THAT'S HOW I HEARD IT. DID I MISHEAR? [LB188]

SENATOR KRIST: SURE. NO, IT WAS A LOGIC TRAIL THAT I BELIEVE IS TRUE. THAT IS THAT THE LESS LIABILITY THAT A POLICE DEPARTMENT, SHERIFF'S DEPARTMENT, WHATEVER, HAS IN TERMS OF THE ACTUAL OUTCOME OF A HIGH-SPEED CHASE, THE MORE LIKELY THEY ARE TO ENGAGE IN A HIGH-SPEED CHASE. AS IT STANDS RIGHT NOW, THERE ARE CITIES, THERE ARE POLITICAL SUBDIVISIONS THAT DO NOT DO HIGH-SPEED CHASES FOR THE REASON THAT THERE'S AN AWFUL LOT OF LIABILITY FOR THE PEOPLE WHO ARE IN THE CAR AND THE PEOPLE WHO ARE PASSERSBY. SO THE LOGIC THAT I SEE IN THIS IS WHEN WE TAKE ALL THE LIABILITY AWAY AND SAY, DO WITH IT AS YOU WILL, I SEE THAT POTENTIALLY IT WOULD LEAD TO MORE HIGH-SPEED CHASES. AND MY CONCERN IS THAT WE PROBABLY NEED LESS HIGH-SPEED CHASES. I HOPE THAT ANSWERS YOUR QUESTION. [LB188]

SENATOR BRASCH: THAT DOES. THANK YOU, SENATOR KRIST. [LB188]

SENATOR KRIST: THANK YOU. [LB188]

SENATOR BRASCH: BECAUSE WHAT I WAS HOPING I WAS NOT HEARING IS THAT IT WAS GOING TO CHANGE THE BEHAVIOR OF THE PERSON DRIVING THE GETAWAY VEHICLE OR THE PASSENGER OF THE VEHICLE THAT IS IN A CHASE. SO AT THIS POINT, WE ARE TALKING ABOUT LIABILITY AND NOT THE CHASE ITSELF BECAUSE I BELIEVE THAT COULD BE CHANGED BY POLICY AND DIRECTION FROM THE POLICE CHIEF OR, YOU KNOW, THE LAW ENFORCEMENT UNIT ON DIRECTION FOR A POLICE CHASE. THIS IS ABOUT LIABILITY, IS MY UNDERSTANDING. AND MY CONCERN WAS JUST A FEW DAYS AGO I HAD A BILL PRESENTED, WHICH I KNOW WILL NOT MOST LIKELY PASS OUT OF COMMITTEE, AND IT WAS ABOUT, BASICALLY, RES IPSA LOQUITUR. AND I UNDERSTAND THAT WHAT THAT IS, AND THE BILL WAS REGARDING CATTLE THAT WOULD GO ON THE ROAD, AND IT'S ALWAYS THE FAULT OF THE RANCHER AND NOT AFFILIATED TO THE BEHAVIOR OF BOVINE. THAT IT'S NOT THAT THEY HAVE A TENDENCY TO DEFY FENCES, THEIR PENS. THEY GET ON THE ROAD AND WHAT I THOUGHT TOO LATE WAS... [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

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SENATOR BRASCH: ...WHEN THE ATTORNEY THAT WAS IN OPPOSITION SAID THAT SINCE THIS LAW WAS PASSED, WE ARE NOT HAVING THESE INCIDENTS. THEY ARE NOT HAPPENING, AS IF IT CHANGED THE BEHAVIOR OF THE CATTLE. CATTLE CAN'T READ, BUT FARMERS AND RANCHERS DO USE CELL PHONES AND TECHNOLOGY IN HELPING TO KEEP THEIR ASSETS, THEIR CATTLE AWAY. SO I WAS HOPING THIS BILL WASN'T SAYING THAT PEOPLE IN A GETAWAY CAR OR PASSENGER WOULD BE MORE LAW-ABIDING. THANK YOU, MR. PRESIDENT, AND THANK YOU, COLLEAGUES. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR BRASCH. SENATOR CRAIG...OH, SORRY, MR. CLERK FOR AN ANNOUNCEMENT. [LB188]

ASSISTANT CLERK: MR. PRESIDENT, THE TRANSPORTATION AND TELECOMMUNICATIONS COMMITTEE WILL MEET IN EXECUTIVE SESSION AT 9:30 IN ROOM 2022. [LB188]

SPEAKER HADLEY: THANK YOU, MR. CLERK. SENATOR CRAIGHEAD, YOU'RE RECOGNIZED. [LB188]

SENATOR CRAIGHEAD: THANK YOU, MR. PRESIDENT, AND GOOD MORNING, COLLEAGUES. I STAND WITH SENATOR WATERMEIER ON THIS BILL. IN MY OPINION, LAW ENFORCEMENT DOES A GOOD JOB, AND HERE WOULD BE MY QUESTION. IF YOU'RE NOT DOING ANYTHING WRONG, WHY ARE YOU RUNNING? IF YOU'RE DOING WHAT YOU'RE SUPPOSED TO, YOU DON'T NEED TO RUN. ALSO WHY DO WE NEED TO MICROMANAGE OUR LAW ENFORCEMENT OFFICIALS? WHY SHOULD WE AUTOMATICALLY GIVE PEOPLE INVOLVED IN A POLICE PURSUIT MILLION DOLLARS OF OUR TAXPAYERS' MONEY, YOUR AND MY MONEY. I YIELD THE REST OF MY TIME TO SENATOR WATERMEIER. [LB188]

SPEAKER HADLEY: SENATOR WATERMEIER, YOU'RE YIELDED 4:20. [LB188]

SENATOR WATERMEIER: THANK YOU, SENATOR CRAIGHEAD, MR. SPEAKER. I'LL JUST CONTINUE ON WITH WHAT I WAS GOING TO USE AS AN OPENING. IN THE CONCURRING OPINION OF THE WERNER CASE, WHICH POINTED OUT THE LEGISLATURE COULD DEFINE INNOCENT THIRD PARTY AS EXCLUDING THOSE WHO ENGAGE IN ILLEGAL ACTIVITY AND CONDUCT. THE AMENDED VERSION OF LB188 REFLECTS 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

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REASONABLE STEPS TO PERSUADE THE DRIVER TO STOP. I INITIALLY 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 A NEXUS AND BY DEFINING NEXUS FOR ME WHAT I MEAN IS THAT THE POLICE PURSUIT, THAT PERSON THAT WAS A PASSENGER HAD TO BE A PART OF THE ORIGINAL POLICE PURSUIT, WHICH MAYBE HE COMMITTED A BANK ROBBERY, THEY RAN TO THE CAR, SO HE WOULD BE CONSIDERED A NEXUS TO THE ISSUE. WHERE WE'VE SEEN SEVERAL OF THESE CASES WHERE THAT IS JUST NOT FEASIBLE FOR ME TO GO ALONG WITH THAT, IT COULD VERY WELL BE THAT A PERSON GETS PULLED OVER FOR A DRUNK DRIVER, HE'S SWAYED, HE'S MOVED OVER THE CENTER LINE. THE POLICE OFFICER PULLS...STARTS TO PULL HIM OVER, INITIATES THE POLICE PURSUIT FOR THAT REASON. BUT THE PERSON IN THE FRONT SEAT SAYS, HEY, I JUST DID THIS YESTERDAY. WE GOT TO GO. OR I JUST DID THIS LAST MONTH, I WANT TO GO. SO HE'S PROVOKING IT. EVEN THOUGH I KNOW IN SECTION B WE CLEARLY DEFINE THAT, WE NEED TO SUBSTANTIALLY CODIFY THAT. WE NEED TO MAKE THAT STRONGER. I HAVE NARROWED THIS NEW SUBSECTION C SO THAT IT APPLIES TO FELONIES COMMITTED WHILE IN FLEEING VEHICLE OR IMMEDIATELY PRIOR TO ENTERING INTO THE VEHICLE. THIS IS AS CLOSE AS I CAN COME TO NEXUS WITHOUT JEOPARDIZING THE CREDIBILITY OF THE BILL. IN SUMMARY, THE ONLY LANGUAGE IN THE BILL THAT IS NEW, AND THAT IS NOT IN CASE LAW, IS SECTION C. IT HAS BEEN SUBSTANTIALLY NARROWED, BUT REMAINS ABSOLUTELY NECESSARY TO DEAL WITH SUCH CASES 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 THE DRIVER TO RUN FROM THE POLICE? I AM NOT AN ATTORNEY. I'VE MADE THAT VERY CLEAR. SENATOR CHAMBERS HAS MADE IT VERY CLEAR, BUT I WILL TELL YOU THIS. I HAVE VOLUNTARILY WENT TO THE LOBBY ON THIS BECAUSE I AM NOT AN ATTORNEY. I WENT TO THE PEOPLE WHO DEAL WITH THIS. I WENT TO THE TAXPAYERS REPRESENTED BY COUNTY COMMISSIONERS WHO DEAL WITH THIS. JUST LIKE IN MY OWN BUSINESS, I TURN OVER A LOT OF THE WORK TO CONSULTANTS. I GET THEIR ADVICE, I TAKE IT UNDER ADVISEMENT, AND I GO FURTHER. I HAVE A HALF A DOZEN ATTORNEYS THAT I TRUST. I HAVE HALF A DOZEN BUSINESS ANALYSIS PEOPLE THAT I TRUST. WE NEED THE LOBBY. THEY ARE HERE TO EDUCATE US. THEY'RE NOT HERE TO VOTE. WE'RE NOT BEING MANIPULATED BY THE LOBBY. I WAS ENCOURAGED AT THE END OF GENERAL FILE, DON'T LISTEN TO THOSE BEHIND THE GLASS, WE CAN DECIDE IN HERE. HELLO! THERE'S BOTH SIDES OF THE ARGUMENT BEHIND THE GLASS. THOSE

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ARGUING AGAINST THIS BILL ARE LISTENING TO A DIFFERENT OPINION THAN WHAT I AM. I HAVE REACHED OUT TO BOTH SIDES OF THE LOBBY. I RESPECT BOTH SIDES OF THE LOBBY. [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. I AM NOT AN ATTORNEY, AND I WON'T PROFESS TO BE ONE, OR PROFESS IT IN LEGAL ISSUES. HOWEVER, I HAVE WORKED WITH SOME VERY COMPETENT LAWYERS AND ATTORNEYS. I FEEL THAT I HAVE RECEIVED SOME VERY SOUND, LEGAL ADVICE. SOME SAY THIS BILL ISN'T IMPORTANT BECAUSE IT DOESN'T AFFECT THAT MANY CASES. IT IS IMPORTANT. WE DECIDE POLICY IN THIS BUILDING. MAYBE WE GET A BIG HEAD IN HERE AND DECIDE WE'RE LAWMAKERS. AND YOU COULD DESCRIBE THE WORK WE DO AS LAWMAKING. IN MY OPINION, WE ARE MAKING POLICY. AS THE STATE OF NEBRASKA, WE SAID IN THE EARLY '80S, WE DECIDED AS A STATE WE'RE GOING TO BE THE ONLY STATE THAT HAS A STRICT LIABILITY ON THEIR LAW ENFORCEMENT AGENCIES. I DIDN'T KNOW ANYTHING ABOUT THAT IN 1981. BUT TODAY I WOULD AGREE THAT'S A GOOD THING BECAUSE WE'VE GOTTEN TO THE POINT WHERE WE NEED TO REDUCE THESE HIGH, DANGEROUS POLICE PURSUITS. AND WE HAD PUT IN PLACE MANY STATUTES AND MADE IN POLICIES... [LB188]

SPEAKER HADLEY: TIME, SENATOR. [LB188]

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

SPEAKER HADLEY: THOSE IN THE QUEUE: SENATOR GROENE, WATERMEIER, CHAMBERS, HUGHES, AND OTHERS. SENATOR GROENE, YOU'RE RECOGNIZED. [LB188]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. LAST TIME WE DEBATED THIS, I TOLD THE STORY, THEY SAY THIS RARELY HAPPENS. AND MY CITY ADMINISTRATOR CALLED ME DURING THE DEBATE AND SAID, WE JUST HAD A CLAIM ON THIS. IN NORTH PLATTE, IN 2011 TWO YOUNG MEN, CAUCASIAN MALES, IN THE MIDDLE OF THE NIGHT, MIDDLE OF THE MORNING, I GUESS, EARLY MORNING, SPEEDING THROUGH TOWN, POLICE GAVE PURSUIT. PURSUED FOR A WHILE, SERGEANT IN CHARGE AT THE OFFICE CALLED OFF THE PURSUIT. THE INDIVIDUALS CONTINUED TO RUN, MISSED A CORNER, RAN INTO A HOUSE. PASSENGER WAS BASICALLY INEBRIATED. WHEN HE WOKE UP, A LAWYER WAS

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WAITING FOR HIM. HE SUED. IN 2015, HE WAS REWARDED \$55,000. WE HAD TO DELIVER THE CHECK TO HIS RESIDENCE. WE DELIVERED IT TO THE DOUGLAS COUNTY JAIL. HE CONTINUED HIS CAREER. OUR INSURANCE COMPANY IN NORTH PLATTE...OUR CITY PAYS \$25,438 FOR A PREMIUM, LIABILITY PREMIUM. YOU SAY THAT'S A LOT. THAT IS JUST THE CLAUSE FOR LAW ENFORCEMENT LIABILITY, JUST THE PART THAT COVERS THE LIABILITY FOR A TOWN OF 25,000 PEOPLE. AND WHY? BECAUSE WE'RE THE ONLY STATE THAT EXEMPTS HIGH-SPEED PURSUITS, PASSENGERS, INNOCENT BYSTANDERS, FROM COMMON TORT LAW. AM I A LAWYER? NO. BUT I'VE ALWAYS BELIEVED OUR LAWS ARE WRITTEN FOR THE COMMON MAN. I DON'T NEED IT INTERPRETED BY ANYBODY. BESIDES, WHEN IT COMES TO LAWYERS, I'VE ALWAYS UNDERSTOOD THAT HALF OF THEM ARE WRONG IN THE COURTHOUSE EVERY DAY. UNDER TORT LAW, COMMON LAW, ALL OF...I'LL GIVE YOU AN EXAMPLE. A BANK ROBBERY IS GOING ON, TWO POLICE CARS CHASE. ONE OF THEM HAS AN ACCIDENT ON THE WAY. THE PERSON CAN SUE UNDER TORT LAW. THEY GOT TO PROVE NEGLIGENCE. THE OTHER POLICE CAR CONTINUES TO THE BANK ROBBERY. BANK ROBBER JUST RUNS OUT OF THE BANK, JUMPS INTO A CAR, PURSUIT CONTINUES. NOW IT'S A PURSUIT. THE LAW HAS CHANGED. TORT LAW CHANGES IN NEBRASKA. NOW, IF ANYTHING HAPPENS IN THAT PURSUIT, THE POLICE, THE CITY IS GUILTY UNTIL PROVEN INNOCENT. OUR LAW CHANGES AT THAT MOMENT. NOWHERE IN THE COUNTRY IS IT THAT WAY. EVERYWHERE ELSE, IF A FIRE TRUCK GOES THROUGH AN INTERCHANGE WITH THE SIRENS GOING AND HITS A CAR, THAT PERSON THEY HIT HAS TO SUE AND PROVE NEGLIGENCE IN OUR COURTS UNDER COMMON LAW. HERE'S ONE FOR YOU. WHAT HAPPENS IF THE POLICE OFFICER PURSUES ON FOOT AND RUNS INTO A LITTLE OLD LADY AND THROWS HER INTO THE DITCH AND BREAKS HER BACK? THAT LADY HAS TO SUE UNDER COMMON LAW AND PROVE NEGLIGENCE BECAUSE IT WASN'T A VEHICLE. LET'S BE HONEST. THIS HAS NOTHING TO DO ABOUT THE INDIVIDUAL RIGHTS OF LAW. THIS HAS TO DO WITH SOCIAL ENGINEERING. THIS LAW EXISTS TO DETER POLICE SUITS (SIC-- PURSUITS) TO TAKE AWAY PROTECTIONS THAT I HAVE AS A CITIZEN OF MY POLICE TO PURSUE THE GUILTY PARTY. AND WE ALL KNOW THIS AFFECTS THE WHOLE CULTURE. SOMEBODY'S KIDNAPPED, A CHILD MOLESTER TAKES A CHILD THAT HAS A HISTORY OF NOT LETTING THE CHILD LIVE. WHAT DOES THE POLICE THINK? DO WE PURSUE? WILL WE GET SUED? THIS LAW IS BAD LAW... [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR GROENE: ...AND IT NEEDS TO BE CHANGED. THIS IS AN EXCEPTION IN NEBRASKA THAT THE REST OF THE COUNTRY STILL FOLLOWS ARE COMMON LAW, ARE COMMON TORT LAWS. THIS NEEDS TO CHANGE. IT'S AFFECTED OUR

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TAXPAYERS IN NORTH PLATTE WITH OUR PREMIUMS FOR LIABILITY. IT AFFECTED OUR POLICE'S ATTITUDE TO DO THEIR JOB BECAUSE SOMEBODY WANTS TO SOCIAL ENGINEER POLICE BEHAVIOR. I WANT THEM TO PROTECT ME. I WANT THEM TO PROTECT MY GRANDCHILDREN. I TRUST THEM. THANK YOU. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR GROENE. SENATOR WATERMEIER, YOU'RE RECOGNIZED. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. WE'LL JUST CLEAN UP WITH WHAT I HAD STARTED WITH ON MY OPENING HERE. SOME SAY THIS BILL ISN'T IMPORTANT BECAUSE IT DOESN'T AFFECT THAT MANY CASES. IT IS IMPORTANT AND EACH CASE HAS THE POTENTIAL TO COST TAXPAYERS ONE MILLION DOLLARS AND EVEN MORE IF IT'S A STATE LIABILITY. I ALSO HAVE A REAL HARD TIME SEEING TAXPAYERS' MONEY USED TO COMPENSATE A FELON WHO HAS PROVOKED A DRIVER TO RUN FROM LAW ENFORCEMENT. I INTRODUCED THIS BILL BECAUSE A COUNTY COMMISSIONER AND A DEPUTY SHERIFF CONTACTED ME AFTER READING THE WERNER CASE AND SAID, THIS IS NOT RIGHT. CAN'T SOMETHING BE DONE? I WAS THE ONE WHO CONTACTED NIRMA. DUE TO THE DILIGENCE OF SENATOR CHAMBERS, THE NUMBER OF POLICE PURSUITS HAS DECREASED SIGNIFICANTLY, WHICH IS GOOD. HOWEVER, LAW ENFORCEMENT STILL NEED TO BE ABLE TO USE THIS TOOL IN CERTAIN CIRCUMSTANCES. I BELIEVE THAT THE LAW WAS ENACTED IN AN EFFORT TO PROTECT THOSE TRULY INNOCENT THIRD PARTIES, SUCH AS BYSTANDERS AND PERSONS IN OTHER VEHICLES. I DON'T BELIEVE THAT ANYONE WOULD HAVE ENVISIONED HOW THE LAW WOULD HAVE EVOLVED. LB188 MAKES SOME COMMONSENSE CHANGES TO THE LAW THAT I THINK THAT IT'S OUR RESPONSIBILITY TO MAKE. I WILL JUST TELL THE MEMBERS AND THOSE LISTENING THAT I HAVE BEEN IN CONVERSATION STILL, WORKING AS HARD AS I CAN BEHIND THE SCENE. AND SENATOR MELLO AND I HAVE TALKED ABOUT SEVERAL ISSUES IN THE LAST 12 HOURS, AND I'M GOING TO YIELD THE REST OF MY TIME TO HIM WITH ANOTHER PROPOSED AMENDMENT THAT HE'S GOING TO OFFER. SO, MR. PRESIDENT. SENATOR MELLO, I'D LIKE TO YIELD THE TIME. [LB188]

SPEAKER HADLEY: SENATOR MELLO, YOU'RE YIELDED 3:30. [LB188]

SENATOR MELLO: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE. THIS WAS NOT AN ISSUE, OBVIOUSLY, THAT I'VE SPENT A LOT OF

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MY LEGISLATIVE CAREER WORKING ON. AND UNTIL WE STARTED DISCUSSING IT ON GENERAL FILE, AND I SAW THAT IT LOOKED LIKE IT WAS A CONTENTIOUS ISSUE AFTER IT CAME OUT OF JUDICIARY COMMITTEE, I STARTED TO ASK QUESTIONS, BOTH FROM SENATOR WATERMEIER AND OTHER SENATORS ON JUDICIARY TO FIND A LITTLE BIT MORE ABOUT THE ISSUE. AND BETWEEN GENERAL FILE AND WHERE WE'RE AT NOW, I'VE TRIED TO REACH OUT TO THOSE WHO SUPPORTED THE BILL, BOTH IN REGARDS IN THE INTEREST REPRESENTING CITIES AND COUNTIES, AS WELL AS THOSE WHO OPPOSE THE BILL REPRESENTING THE NEBRASKA ASSOCIATION OF TRIAL LAWYERS. AND WHAT WE'VE KIND OF COME TO IN REGARDS TO WHAT I WOULD SAY IS A GENUINE WORD OF TRYING TO FIND A COMPROMISE ON LB188 IS, THE AMENDMENT THAT I FILED ON FINAL READING, AM2312, IT BUILDS ON THE AMENDMENT COMPROMISE THAT SENATOR WATERMEIER PUT ON SELECT FILE THAT WE ADOPTED YESTERDAY. AND THAT AMENDMENT, AM2312, SIMPLY ADDS LANGUAGE TO THE BILL AS IT STANDS NOW THAT INCORPORATES ESSENTIALLY ENSURING THAT THE LIABILITY IS ONLY DIRECTED TOWARDS THOSE INDIVIDUALS THAT HAVE EITHER A WARRANT FOR THEIR ARREST ON A FELONY I, FELONY II, OR FELONY III CHARGE, OR IS ENGAGED IN CONDUCT CHARGEABLE OR CONSTITUTING A CLASS I, CLASS II, OR CLASS III FELONY WHILE IN OR ON, IMMEDIATELY PRIOR TO THE ENTRY INTO A FLEEING VEHICLE. AND TO SOME EXTENT, WE TRIED TO FIND A WAY IN DISCUSSIONS BETWEEN YESTERDAY, LAST NIGHT, AND THIS MORNING TO FIND A WAY FORWARD ON THIS BILL IN LIGHT OF WHAT SENATOR WATERMEIER WAS ORIGINALLY TRYING TO PROPOSE WHERE THE OPPOSITION CURRENTLY IS ON THE BILL. AND I WANT TO REMIND EVERYONE TO SOME EXTENT, I HAVE NOTHING BUT RESPECT FOR SENATOR CHAMBERS WHO WORKED ON THIS ISSUE FOR HIS CAREER IN REGARDS TO TRYING TO STOP POLICE PURSUITS. I WOULD BE THE FIRST TO TELL YOU, I DO NOT DISAGREE THAT WE SHOULD BE TRYING TO MINIMIZE POLICE PURSUITS AT ANY CHANCE WE GET. THAT'S SOMETHING WE HAD TALKED ON GENERAL FILE ABOUT THIS BILL. AND A NUMBER OF THOSE WHO ARE CONFLICTED ON THIS BILL, I THINK, AGREES GENERALLY THAT WE WANT TO TRY TO MINIMIZE THAT TO THE BEST OF OUR ABILITIES BECAUSE OF THE POTENTIAL IMPACT IT HAS ON THE GENERAL PUBLIC. I THINK WHAT WE HAVE, THOUGH, WHAT WE TRIED TO CRAFT, I THINK, WITH THE COMPROMISE ON LB188 WITH AM...WITH ESSENTIALLY AM2312 FINDS WHAT WE THINK IS A MIDDLE GROUND BETWEEN THE OPPOSITION AND THE PROPONENTS OF THE BILL THAT STILL SALVAGES WHAT I WOULD SAY ARE THOSE...THOSE INDIVIDUALS WHO HAVE COMMITTED... [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

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SENATOR MELLO: ...A SERIOUS OFFENSE. A FELONY I, FELONY II, AND FELONY III OFFENSE ARE SERIOUS OFFENSES, EITHER HAVING A WARRANT OUT FOR YOUR ARREST OR COMMITTING A CRIME IMMEDIATELY PRIOR TO ENTERING A FLEEING VEHICLE. COLLEAGUES, THAT'S A MUCH MORE SERIOUS OFFENSE AND A MUCH MORE SERIOUS, I THINK, MINDSET THAT WE WANT LAW ENFORCEMENT TO BE CONSIDERING IN LIGHT OF, IF THEY FEEL THAT THEY ABSOLUTELY NEED TO ENGAGE IN A CHASE. WE'RE TRYING TO MINIMIZE IT, I WOULD SAY, OF TARGETING THE MOST SERIOUS OFFENSES. I KNOW THIS MAY NOT...I KNOW THIS AMENDMENT DOESN'T PROBABLY GO FAR ENOUGH FOR MY COLLEAGUES, SENATOR SCHUMACHER, SENATOR CHAMBERS. I'M GOING TO TALK WITH SENATOR SCHUMACHER OFF THE MIKE A LITTLE BIT MORE ABOUT IT, BUT I THINK, TO SOME EXTENT, IT'S A COMMON GROUND THAT WE'RE TRYING TO FIND BETWEEN THE OPPOSITION AND THE PROPONENTS OF THE BILL. WE'RE NOT GOING TO GET TO IT TODAY ON SELECT FILE, SO I FILED IT ON FINAL READING WITH THE HOPES THAT WE CAN GET TO IT ON FINAL READING AND HAVE A DISCUSSION TO TRY TO MITIGATE, I THINK, A NUMBER OF THE CONCERNS THAT HAVE BEEN RAISED BY THE OPPOSITION... [LB188]

SPEAKER HADLEY: TIME, SENATOR. [LB188]

SENATOR MELLO: ...OVER THE GENERAL AND SELECT FILE DEBATE. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR WATERMEIER AND SENATOR MELLO. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE, THIS IS JUST A STRATAGEM TO TRY TO GET YOU TO VOTE FOR CLOTURE. THE AMENDMENT WAS NOT OFFERED HERE, BUT ON FINAL READING SO THEY CAN TELL YOU THE ONLY WAY WE GET TO THAT AMENDMENT IS BY WAY OF VOTING CLOTURE TODAY. THE BILL STILL IS NOT WHAT IT NEEDS TO BE. I'D LIKE TO ASK SENATOR MELLO A QUESTION OR TWO ABOUT THIS SUPPOSED COMPROMISE. [LB188]

SPEAKER HADLEY: SENATOR MELLO, WILL YOU YIELD TO A QUESTION? [LB188]

SENATOR MELLO: ABSOLUTELY. [LB188]

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SENATOR CHAMBERS: SENATOR MELLO, UNDER THIS AMENDMENT THERE STILL IS NO NEED FOR THESE PURSUING OFFICERS TO NOTIFY THEIR SUPERVISOR THAT THERE'S SOMETHING ABOUT THE PASSENGER THAT LEADS THEM TO INITIATE A CHASE, IS THERE? [LB188]

SENATOR MELLO: YOU ARE ABSOLUTELY CORRECT, SENATOR CHAMBERS. [LB188]

SENATOR CHAMBERS: SO IT IS NOT SOMETHING THAT WILL MODIFY BY ITSELF THE CONDUCT OF THESE OFFICERS, WILL IT? [LB188]

SENATOR MELLO: NOT THE SAME WAY THAT I WOULD SAY SENATOR SCHUMACHER'S AMENDMENT WAS SEEKING TO DO YESTERDAY, NO. [LB188]

SENATOR CHAMBERS: AND ALL IT GOES TO IS THE ISSUE OF LIABILITY. NOW, SENATOR SCHUMACHER'S AMENDMENT YESTERDAY WAS TO PUT INTO THE LAW WHAT SENATOR WATERMEIER SAID WOULD BE THE BURDEN OF PROOF. THAT THE COUNTY, THE CITY, OR THE AGENCY THAT EMPLOYED THE PURSUING OFFICER WOULD HAVE THE BURDEN OF PROOF TO ESTABLISH THAT THIS PERSON SHOULD BE DENIED RECOVERY. WHEN SENATOR SCHUMACHER OFFERED AN AMENDMENT TO SAY THAT, SENATOR WATERMEIER OPPOSED IT. HE SAID THAT'S NOT THE THING TO DO, THAT'S NOT RIGHT. THEN WHEN SENATOR SEILER BEGAN TO QUESTION SENATOR WATERMEIER, SENATOR WATERMEIER SAID THE VERY THING...SENATOR SEILER WAS QUESTIONING SENATOR WATERMEIER ABOUT THE BURDEN OF PROOF. SENATOR WATERMEIER ARTICULATED EXACTLY WHAT SENATOR SCHUMACHER'S AMENDMENT HAD SAID, BUT HE DIDN'T KNOW THAT. HE WENT OUT TO THE LOBBY AND THEY TOLD HIM TO OPPOSE IT. THE STANDARD IS BEING SET IN HERE TODAY BY THE LOBBY. SENATOR MELLO ACKNOWLEDGES THAT HE HASN'T BEEN MUCH OF A PARTICIPANT IN THIS DISCUSSION. I'VE BEEN VERY ACTIVE IN IT, SO HAVE OTHERS. SO I AM NOT PERSUADED THAT THIS IS GOING TO DO ANYTHING ALONG THE LINE OF WHAT NEEDS TO BE DONE. IF SENATOR MELLO REALLY WAS OF A MIND TO HELP FACILITATE MATTERS, HE SHOULD HAVE TALKED TO SENATOR WATERMEIER AND TOLD HIM TO TELL THE LOBBY TO TAKE A HIKE AND ADOPT SENATOR SCHUMACHER'S AMENDMENT. I STATED YESTERDAY THAT IF SENATOR SCHUMACHER'S AMENDMENT HAD BEEN ADOPTED, I'D LEAVE THE BILL ALONE, EVEN THOUGH IT WASN'T WHAT I REALLY CHOSE. SENATOR SCHUMACHER'S BILL WAS A TRUE COMPROMISE BECAUSE IT DID SOMETHING SUBSTANTIVE IN TERMS OF SETTING FORTH THE LAW. SENATOR WATERMEIER AND THIS AMENDMENT

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ARE JUST STOPGAPS TO TRY TO GET PEOPLE TO VOTE AGAINST...TO VOTE FOR CLOTURE. MAYBE THEY'LL GET CLOTURE, BUT WE'LL JUST HAVE TO WAIT AND SEE, WON'T WE? AND YOU'LL NOTICE THAT THEY LINED UP AS SPEAKERS ALL THE PEOPLE ON SENATOR WATERMEIER'S SIDE. THAT'S WHY SENATOR MELLO HAS ABSOLUTELY NO CHANCE TO DO ANYTHING ON SELECT FILE, AND IT'S WHY SENATOR MELLO HAD TO BE YIELDED TIME. BUT NOTHING HAS CHANGED FROM YESTERDAY, SO I REMAIN ADAMANTLY OPPOSED TO THE BILL... [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...AS IT'S PRESENTED. THE SO-CALLED COMPROMISE THAT SENATOR MELLO IS SAYING HAS BEEN FILED FOR FINAL READING IS JUST A STRATAGEM AND IT DOESN'T GET TO THE REAL ISSUE. I DON'T EVEN NEED TO TAKE THE REST OF THE SECONDS I MAY HAVE, MR. PRESIDENT. THANK YOU VERY MUCH. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR CHAMBERS. SENATOR FOX, YOU'RE RECOGNIZED. [LB188]

SENATOR FOX: YEAH, I WOULD JUST LIKE TO REITERATE WHAT SENATOR CRAIGHEAD SAID AND THAT LAW ENFORCEMENT DOES DO A GOOD JOB. AND THIS BILL I DON'T BELIEVE IS NECESSARILY GOING TO LEAD TO MORE OR LESS PURSUITS. AGAIN, WE'RE JUST TRYING TO DEFINE WHO AN INNOCENT THIRD PARTY IS BECAUSE CURRENTLY ALL INJURED THIRD PARTIES, THIRD PERSONS ARE ABLE TO SUE AND THEY'RE ALL ABLE TO COLLECT. BUT WE'RE JUST TRYING TO DEFINE WHO NEEDS TO CARRY THE BURDEN OF PROOF OF PROVING THEIR INNOCENCE BEFORE THEY CAN COLLECT. AS A TAXPAYER, I WOULD WANT THAT. I YIELD THE REST OF MY TIME TO SENATOR WATERMEIER. [LB188]

SPEAKER HADLEY: SENATOR WATERMEIER, YOU'RE YIELDED 4:15. [LB188]

SENATOR WATERMEIER: THANK YOU, SENATOR FOX AND MR. SPEAKER. I REALLY DON'T HAVE A LOT MORE TO ADD TO THIS BILL THAN PROCEDURALLY, SENATOR CHAMBERS IS CORRECT. THE AMENDMENT THAT WE HAD COME TO AGREEMENT ON LATE YESTERDAY AND AGAIN THIS MORNING, BECAUSE OF THE PRIORITY MOTIONS TO RECOMMIT AND POTENTIALLY ONE OTHER ONE AFTER THAT I BELIEVE TO BRACKET AGAIN BECAUSE IT'S A SEPARATE DAY. IF IT WOULD HAVE HAPPENED ALL IN THE SAME DAY, I DON'T BELIEVE HE COULD BRING UP ANOTHER BRACKET MOTION ON THE SAME BILL. PROCEDURALLY, WE WON'T BE

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ABLE TO GET TO THIS ON SELECT FILE UNLESS SENATOR CHAMBERS PULLS HIS RECOMMIT, AND THEN I WOULD OFFER THAT VERY SAME AMENDMENT TODAY YET ON SELECT FILE SO WE COULD BE DONE WITH THIS. BUT LET ME JUST REITERATE A LITTLE BIT OF WHAT I HANDED OUT. I'M SURE WITHOUT A SHRED OF DOUBT THAT I MISREPRESENTED YESTERDAY THE BURDEN OF PROOF DISCUSSION. WHEN SENATOR SEILER HAD ASKED ME A QUESTION, I'M COMPLETELY OUT OF MY CONTEXT. I'M THE FIRST PERSON TO ADMIT THAT. BUT WHAT I PUT TOGETHER WAS A HANDOUT. AND IF ANYBODY HAD A CHANCE TO LOOK AT IT, I MIGHT JUST READ THIS FIRST PART TO IT. LB188 DOES NOT ALTER OR AMEND THE EXISTING BURDEN OF PROOF UNDER THE TORT CLAIMS ACT. ALL THE TALK ABOUT THIS BURDEN IS A LITTLE BIT HARD FOR ME TO LISTEN TO. LB188 ADDS ONLY ONE SECTION OF NEW LANGUAGE AND NOT ALREADY PART OF THE NEBRASKA CASE LAW SUBSECTION 5(C) REGARDING PASSENGERS ENGAGING IN FELONY CONDUCT WHILE IN OR IMMEDIATELY PRIOR TO ENTRY INTO THE FLEEING VEHICLE. THE BURDEN OF PROOF UNDER THIS NEW SECTION IS THE POLITICAL SUBDIVISION AND NOT THE PASSENGER. PROCEDURALLY, THE PASSENGER WILL BE INVOLVED BECAUSE THEY WILL HAVE TO COME TO THE COURT AND SAY, I WAS HARMED. UNDER THE EXISTING TORT CLAIMS LAW, STATUTES AND EXISTING CASE LAW, THE GENERAL PROCEDURES AND BURDEN OF PROOF IS AS FOLLOWS: A PLAINTIFF SEEKING TO RECOVER DAMAGES FROM A CITY, A COUNTY, OR THE STATE OF NEBRASKA MUST FILE A CLAIM AGAINST THE POLITICAL SUBDIVISION UNDER THE APPLICABLE TORT CLAIMS ACT. THIS INCLUDES PASSENGERS IN VEHICLES FLEEING FROM LAW ENFORCEMENT. AS IN ANY TORT CLAIM THE PLAINTIFF, SUCH AS THE PASSENGER IN THE FLEEING VEHICLE, MUST PROVE THE BASIC ELEMENTS OF THEIR CLAIM. THEY MUST PROVE THEIR CASE BY THE PREPONDERANCE OF THE EVIDENCE. IF A PLAINTIFF IS SEEKING TO RECOVER AN INNOCENT THIRD PARTY UNDER THE STATUTORY PROVISION COVERING LAW ENFORCEMENT PURSUITS, THEY MUST SHOW THE FOLLOWING: ONE, THEY ARE A PERSON INSIDE OR OUTSIDE THE VEHICLE WHO WAS NOT THE DRIVER OF THE VEHICLE AND THEY DID NOT PROMOTE, PROVOKE, OR PERSUADE THE DRIVER TO FLEE. NUMBER TWO, A PURSUIT INITIATED BY LAW ENFORCEMENT OCCURRED. THREE, THE PURSUIT WAS THE PROXIMATE CAUSE OF INJURY OR DAMAGE TO THE PLAINTIFF. AND FOURTH, THE NATURE AND THE EXTENT OF THE INJURY AND THE AMOUNTS OF THE DAMAGE INCURRED. THESE CASES ARE TRIED TO A JUDGE, NOT A JURY. IN PAST CASES THAT HAVE BEEN TRIED, THE INNOCENT THIRD PARTY STATUS OF THE PLAINTIFF HAS BEEN SHOWN BY THE PASSENGERS STATING, I TOLD THE DRIVER TO STOP AND LET ME OUT. ONCE THEY TESTIFIED OF THIS, THEY ARE OFF THE HOOK. BUT I UNDERSTAND THE COMPLEXITY OF WHAT GOES ON BEHIND THE SCENES IN THESE CIVIL CASES. I UNDERSTAND IT AND I APPRECIATE IT. THAT'S WHY I USE

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CONSULTANTS IN EVERYTHING I DO, IN THE CORPORATIONS THAT I OWN AND IN THE BUSINESS I DO IN HERE. [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR WATERMEIER: I CONSULT WITH PEOPLE THAT ARE EXPERTS IN THIS THAT DO IT ALL THE TIME. IF YOU ARE REALLY CONCERNED ABOUT WHAT GOES ON IN SOME OF THESE CASES, I WOULD CHALLENGE YOU TO WALK OUTSIDE THE BODY AND ASK SOMEONE THAT DOES IT. YOU WILL BE CONFIRMED AS I WAS. I REALLY DON'T KNOW WHO IN THIS BODY HAS ACTUALLY HAD FIRSTHAND EXPERIENCE IN DOING THIS. I THINK IT LIES OUTSIDE OF OUR EXPERTISE AND THAT'S WHERE I WENT TO LOOK. IN THE PAST CASES THAT HAVE BEEN TRIED, THE INNOCENT THIRD-PARTY STATUS OF THE PLAINTIFF HAS BEEN SHOWN BY THE PASSENGER STATING, I SIMPLY TOLD HIM TO STOP. THE BURDEN SHIFTS TO THE COUNTY, CITY, STATE TO PROVE OTHERWISE. AT THAT POINT IN TIME, THE BURDEN SHIFTS TO THE POLITICAL SUBDIVISION. SO AS A PRACTICAL MATTER IN REAL LIFE, THE BURDEN ENDS UP ON THE POLITICAL SUBDIVISION FOR THE ELEMENT. UNDER CURRENT CASE LAW, IT IS ALSO THE POLITICAL SUBDIVISION'S BURDEN TO SHOW AS AN AFFIRMATIVE DEFENSE THAT THE PERSON CLAIMING DAMAGES, WHO WAS A PASSENGER IN A FLEEING VEHICLE, WAS ONE WHO WAS SOUGHT TO BE APPREHENDED. NOW IF ANYONE WANTS TO READ THIS AND ASK ME SOME QUESTIONS ON IT, THEY CAN MAKE ME LOOK LIKE AN IDIOT. AS SENATOR CHAMBERS HAS CLEARLY SAID, FOR THE LAST YEAR AND A HALF... [LB188]

SPEAKER HADLEY: TIME, SENATOR. [LB188]

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

SPEAKER HADLEY: THANK YOU, SENATOR FOX AND SENATOR WATERMEIER. MR. CLERK FOR A MOTION. [LB188]

ASSISTANT CLERK: MR. PRESIDENT, I HAVE A PRIORITY MOTION, A HIGHER PRIORITY MOTION THAT IS FROM SENATOR CHAMBERS TO MOVE TO BRACKET THE BILL UNTIL APRIL 20. [LB188]

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

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SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE, I'VE BEEN AROUND HERE A LONG TIME, AND SENATOR WATERMEIER'S PEOPLE, MAINLY FROM THE LOBBY, DID NOT WANT ME TO HAVE A CHANCE TO SPEAK ON THIS ISSUE. SO THEY TOLD HIM TO HAVE ALL THESE PEOPLE TURN THEIR LIGHTS ON. AND THAT'S ALL RIGHT, BUT I'VE TOLD THEM, AND MAYBE SENATOR GROENE WILL LEARN FROM THIS WHEN HE JOINS THESE GROUPS, YOU CAN'T STOP ME FROM TALKING. YOU THINK YOU CAN, BUT YOU CANNOT. WE'RE DEALING NOW WITH THE PROCESS OF THE LEGISLATURE, AND WHAT THEY'VE DONE IS PERFECTLY ALL RIGHT. YOU DON'T HEAR ME GRIPING ABOUT IT LIKE THEY HAVE DONE IN THE PAST BECAUSE THEY WERE SLOW ON THE UPTAKE. I LET THEM DO WHATEVER THEY WANT TO DO, BUT I'D LIKE TO ASK SENATOR WATERMEIER A QUESTION OR TWO. [LB188]

SPEAKER HADLEY: SENATOR WATERMEIER, WILL YOU YIELD? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR CHAMBERS: SENATOR WATERMEIER, WHO WROTE THAT INFORMATION FOR YOU THAT YOU JUST READ TO US ABOUT BURDEN OF PROOF? [LB188]

SENATOR WATERMEIER: DO YOU WANT TO KNOW WHO WROTE EACH WORD, WORD FOR WORD? I WROTE SOME, MY STAFF WROTE SOME, AND THE INDIVIDUALS I'VE BEEN CONSULTING WITH HELPED ME WRITE THEM. [LB188]

SENATOR CHAMBERS: WHICH MEANS, THE LOBBY. THE LOBBY IS THE ONE THAT INITIATED THAT, ISN'T IT TRUE? [LB188]

SENATOR WATERMEIER: I INITIATED IT BECAUSE I ASKED FOR IT. [LB188]

SENATOR CHAMBERS: THANK YOU. MEMBERS OF THE LEGISLATURE, YOU SEE HOW EVASIVE HE IS. WE KNOW THE LOBBY DID IT. WE KNOW THE LOBBY IS SENDING HIM HERE WITH INSTRUCTIONS. WHY CAN HE NOT JUST ADMIT IT? BUT EVEN NOW, HE'S PLAYING FAST AND LOOSE WITH THE PROCESS, WHICH HE IS AT LIBERTY TO DO, BUT THE ISSUE STILL REMAINS THE SAME. THERE IS NO REQUIREMENT UNDER THIS SUPPOSED COMPROMISE THAT SENATOR MELLO OFFERED THAT THESE PEOPLE WHO ARE GOING TO DO THIS CHASE GIVE NOTIFICATION. SENATOR FOX AND SENATOR CRAIGHEAD ARE TRYING TO BE GOOD SOLDIERS, BUT WHAT THEY SAID WAS ABSOLUTELY IRRELEVANT. WE'RE

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NOT TALKING ABOUT HOW GOOD LAW ENFORCEMENT IS. WE'RE TALKING ABOUT HIGH-SPEED CHASES OR PURSUITS. AND BY THE WAY, THEY DON'T EVEN HAVE TO BE HIGH SPEED. SENATOR WATERMEIER KNOWS THAT PEOPLE HAVE GOTTEN TIRED OF THIS BILL, AND HE KNOWS IT BECAUSE THE LOBBY TOLD HIM. SO THE LOBBY SAID, WE WILL GIVE YOU A METHOD AND WE HOPE IT WORKS THAT WILL GET PEOPLE TO VOTE FOR CLOTURE AND MOVE THE BILL ON. THAT IS THEIR PREROGATIVE, BUT THEY OUGHT TO AT LEAST ACKNOWLEDGE WHAT IT IS BEFORE I HAVE TO PULL THE COVER OFF THEM. IF SENATOR KINTNER'S HERE...WELL, HE'S NOT, AS USUAL, BUT HERE'S WHAT I WAS GOING TO MENTION. HE TALKED ABOUT HOW HE HADN'T BEEN A PART OF THE DISCUSSION OR WHATEVER. WELL, HE HASN'T EVEN BEEN IN THE CHAMBER. AND WHEN SENATOR WATERMEIER WAS RESPONDING TO QUESTIONS TO SENATOR KINTNER WHO WAS BEING A GOOD SOLDIER ALSO, AND MENTIONED THAT HE HAD DELETED CERTAIN PROVISIONS FROM THE BILL, SENATOR KINTNER DID NOT ASK WHAT THOSE PROVISIONS WERE. SO IF HE WAS BEING HONEST WHEN HE SAID HE WANTS TO KNOW WHAT THE BILLS DOES, HE STILL DOESN'T KNOW AND THE WAY THE QUESTIONS WERE ANSWERED DID NOT GIVE HIM INFORMATION. SO HIS INTENT WAS NOT TO...OH, HE'S HERE. OH, NO, HE'S NOT. OTHERS ARE STANDING WHERE HE USED TO STAND. MAYBE THEY'RE DECOYS. BECAUSE IF I JUST USE MY PERIPHERAL VISION, I'LL THINK THAT HE, IN FACT, IS HERE WHEN HE'S NOT. BUT WE'VE HAD ALL OF THESE KIND OF SHENANIGANS THROUGHOUT THIS ENTIRE DEBATE. AND WE CAN DO IT THE REST OF THE SESSION IF YOU WANT TO. YOU CAN VOTE FOR CLOTURE IF YOU WANT TO. YOU CAN DO ANYTHING THAT YOU WANT TO DO, AND I'LL DO ANYTHING THAT I THINK I OUGHT TO DO. THE LOBBY, AS I STATED YESTERDAY, HAS SET NOT ONLY THE TONE OF THIS DISCUSSION, BUT THE DIRECTION OF IT. SENATOR "RADEMACHER," I WAS GOING TO SEE IF HE PAID ATTENTION. SENATOR SCHUMACHER, THERE WAS A FIGHTER NAMED RADEMACHER. MAYBE IT SHOULD APPLY, SENATOR SCHUMACHER'S PRETTY CAGEY HIMSELF. BUT AT ANY RATE, EXPLAINED IN PAINFUL DETAIL WHAT HIS AMENDMENT WOULD DO. BUT INSTEAD OF ME TRYING TO REHASH IT, WHATEVER TIME I HAVE REMAINING I GIVE TO SENATOR SCHUMACHER TO USE AS HE CHOOSES. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR CHAMBERS. SENATOR SCHUMACHER, YOU'RE YIELDED 5:19. [LB188]

SENATOR SCHUMACHER: THANK YOU, MR. SPEAKER. THAT'S PROBABLY FAR MORE THAN WHAT I NEED. YES, TODAY WE GET THIS LONG, RATHER LEGAL ISSUE, WRITTEN MEMO, CLEARLY WRITTEN BY ONE SIDE OF THE ARGUMENT ON

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THE ARGUMENT OF BURDEN OF PROOF, AS TO WHO HAS TO PROVE THESE THINGS. AND THIS FOLLOWS SENATOR WATERMEIER'S REPEATED REPRESENTATIONS UP TO THIS POINT IN THE DEBATE THAT THE BURDEN OF PROOF, OF COURSE, IS ON THE MUNICIPALITY OR THE COUNTY OR THE PURSUING AGENCY. OF COURSE, OF COURSE, OF COURSE, A HORSE ISN'T A HORSE. SO YESTERDAY TO MAKE THAT CLEAR BECAUSE I QUESTION HOW BURDENS OF PROOF SHIFT AROUND AND CAN BE WORKED BY LAWYERS, WHY DON'T WE MAKE WHAT SENATOR WATERMEIER SAID VERY CLEAR? AND IN THE AMENDMENT THAT I PROPOSED YESTERDAY, IT WAS VERY CLEAR THE BURDEN OF PROOF WOULD BE ON THE PURSUING OUTFIT. SENATOR WATERMEIER THEN SUDDENLY SAID I WAS GUTTING HIS BILL. AND WHEN YOU LOOK THROUGH ALL THE LANGUAGE, YEAH, BUT WHERE ARE THE GUTS COMING FROM? AND IT WAS THERE. STILL, NO MATTER WITH THE MELLO AMENDMENT, THE BILL THAT'S IN ITS PRESENT SHAPE, IT IS NOT CLEARLY STATED WHERE THE BURDEN OF PROOF IS. NOW, SOMETIMES, AND YOU CAN NITPICK ALL THROUGH THIS LITTLE MEMO THAT WAS HANDED OUT, BUT SOMETIMES YOU CAN GIVE A PRETTY GOOD TEST TO THINGS. AND AN ASSERTION MADE IN THIS MEMO IS, QUOTE, THESE CASES ARE TRIED TO A JUDGE, NOT A JURY. SENATOR WATERMEIER, GO OUT AND CHECK THAT ONE OUT. HAVE TO BE TRIED TO A JUDGE? MAY BE TRIED TO A JUDGE? NO RIGHT TO A JURY TRIAL IN A CIVIL CASE, A CIVIL TORT CASE? THIS IS A SHADED OPINION. I'LL START LISTENING TO SENATOR MELLO'S POSITION PERHAPS IF WE HAVE A CONSENSUS THAT WE CLEARLY STATE THAT THE BURDEN OF PROOF, JUST AS I SAID YESTERDAY, RESTS WITH THE SUBDIVISION INITIATING THE CHASE. WE ARE SPENDING A LOT OF TIME, AND WE ARE IGNORING THE BASIC QUESTION. DO WE WANT TO INCREASE THE PROBABILITY OF THESE CHASES, OR DO WE WANT TO CONTINUE TO DECREASE THE PROBABILITY OF THESE CHASES? THAT'S THE QUESTION BEFORE US. IF WE WANT TO INCREASE THE PROBABILITY, IF THEY'RE OKAY, IF, GEE, LAW ENFORCEMENT IS GREAT LET THEM CHASE ANYBODY THEY WANT UNDER ANY CONDITIONS THEY WANT, THEN LET'S SAY SO. BUT IF WE WANT TO SAY THAT THESE ARE RARE ANIMALS THAT SHOULD BE USED ONLY IN THE MOST EXTREME SITUATIONS WHERE THE PUBLIC IS NOT ENDANGERED, WHERE THE OFFICERS' LIVES ARE NOT ENDANGERED, PUT YOURSELF IN A SHOE OF AN OFFICER. DOES HE CHASE OR NOT CHASE? MAYBE HE'S COOL-HEADED. MAYBE HE DOESN'T WANT TO CHASE. BUT GEE WHIZ, IF HE DOESN'T CHASE, YOU KNOW WHAT HE'S GOING TO HEAR--HOW COME YOU DIDN'T CHASE? GEE, YOU COULD HAVE CHASED HIM. AND SO THERE'S THIS INTERNAL PEER PRESSURE TO CHASE, TO ENGAGE INTO A CHASE. HE'S GOT A GOOD EXCUSE NOT TO NOW, MY BOSS OR THE CITY COUNCIL OR THE INSURANCE AGENCY OR SOMEBODY SAID, I SHOULDN'T CHASE. IT'S AGAINST POLICY TO CHASE. THE LEGISLATURE, THOSE

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MEANIES WOULDN'T LET ME CHASE. WE'RE GIVING THAT OFFICER SOME PROTECTION. BUT IF WE TAKE THAT AWAY, HE CAN'T GIVE THAT AS AN EXCUSE FOR EXERCISING HIS COMMON SENSE; AND HE MUST BEHAVE LIKE THE DOGS IN THE PACK WHO WANT TO CHASE THE RABBIT. THIS IS...THE EXISTING LAW IS FOR A LOT RESPECT THE OFFICERS' PROTECTION AS WELL AS THE PROTECTION OF INNOCENT PEOPLE. AND WE HAVEN'T HEARD ANY LITANY OF HUMUNGOUS EXPENSES THAT WILL COME OUT OF THIS. WE HAVEN'T HEARD THAT INSURANCE RATES HAVE GONE UP 30 PERCENT BECAUSE OF THIS. THIS IS ONE OF THOSE CHIP ON THE SHOULDER ISSUES THAT RUB PEOPLE ON ONE SIDE OR THE OTHER THE WRONG WAY AND END UP... [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR SCHUMACHER: ...CONSUMING 12 HOURS IN THIS BODY. AS IT STANDS NOW IN THE LANGUAGE THE WAY IT IS NOW, THIS IS NOT WORTH FURTHER DEBATE. THANK YOU. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR SCHUMACHER. (VISITORS INTRODUCED.) WE'VE HEARD THE OPENING ON THE MOTION TO BRACKET. SENATOR GROENE, YOU'RE RECOGNIZED. [LB188]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. JUST TO CORRECT SENATOR CHAMBERS, I DIDN'T TAKE A DIME. I THINK I'M THE ONLY ONE BESIDES HIM THAT'S NEVER TAKEN A DIME FROM A LOBBY. SO...AND I DON'T BELONG TO ANY GROUPS. EVERY TIME I STAND UP HERE, IT'S ON THE ISSUE AND INDIVIDUALLY THE ISSUE. IT'S NOT BECAUSE I TRADED A VOTE. SO I WANTED TO CLEAR THE AIR ON THAT. BACK TO MY NORTH PLATTE INSTANCE. THE SERGEANT CALLED AND CALLED OFF THE CHASE. MINUTES LATER, THE CRIMINALS RAN INTO A HOUSE. IMMEDIATELY THE LIGHTS WENT BACK ON AND THE SIRENS. NOW LAW CHANGED. THEY'RE NOT IN PURSUIT. THEY'RE GOING TO AN ACCIDENT SCENE. BUT IF AN INNOCENT BYSTANDER WOULD HAVE BEEN WALKING ACROSS THE STREET, WALKING HIS DOG AND GOT HIT, IT WOULD HAVE WENT TO TORT LAW, COMMON LAW. HE WOULD HAVE HAD TO PROVE NEGLIGENCE. THAT'S HOW FOOLISH THIS LAW IS. THIS ISN'T ABOUT LAW. THIS ISN'T ABOUT EQUALITY UNDER THE LAW. IT'S NOT EQUALITY UNDER THE LAW REALLY. THIS IS ABOUT SOCIAL ENGINEERING. SO WHAT HAPPENS WHEN THAT CHILD MOLESTER GRABS A CHILD? AND THAT POLICE OFFICER, YOUNG POLICE OFFICER SAYS, WELL, WE'RE NOT SUPPOSED TO PURSUE. AND THIS GUY HAS A HISTORY OF NOT LETTING THEM LIVE. THIS IS WHAT THE UNINTENDED CONSEQUENCE IS. AND BY

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THE WAY, MY LAWYER CALLED ME AND SAID...A LITTLE BIT AGO AND SAID, LAWYER FRIEND SAID, WAIT A SECOND. JUDGES RULE ON LAW, JURIES RULE ON FACT. IF THE MUNICIPALITY WANTS TO HAVE A JURY TRIAL, THEY CAN. I DON'T KNOW WHY THEY WOULD BECAUSE UNDER THIS STATUTE AS IS, FACTS ARE MEANINGLESS. THE MUNICIPALITY IS GUILTY. FACTS OF NEGLIGENCE ARE MEANINGLESS. HOW WOULD OUR INSTANCES UNDER OUR LAW THAT WE HAVE SITUATIONS LIKE THAT? SENATOR WATERMEIER, IF HE WANTS SOME TIME, I'LL YIELD IT, BUT THIS IS BAD LAW. WE'RE THE ONLY STATE THAT HAS IT. WE NEED TO CLARIFY IT AT LEAST TO THE POINT WHERE SOMEBODY IS IN THE VEHICLE WITH A FRIEND AND THEY'RE OUTFRONTING THE POLICE, THE POLICE CAN PURSUE THE VEHICLE SAFELY. SENATOR WATERMEIER, WOULD YOU LIKE SOME TIME? [LB188]

SPEAKER HADLEY: SENATOR WATERMEIER, YOU'RE YIELDED 2:45. [LB188]

SENATOR WATERMEIER: THANK YOU, SENATOR GROENE. THANK YOU, MR. PRESIDENT. I DON'T KNOW WHERE I STARTED OR STOPPED ON THIS, BUT I'LL GO BACK TO MY LITTLE CHEAT SHEET HERE. UNDER LB188, AS AMENDED, SPECIFICALLY THE LANGUAGE REGARDING THE PASSENGER ENGAGED IN ACTS CHARGEABLE AS A FELONY WITHIN THE VEHICLE OR IMMEDIATELY PRIOR TO ENTRY INTO THAT VEHICLE, THE BURDEN OF PROOF IS ON THE POLITICAL SUBDIVISION TO SHOW THE ELEMENTS OF THE FELONY BY A PREPONDERANCE OF THE EVIDENCE. I'LL ADMIT, I HAD HELP DRAFTING THIS. I NEED HELP ON THESE KIND OF THINGS. THAT'S WHY I GO AND THAT'S WHY I GET A CONSULTANT. I DO THE VERY BEST I CAN. I JUST WANT TO REMIND THE BODY WHERE WE'RE HEADED. I DON'T KNOW EXACTLY WHERE THE TIME IS UP. I THINK IT'S ABOUT TWENTY AFTER TEN. SO AT THAT POINT IN TIME, I WILL OFFER A MOTION FOR CLOTURE. SO BETWEEN NOW AND THEN, THERE WILL BE A CALL OF THE HOUSE. AND I'M GOING TO ASK YOU TO VOTE YES FOR THE CLOTURE MOTION, NO TO BRACKET THIS MOTION, TO BRACKET THIS BILL, NO TO RECOMMIT TO COMMITTEE, AND THEN WE'LL GET TO THE BILL. AND AS I HAVE PROMISED, WITH NEGOTIATIONS AND THE LOBBY, WITH NEGOTIATIONS WITH SENATOR MELLO, AND A LOT OF PEOPLE INSIDE THE GLASS HERE TODAY, I PROPOSE AND BE WILLING TO AMEND THE BILL EVEN FURTHER YET TO DEFINE IT EVEN DOWN FURTHER YET. BUT WE CAN'T GET TO THAT AMENDMENT TODAY BECAUSE OF THE ISSUE AND THIS IS COMPLETELY LEGAL. IT'S COMPLETELY WITHIN THE RULES. I UNDERSTAND IT. I GET IT. BUT WE HAVE THE FIRST AMENDMENT UP ON FINAL READING AND WE'LL HAVE TO JUST BE PATIENT AND WE'LL HAVE TO WAIT UNTIL WE GET TO FINAL READING TO DO THAT. THANK YOU, MR. PRESIDENT. [LB188]

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SPEAKER HADLEY: THANK YOU, SENATOR WATERMEIER. SENATOR WATERMEIER, YOU'RE RECOGNIZED. [LB188]

SENATOR WATERMEIER: THE CLOTURE MOTION, I WAS JUST TOLD, IS AT 10:28. SO IF YOU WANT TO DO THE MATH, IT SHOULD BE 23 MINUTES FROM NOW. JUST KEEP IN MIND THAT I WILL ASK FOR A CALL OF THE HOUSE. ONCE AGAIN, I'LL ASK FOR A GREEN VOTE ON CLOTURE, A RED VOTE ON BRACKET, A RED VOTE ON COMMIT, AND A GREEN VOTE ON THE BILL. I REALLY DON'T KNOW WHERE TO GO ELSE WITH THIS BILL. I FEEL LIKE I'VE REACHED OUT AS HARD AS I CAN. I'VE BEEN CALLED EVERY NAME IN THE BOOK. I'VE NEVER DEFENDED THAT I WAS AN ATTORNEY. I WOULD NEVER DO THAT. THAT'S WHY IN MY BUSINESS, I GO AND FIND CONSULTANTS. I THINK THOSE OF US IN THIS BODY THAT OWN BUSINESSES DO THIS EVERY DAY. IT'S NOT UNUSUAL FOR US. I'VE NEVER CLAIMED TO BE AN EXPERT. AND I'LL HAVE TO GO BACK TO THIS DISCUSSION THAT I HAD A LITTLE BIT THIS MORNING, OH, I THINK I MIGHT STILL LIKE TO HAVE SENATOR SCHUMACHER'S AMENDMENT. AND I MAY HAVE SAID...I MEAN, I KNOW I SAID ON THE FLOOR THAT THAT AMENDMENT GUTS THE BILL. AND WHAT I MEANT BY GUTTING THE BILL IS IT TOOK IT FARTHER, IT TAKES IT FURTHER THAN OUR CASE LAW AND OUR STATUTES ARE TODAY. IT TAKES IT FURTHER AND I'M JUST NOT WILLING TO GO THERE. I DON'T THINK THE PEOPLE OF THE STATE OF NEBRASKA REALLY WANT US TO GO THERE EITHER. I'VE CLEARLY STATED, TIME AND TIME AND TIME AGAIN, THAT I'M FINE WITH WHAT SENATOR CHAMBERS HAS DONE IN THE EARLY '80s. OUR LAW ENFORCEMENT FOLLOW A VERY STRICT RULES AND I BELIEVE IN THEM. I'VE HEARD REPEATEDLY THAT THAT HAS DONE A LOT OF GOOD IN THE STATE OF NEBRASKA, THAT WE'VE REDUCED POLICE PURSUITS. BUT I'VE ALSO HEARD AGAIN THIS MORNING THAT IF YOU WANT TO TRY TO LIMIT POLICE PURSUITS, YOU NEED TO GO WITH MY AMENDMENT. WELL, I'M JUST SORRY, THAT'S NOT PART OF THIS BILL. THAT NEEDS A SEPARATE HEARING. THAT NEEDS PUBLIC INPUT, LIKE ON EVERYTHING WE DO IN THIS BODY. I WOULD NEVER TRUST A BILL THAT IS AMENDED IN SOMETHING THAT HASN'T HAD A PUBLIC HEARING. MAYBE I VOTED FOR ONE. YOU COULD PROBABLY DIG THROUGH THE RECORDS AND FIND A BILL THAT I MAY HAVE VOTED ON THAT HAD A SECTION OF IT ADDED ON SELECT FILE OR EVEN FINAL READING. MAYBE THAT'S A CHALLENGE TO MYSELF. MAYBE I'LL DIG THROUGH SOME OF THESE BILLS AND MAKE DARN GOOD AND SURE I DIDN'T VOTE ON A BILL. BUT I WOULD CHARGE IN APPROPRIATIONS I HAVE STOPPED THINGS IN THEIR TRACKS AND SAID, HAVE WE HAD A HEARING ON THAT ISSUE? BECAUSE I KNOW THERE'S THINGS THAT GO ON IN APPROPRIATIONS THAT PEOPLE DON'T LIKE. BUT IF IT'S CONSISTENTLY DIFFERENT, IT NEEDS TO HAVE A PUBLIC HEARING. THE WHOLE DEBATE ABOUT

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REDUCING OUR PUBLIC POLICY FOR REDUCING POLICE PURSUITS NEEDS TO HAPPEN INSIDE COMMITTEE. EVEN IF YOU RECOMMITTED THIS TO COMMITTEE, IT WOULD HAVE TO HAVE ANOTHER HEARING. SO ONCE AGAIN, WE'RE GOING TO CLOTURE MOTION ON THIS AT 10:28. I'LL ASK FOR A GREEN VOTE ON CLOTURE, A RED VOTE ON BRACKETING, A RED VOTE ON RECOMMITTING, AND A GREEN VOTE ON LB188. UNLESS I'M ALLOWED TO PUT THIS AMENDMENT ON TODAY, IT WILL HAVE TO GO THROUGH SOME PROCEDURES ON FINAL READING TO GET DONE THAT I HAVE AGREED TO AND THAT I THINK THE MAJORITY OF THE BODY HAS AGREED TO. I'M NOT A BIG PERSON TO GO OUT AND COUNT VOTES. I LOOK SOMEBODY IN THE EYE AND SAY, HOW DO YOU FEEL? I APPRECIATE THOSE THAT GO AROUND AND WRITE DOWN VOTES. THAT'S GREAT. WE NEED TO DO THAT. BUT I OPERATE UNDER A HANDSHAKE AROUND HERE. I OPERATE UNDER COMMONSENSE RULES THAT I BRING TO THE BODY AS A BUSINESSPERSON. I CAN OFFER NOTHING MORE THAN THAT. SO ONCE AGAIN ON THE CLOTURE MOTION, VOTE GREEN ON THE CLOTURE, RED ON THE BRACKET, RED ON THE RECOMMIT, AND VOTE GREEN FOR THE BILL. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR WATERMEIER. SENATOR SCHNOOR, YOU'RE RECOGNIZED. [LB188]

SENATOR SCHNOOR: THANK YOU, MR. PRESIDENT. OBVIOUSLY, WE HAVE ABOUT 20 MINUTES LEFT, SO WHAT I WOULD LIKE TO TALK ABOUT IS LET'S GET BACK TO THE TROOPS IN THE FIELD: THE PATROLMEN, THE TROOPER, THE DEPUTY SHERIFF, WHOEVER HAS TO ENGAGE IN THIS PURSUIT. NOW WE'VE DETERMINED YESTERDAY THAT THEY DON'T HAVE TO HAVE PERMISSION. THEY CALL IN TO THE DISPATCHER AND THEY TELL THEM WHAT'S GOING ON. THE SUPERVISOR MAY OR MAY NOT STEP IN AND TELL THEM TO DISENGAGE THEIR PURSUIT, BUT IT'S UP TO THAT OFFICER ON DUTY. NOW DOES HE KNOW WHO IS IN THE VEHICLE? NO. THEY DON'T KNOW WHO IS...THEY MAY NOT EVEN KNOW WHO IS DRIVING THE VEHICLE. DO THEY KNOW IF THIS...YOU KNOW, LET'S ASSUME THERE IS A STAKEOUT. INDIVIDUALS HAVE LEFT THE SCENE AND THEN THEY MAY KNOW WHO IS IN THE VEHICLE. THEY MAY KNOW WHO IS DRIVING IT. BUT NINE TIMES OUT OF TEN IN THIS PURSUIT, THEY HAVE NO IDEA WITH ANY ASSURANCE WHO IS IN THE PASSENGER SEAT, WHO IS IN THE BACK, AND IN MANY CASES, DON'T EVEN KNOW WHO IS DRIVING. YES, THEY CAN RUN A LICENSE PLATE AND IT COMES BACK TO WHOEVER OWNS THE VEHICLE, BUT WE ALL KNOW JUST BECAUSE YOU OWN A VEHICLE DOESN'T MEAN YOU'RE THE ONE DRIVING IT. SO WE CAN'T RESTRICT THE POLICE SO MUCH THAT THEY CAN'T EVEN DO THEIR JOBS. THEY HAVE TO BE ABLE TO DO A PURSUIT IF A

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CRIME OF SOME SORT, A TRAFFIC VIOLATION...IT COULD BE A SIMPLE TRAFFIC VIOLATION. THE PURSUIT COULD BE 20 MILES AN HOUR. IT COULD BE 60 MILES AN HOUR. IT COULD BE 100 MILES AN HOUR. IN MOST CASES, THEY'RE LOW-SPEED PURSUITS. NOW I DON'T KNOW WHAT DETERMINES A LOW-SPEED PURSUIT. TO ME, THAT SOUNDS LIKE YOU'RE GOING 20 MILES AN HOUR. BUT IF YOU'RE PURSUING SOMEBODY THAT HAS COMMITTED A TRAFFIC VIOLATION, THEY MAY NOT EVEN BE SPEEDING; BUT THEY STILL DON'T KNOW WHO IS IN THE VEHICLE. SO WHEN WE COME BACK TO THIS BURDEN OF PROOF, YOU KNOW, WE HAVE TO REMEMBER THAT THE OFFICERS THAT ARE ENGAGING THIS PURSUIT, THEY DON'T KNOW. THEY JUST FLAT-OUT DON'T KNOW WHO IS IN THE VEHICLE AND WE CANNOT RESTRICT THEM. WE CANNOT SAY THAT YOU HAVE TO ASK PERMISSION, AND WE DETERMINED THAT YESTERDAY THAT THAT IS NOT THE CASE. BUT LET'S GO BACK TO THE BASICS BECAUSE IT COMES DOWN TO THE TROOPS IN THE FIELD BECAUSE THEY'RE THE ONES THAT HAVE TO MAKE THAT DECISION. THEY HAVE TO DECIDE TO ENGAGE OR NOT ENGAGE. I WAS TOLD IF THERE IS A PURSUIT... [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR SCHNOOR: THANK YOU, SIR. IF THERE IS A PURSUIT AND IT MOVES INTO THE CITY OR VILLAGE OR TOWN, WHATEVER YOU WANT TO DETERMINE THAT TO BE, THEY CALL IT OFF. THERE ARE EXCEPTIONS. WAS THERE A ROBBERY THAT TOOK PLACE? WAS THERE A SHOOTING THAT TOOK PLACE? THAT GIVES IT A LOT HIGHER PRIORITY, BUT IN THAT CASE, THE SUPERVISORS STEP IN THAT HAVE BEEN MONITORING THE SITUATION AND DETERMINE THAT. BUT LET'S NOT TIE THE HANDS OF THOSE TROOPS OUT IN THE FIELD. LET'S LET THEM DO THEIR JOB AND LET'S LET THEM HELP KEEP OUR COMMUNITY SAFE. HAVE MISTAKES BEEN MADE IN THE PAST? YOU BET. ARE THERE GOING TO BE MORE MISTAKES? OF COURSE, THERE ARE. THEY'RE HUMANS. BUT THEY'RE DOING THE BEST JOB THAT THEY CAN. THANK YOU, SIR. [LB188]

SPEAKER HADLEY: TIME, SENATOR. SENATOR SCHILZ, YOU'RE RECOGNIZED. [LB188]

SENATOR SCHILZ: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE BODY. AND I KNOW WHEN WE TALKED ABOUT COMING TOGETHER AND COMPROMISING, AND I APPRECIATE SENATOR MELLO AND EVERYONE ELSE THAT'S COME TOGETHER TO TRY TO MAKE THIS BILL GOOD ENOUGH TO MOVE FORWARD, AND I THINK THAT'S IMPORTANT AROUND HERE. I THINK WE DO NEED

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TO BE WORKING TOGETHER ON THINGS. AND, YOU KNOW, JUST LIKE LAST YEAR ON THE RECREATION LIABILITY BILL THAT WE WORKED ON, THE AG LIABILITY BILL, WE WERE ABLE TO COME TOGETHER AND TALK ABOUT THINGS THAT ACTUALLY EVERYONE CAN LIVE WITH. AND I THINK MAYBE WE'VE ARRIVED AT THAT HERE TODAY. I HOPE SO, ANYWAY. AND SO, YOU KNOW, I DON'T THINK I'VE...MAYBE WE HAVE, BUT THIS YEAR SEEMS TO BE THE YEAR OF THE FILIBUSTER AND, YOU KNOW, THAT GETS A LITTLE BIT TEDIOUS AFTER A WHILE. SO I THINK WE NEED TO HAVE THE VOTE. I APPRECIATE SENATOR WATERMEIER BRINGING THIS AND HIS WILLINGNESS TO WORK WITH EVERYONE TO TRY AND FIND SOLUTIONS THAT EVERYONE CAN LIVE WITH. SO WITH THAT, I WOULD GIVE THE REST OF MY TIME TO SENATOR WATERMEIER, IF HE SO DESIRES. [LB188]

SPEAKER HADLEY: SENATOR WATERMEIER, YOU'RE YIELDED 3:25. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR SCHILZ. I'M JUST GOING TO BRING US BACK TO THE BASICS AGAIN HERE. WHAT WE'RE TRYING TO DO HERE IS CLEARLY DEFINE A VERY BROAD DEFINITION OF WHAT THE COURTS HAVE ASKED US, SAID THAT WE HAD A PREROGATIVE TO DO, TO DEFINE INNOCENT THIRD PARTY. IN A FEW MINUTES HERE, WE WILL HAVE, ACTUALLY HAVE A CHANCE TO VOTE ON CLOTURE. AND ONCE AGAIN, I DO NOT GET TO CLOSE OR I DO NOT GET TO OFFER THAT MOTION AND SPEAK TO IT. THEY WILL JUST SAY THERE HAS BEEN A CLOTURE MOTION OFFERED BY SENATOR WATERMEIER AND WE WILL GO RIGHT INTO THAT VOTE IF THE SPEAKER SAYS WE HAVE HAD FULL AND FAIR DEBATE. SO I'M GOING TO ASK FOR YOUR GREEN VOTE ON THE CLOTURE MOTION. I'M GOING TO ASK FOR A RED VOTE ON THE BRACKET, RED VOTE ON THE RECOMMIT, AND A GREEN VOTE ON LB188. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THANK YOU, SENATOR WATERMEIER. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED. [LB188]

SENATOR PANSING BROOKS: THANK YOU, MR. PRESIDENT. I JUST...THERE ARE ENOUGH PROBLEMS WITH THIS BILL. ALL THE LAWYERS IN THIS BODY HAVE CONCERNS WITH THIS BILL. THAT DOESN'T SEEM TO GIVE ANYBODY PAUSE ON THIS. THIS ISN'T ANYTHING ABOUT...WE ALL SUPPORT THE POLICE. SENATOR FOX AND SENATOR CRAIGHEAD STOOD AND KINDLY SUPPORTED OUR COLLEAGUE, SENATOR WATERMEIER, BY SAYING WE SUPPORT THE POLICE. WE ALL DO SUPPORT THE POLICE. THAT'S NOT THE POINT OF THIS BILL. THE POINT

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OF THIS BILL IS WHO IS GOING TO PAY FOR THE PERSON THAT'S SITTING IN THE BACK SEAT OF THAT CAR? SENATOR WATERMEIER, WOULD YOU YIELD TO A QUESTION, PLEASE? [LB188]

SPEAKER HADLEY: SENATOR WATERMEIER, WILL YOU YIELD TO A QUESTION? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR PANSING BROOKS: THANK YOU, SENATOR WATERMEIER. YESTERDAY YOU TALKED ABOUT AND SAID THAT THE BURDEN OF PROOF COULD BE ON THE AGENCY AS STATED IN SENATOR SCHUMACHER'S AMENDMENT YESTERDAY. IS THAT WHERE YOU STILL STAND TODAY? [LB188]

SENATOR WATERMEIER: IT IS, AND I HANDED OUT THE BRIEF BULLET POINTS AND STUFF THAT I TALKED ABOUT THE BURDEN OF PROOF. [LB188]

SENATOR PANSING BROOKS: YES, BUT I WANT TO GET ON THE RECORD THAT THE BURDEN OF PROOF WILL BE ON THE AGENCY. [LB188]

SENATOR WATERMEIER: YES, THAT'S MY UNDERSTANDING. [LB188]

SENATOR PANSING BROOKS: NO, IT...I KNOW, BUT THAT'S AN UNDERSTANDING. I'D LIKE TO GET A YES OR NO. WILL IT BE ON THE AGENCY? [LB188]

SENATOR WATERMEIER: SENATOR PANSING BROOKS, I'M NOT SURE HOW TO ANSWER YOUR QUESTION OTHER THAN SAY, YES, IT'S MY UNDERSTANDING. [LB188]

SENATOR PANSING BROOKS: OKAY. [LB188]

SENATOR WATERMEIER: I'M NOT A PROFESSIONAL. [LB188]

SENATOR PANSING BROOKS: THANK YOU. THANK YOU, SENATOR WATERMEIER. I KNOW YOU'RE TRYING TO WORK ON THIS. WHAT I'M HOPING IS...AND I AGREE THAT THERE ARE A LOT OF PEOPLE IN THE LOBBY DEALING WITH THIS. I WOULD HOPE THAT SENATOR WATERMEIER MIGHT BE WILLING TO SIT DOWN WITH THE

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OTHER LEGAL MEMBERS OF THE BAR AND TRY TO COME OUT WITH SOME SORT OF DETERMINATION OF HOW TO BEST PROCEED ON THIS ISSUE. RIGHT NOW, YOU HAVE A LOT OF PEOPLE IN THIS BODY...THERE'S SOME TALK THAT MELLO'S BILL...THAT MELLO'S AMENDMENT WILL FIX IT. WELL, GETTING TO MELLO'S AMENDMENT IS NOT GOING...WE'RE NOT GOING TO GET TO THAT POINT. AND THE OTHER PROBLEM WITH MELLO'S AMENDMENT IS THAT IT TALKS ABOUT BEING CHARGEABLE. ANYBODY...ANY ONE OF US IN THIS BODY IS CHARGEABLE. ANY ONE OF US WHO IS SITTING IN THE CAR COULD BE DEEMED CHARGEABLE. ANYBODY IS CHARGEABLE. I'M CHARGEABLE. IT MAY BE ERRONEOUS, BUT I AM CHARGEABLE. I CAN GET INTO SOMEBODY'S CAR TODAY AND THE POLICE WOULD CLAIM THAT I COULD BE CHARGEABLE. SENATOR WATERMEIER, DO YOU THINK THAT I AM NOT CHARGEABLE ON VARIOUS ISSUES IF THE POLICE THINK THAT I SHOULD BE CHARGED ON AN ISSUE? WHAT IF THE POLICE DETERMINE THAT I SHOULD BE CHARGED ON FELONY MANSLAUGHTER? DO YOU THINK THAT I AM CHARGEABLE? [LB188]

SENATOR WATERMEIER: I APOLOGIZE, SENATOR BROOKS. I DIDN'T HEAR THE DESCRIPTION THAT YOU... [LB188]

SENATOR PANSING BROOKS: I'M ASKING YOU IN THE BILL YOU TALK ABOUT...THE AMENDMENT ALLOWS THAT PEOPLE...THAT THE POLICE COULD FIND SOMEBODY CHARGEABLE. AND THAT THEN THEY'RE...IF THEY'RE CHARGEABLE, THEN THEY AREN'T AN INNOCENT PARTY. I'M TRYING TO FIND OUT WHO IS CHARGEABLE. I'M CHARGEABLE. ANY PERSON IN THIS BODY IS CHARGEABLE IF THE POLICE DETERMINE THAT THEY WANT TO CHARGE THEM. THAT DOESN'T MEAN THAT THEY'RE GOING TO WIN. IT DOESN'T MEAN THAT THE CHARGE WILL BE UPHOLD IN COURT. BUT THE POLICE DO HAVE THE POWER TO CHARGE PEOPLE. [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR PANSING BROOKS: DO YOU AGREE WITH THAT, SENATOR WATERMEIER? [LB188]

SENATOR WATERMEIER: YES, THAT'S MY UNDERSTANDING. [LB188]

SENATOR PANSING BROOKS: OKAY. THANK YOU SO MUCH. I WOULD LIKE TO GIVE THE REST OF MY TIME TO SENATOR CHAMBERS. [LB188]

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SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE YIELDED 49 SECONDS, AND YOU'RE NEXT IN THE QUEUE, SO YOU CAN JUST CONTINUE. [LB188]

SENATOR CHAMBERS: THANK YOU. MEMBERS OF THE LEGISLATURE, LET ME TELL YOU WHY YOU'RE NOT GOING TO GET TO THAT SO-CALLED AGREEMENT. WE HAVE TWO HOURS OF DEBATE ON FINAL READING. I WILL TAKE THE TWO HOURS. IF YOU VOTE FOR CLOTURE TODAY, YOU'RE VOTING FOR THIS BILL AND THIS IS THE BILL AND THE FORM OF THE BILL YOU WILL VOTE FOR ON FINAL READING. THE GLOVES COME OFF NOW. I'M GOING TO STOP YOU FROM OFFERING ANY OTHER AMENDMENT TO THIS BILL AND I HAVE ENOUGH MOTIONS THAT I CAN MAKE IN THE RULE BOOK, IF YOU WANT TO CHECK IT, AND YOU WILL NOT BE ABLE TO STOP ME FROM TAKING UP TWO HOURS. AND I BELIEVE THERE ARE OTHER SENATORS WHO WILL HELP ME BECAUSE THEY HAVE WORKED ASSIDUOUSLY TRYING TO PERSUADE SENATOR WATERMEIER WHAT UNDER THE LAW OUGHT TO BE DONE AND THE LOBBY TOLD HIM NO. THEN THE NEXT DAY WHEN THEY GOT DESPERATE, THEY SAID GO IN THERE AND TELL THEM YOU'LL DO IT NOW. AND THEY'RE BOUNCING YOU BACK AND FORTH LIKE A PING-PONG BALL. THE LAWYERS AND THOSE TRAINED IN THE LAW KNOW BETTER, BUT OTHERS DON'T. SO THEY GO BY WHAT SENATOR WATERMEIER TELLS THEM. YOU'RE LIKE A RUBBER BALL, BOUNCY, BOUNCY. WELL, I PLEDGE TO THE LAW THE INTEGRITY OF OUR LEGISLATIVE PROCESS THAT I WILL STOP THIS BODY FROM OFFERING ANY OTHER AMENDMENT ON THIS BILL. SO YOU ARE GOING TO VOTE ON SELECT FILE FOR THE BILL AS IT IS WITH THE PROBLEMS. YOU WILL VOTE FOR IT, IF YOU SUPPORT IT, ON FINAL READING AS IT IS WITH THE PROBLEMS. AND IF YOU WANT TO TEACH ME A LESSON AND VOTE FOR A BAD BILL, WHICH EVEN SENATOR WATERMEIER ADMITS NOW IS BAD BECAUSE THEY'RE TRYING TO GET THIS SO-CALLED COMPROMISE, VOTE FOR THE BAD BILL. BUT THAT'S WHAT I'M GOING TO FORCE YOU TO DO. THEN WHEN I COME BACK HERE, SHOULD I BE REELECTED, AND WE DON'T KNOW THAT IS GOING TO HAPPEN, BUT IF I SHOULD COME BACK HERE, I HAVE FOUR YEARS TO TRY TO UNDO THE DAMAGE THAT YOU'RE GOING TO DO. AND I BET ALL OF YOU WILL TRY TO RUN AWAY FROM IT THEN AND SAY, WELL, I DIDN'T KNOW. DID YOU SAY TIME, MR. PRESIDENT? OH, ALL OF YOU WILL WANT TO SAY THEN, I DIDN'T KNOW. BUT I'M MAKING IT AS CRYSTAL CLEAR AS I CAN THIS MORNING, YOU ALL DO KNOW. YOU KNOW AND I'M TELLING YOU NOW THAT YOU'RE GOING TO VOTE FOR THIS BAD BILL IN THE FORM IT'S IN RIGHT NOW TO MOVE IT FROM SELECT TO FINAL READING. AND I'M GOING TO ASK FOR A ROLL CALL VOTE ON EVERYTHING SO YOU'RE ON RECORD AND YOU CAN'T SAY YOU DIDN'T VOTE. AND THEN WHEN YOU GET TO FINAL READING, THEY'RE GOING TO TELL YOU IN THE LOBBY, WELL, YOU SUPPORTED IT THIS FAR, NOW

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YOU'VE GOT TO VOTE TO PASS IT. THAT'S THE WAY THEY'VE BEEN ARGUING WITH YOU THROUGHOUT AND YOU SWALLOWED IT HOOK, LINE, AND SINKER. I'M BEING AS BLUNT AS I CAN. I'M BEING REPETITIVE ON PURPOSE BECAUSE THEY SAY IN CLASSROOMS AT CERTAIN LEVELS IN GRADE SCHOOL...AND IT GOES FARTHER IN MY OPINION, YOU HAVE TO REPEAT SOMETHING SEVERAL TIMES BEFORE THEY START TO MAKE AN IMPACT ON THOSE YOU'RE TRYING TO MAKE UNDERSTAND IT. YOU WILL VOTE ON FINAL READING FOR A BILL, WHICH ON SELECT FILE YOU'VE BEEN TOLD IS NOT WHAT IT OUGHT TO BE. OTHERWISE WHY ARE THEY JUMPING AND SCRAMBLING AND SAYING YOU NEED TO VOTE FOR THIS SO-CALLED COMPROMISE? YOU'RE GOING TO VOTE, IF YOU GIVE HIM CLOTURE, TO MOVE IT TO FINAL READING. WHEN YOU GET TO FINAL READING, YOU'RE GOING TO VOTE FOR THIS BAD BILL BECAUSE I HAVE PRIORITY MOTIONS PURSUANT TO THE RULES THAT WILL ALLOW ME ALONE TO TAKE TWO HOURS IN TIME, AND EITHER HE'S GOING TO MOVE FOR CLOTURE OR IT'S GOING TO COME OFF THE AGENDA. FOR ME IT'S A WIN-WIN SITUATION, PERSONALLY. BUT BEYOND THAT, IT WILL BE A WIN FOR OUR PROCESS. IT WILL BE A WIN FOR THE LAW. IT WILL BE A WIN FOR THE KNOWLEDGE THAT WAS PRESENTED BY OTHERS THAN MYSELF, OTHERS WHO KNOW AND UNDERSTAND THE LAW, WHO ARE YOUR COLLEAGUES, WHO HAVE EXPLAINED WHY THIS IS A BAD BILL, THE CHANGES THAT OUGHT TO BE MADE. [LB188]

SPEAKER HADLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: SENATOR SCHUMACHER CRAFTED AN AMENDMENT, PRESENTED IT, AND YOU REJECTED IT. SO NOW YOU MADE YOUR BED. I'M GOING TO FORCE YOU TO LIE IN IT. AND MAYBE SOME OF THOSE SMART ALECK LOBBYISTS OUT THERE WHO MAKE ALL THE MONEY CAN TELL YOU HOW TO ABROGATE THE RULES OF THE LEGISLATURE ACCORDING TO WHICH I SAID, I WILL BE ABLE--AND I'LL HAVE HELP FROM OTHERS I'VE ALREADY BEEN TOLD-- TO UTILIZE TWO HOURS OF TIME IN DEBATE ON FINAL READING. THANK YOU, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: MR. CLERK, YOU HAVE A MOTION ON THE DESK. [LB188]

ASSISTANT CLERK: MR. PRESIDENT, SENATOR WATERMEIER WOULD MOVE TO INVOKE CLOTURE ON LB188 PURSUANT TO RULE 7, SECTION 10. [LB188]

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SPEAKER HADLEY: IT IS THE RULING OF THE CHAIR THAT THERE HAS BEEN FULL AND FAIR DEBATE ACCORDED TO LB188. SENATOR WATERMEIER, FOR WHAT PURPOSE DO YOU RISE? [LB188]

SENATOR WATERMEIER: MR. PRESIDENT, I ASK FOR A ROLL CALL VOTE IN REVERSE ORDER AND A CALL OF THE HOUSE, PLEASE. [LB188]

SPEAKER HADLEY: THERE HAS BEEN A REQUEST TO PUT THE HOUSE UNDER CALL. ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB188]

ASSISTANT CLERK: 34 AYES, 0 NAYS TO GO UNDER CALL, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THE HOUSE IS UNDER CALL. SENATORS, PLEASE RECORD YOUR PRESENCE. THOSE UNEXCUSED SENATORS OUTSIDE THE CHAMBER PLEASE RETURN TO THE CHAMBER AND RECORD YOUR PRESENCE. ALL THOSE UNAUTHORIZED PERSONNEL PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. SENATOR SCHEER, MORFELD, CRAWFORD, BURKE HARR, SMITH, BRASCH, COASH, HUGHES. SENATOR SCHEER, SENATOR CRAWFORD, SENATOR BURKE HARR, SENATOR HUGHES, THE HOUSE IS UNDER CALL. SENATOR SCHEER, SENATOR HUGHES, THE HOUSE IS UNDER CALL. PLEASE RETURN TO THE CHAMBER. SENATOR WATERMEIER, WOULD YOU PLEASE APPROACH THE CHAIR. SENATOR CHAMBERS, WOULD YOU PLEASE APPROACH THE CHAIR, IF YOU WOULD. YES, SENATOR WATERMEIER. [LB188]

SENATOR WATERMEIER: YES, I THINK EVERYONE IS HERE WHO IS ACTUALLY CHECKED IN WITH SENATOR HUGHES BEING HERE, IS THAT CORRECT? [LB188]

SPEAKER HADLEY: THAT'S CORRECT. [LB188]

SENATOR WATERMEIER: WE MAY PROCEED. [LB188]

SPEAKER HADLEY: OKAY. THERE HAS BEEN A REQUEST FOR A ROLL CALL VOTE IN REVERSE ORDER. MR. CLERK. [LB188]

ASSISTANT CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGE 725.) [LB188]

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

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SPEAKER HADLEY: RECORD, MR. CLERK. [LB188]

ASSISTANT CLERK: THE VOTE IS 31 AYES, 9 NAYS, MR. PRESIDENT. [LB188]

SPEAKER HADLEY: THE MOTION TO INVOKE CLOTURE IS DEFEATED. I RAISE THE CALL. MR. CLERK FOR AN ITEM. [LB188]

ASSISTANT CLERK: MR. PRESIDENT, THANK YOU. CONFIRMATION REPORTS FROM THE EDUCATION COMMITTEE. YOUR COMMITTEE ON THE EXECUTIVE BOARD REPORTS LB987 TO GENERAL FILE WITH AMENDMENTS. NEW RESOLUTION, LR453 BY SENATOR STINNER. AMENDMENTS TO BE PRINTED TO LB188 FROM SENATOR MELLO, TO LB934 BY SENATOR COASH. COMMITTEE ON TRANSPORTATION AND TELECOMMUNICATIONS REPORTS LB994, LB716 LB973, AND LB900 ALL TO GENERAL FILE WITH AMENDMENTS. THAT'S ALL I HAVE AT THIS TIME. (LEGISLATIVE JOURNAL PAGES 725-732.) [LB987 LR453 LB188 LB934 LB994 LB716 LB973 LB900]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: THANK YOU, MR. CLERK. WHILE THE LEGISLATURE IS IN SESSION AND CAPABLE OF TRANSACTING BUSINESS, I PROPOSE TO SIGN AND DO HEREBY SIGN LR437 AND LR438. RETURNING TO THE AGENDA, GENERAL FILE, 2016 COMMITTEE PRIORITY BILLS. MR. CLERK. [LR437 LR438]

ASSISTANT CLERK: MR. PRESIDENT, THE NEXT BILL IS LB447 OFFERED BY SENATOR NORDQUIST. (READ TITLE.) THE BILL WAS READ FOR THE FIRST TIME JANUARY 20 OF LAST YEAR. IT WAS REFERRED TO THE RETIREMENT SYSTEMS COMMITTEE. THAT COMMITTEE PLACED THE BILL ON GENERAL FILE WITH COMMITTEE AMENDMENTS. (AM1979, LEGISLATIVE JOURNAL PAGE 644.) [LB447]

PRESIDENT FOLEY: THANK YOU, MR. CLERK. SENATOR MELLO, YOU'RE RECOGNIZED TO OPEN ON LB447. [LB447]

SENATOR MELLO: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE. LB447 WAS INTRODUCED LAST YEAR BY FORMER SENATOR JEREMY NORDQUIST. IT PROPOSED A NUMBER OF MAJOR GOVERNANCE AND ADMINISTRATIVE CHANGES TO THE CLASS V SCHOOL EMPLOYEES RETIREMENT ACT, WHICH INCORPORATES OMAHA PUBLIC SCHOOLS, INCLUDING THE

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FOLLOWING: FIRST, REMOVAL OF THE BOARD OF EDUCATION MEMBERS FROM THE BOARD OF TRUSTEES AND PROVIDES FOR THE ELECTION OF MEMBER TRUSTEES BY MEMBERS OF THE RETIREMENT SYSTEM. SECOND, PLACING THE RETIREMENT SYSTEM ADMINISTRATOR AND OTHER RETIREMENT SYSTEM EMPLOYEES UNDER THE CONTROL OF THE BOARD OF TRUSTEES. AND THIRD, CREATING AN INDEPENDENT INVESTMENT AUTHORITY FOR THE BOARD OF TRUSTEES WHO MAKE ALL INVESTMENT DECISIONS REGARDING THE RETIREMENT SYSTEMS FUNDS. THESE PROVISIONS WERE AMENDED BY THE COMMITTEE LAST YEAR AND INCORPORATED INTO LB448, WHICH WAS ADVANCED TO THE FLOOR LAST YEAR TO SELECT FILE. LB448 ALSO INCLUDED THE TRANSFER AND INVESTMENT AUTHORITY FROM OSERS TO THE NEBRASKA INVESTMENT COUNCIL. IN ADDITION, IT ELIMINATED SEVERAL BENEFITS IN THE OSERS PLAN IN ORDER TO ALIGN BENEFITS WITH THOSE IN THE STATE SCHOOL EMPLOYEES PLAN AND REDUCE THE BENEFIT COSTS TO THE OSERS PLAN. YOU WILL SEE FOLLOWING A COMMITTEE AMENDMENT FROM SENATOR KOLTERMAN, WHICH IS AM1979, WHICH INCORPORATES A NUMBER OF ITEMS THAT WAS WORKED ON OVER THE INTERIM BY CHAIRMAN KOLTERMAN, SENATOR DAVIS, MYSELF, AND OTHERS TO WHAT I WOULD SAY IS TO REFINE THE COMPROMISE THAT WAS MADE LAST YEAR ON LB448. PRIMARILY, WE MADE SOME MAJOR BENEFIT CHANGES TO THE SCHOOL PLANS IN 2013 AND WE SIGNIFICANTLY IMPACTED THE STATE'S 30-YEAR FUNDING PROJECTION. THIS YEAR WHEN THE ACTUARY PRESENTED THE ANNUAL SCHOOL ACTUARY EVALUATION PLAN, WE WERE TOLD THAT THE SCHOOL PLAN WILL BE 100 PERCENT, AND I REPEAT, THE STATE SCHOOL PLAN, THE STATE SCHOOL PLAN WILL BE 100 PERCENT FUNDED IN 2021 ASSUMING ALL ASSUMPTIONS WERE MET. IN THE ACTUARY PROJECTIONS THAT IN 15 YEARS THE PLAN WILL BE AT 110 PERCENT FUNDED; IN 20 YEARS, 125 PERCENT FUNDED; AND OVER 30 YEARS, 160 PERCENT FUNDED. THE STATE HAS ACTED RESPONSIBLY OVER THE LAST FEW YEARS IN FULLY FUNDING OUR SCHOOL PLAN WITH MAJOR REFUNDING REFORMS. THIS SUMMER THE ACTUARY IS CONDUCTING AN EXPERIENCE STUDY ON ALL OF THE STATE ADMINISTERED PENSION PLANS. THIS STUDY WILL REVIEW THE ACTUARIAL ASSUMPTIONS AGAINST THE ACTUARY EXPERIENCE OF EACH PLAN TO DETERMINE WHETHER THE ASSUMPTIONS NEEDED TO BE CHANGED, INCLUDING THE ASSUMED RATE OF RETURN. WE ARE EXPECTING THAT THE ASSUMED RATE OF RETURN WILL BE REDUCED FROM 8 PERCENT, ACCORDING TO THE PROJECTION MODEL. IF IT'S REDUCED TO 7.75 PERCENT OR 7.5 PERCENT, THE SCHOOL PLAN WILL STILL NOT NEED AN ARC FOR THE COMING BIENNIUM. THE AMENDED PROVISION REGARDING THE STATE PAYMENT OF THE OSERS ARC NOW ENSURES THAT THERE WILL BE SUFFICIENT DEBATE ON THE ISSUE THAT THE LEGISLATIVE BODY MUST AGREE TO IT. HOWEVER, GIVEN

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THE EXCELLENT FUNDING OF THE STATE SCHOOL PLAN, IT'S UNLIKELY THAT THIS PROVISION WILL EVER BE TRIGGERED FOR THE FORESEEABLE FUTURE. I WANT TO TALK A LITTLE BIT--AND I KNOW SENATOR KOLTERMAN IS GOING TO TALK A LITTLE BIT ALSO... [LB447 LB448]

PRESIDENT FOLEY: EXCUSE ME. SENATOR MELLO, EXCUSE ME. MEMBERS, PLEASE COME TO ORDER. CONTINUE. [LB447]

SENATOR MELLO: ...IN REGARDS TO A HANDOUT THAT SENATOR KOLTERMAN WILL WALK THROUGH A LITTLE BIT IN REGARDS TO THE HISTORY OF THE OSERS ARC PAYMENTS. AS WE DISCUSSED, THE STATE HAS ALWAYS ACTED RESPONSIBLY WHEN IT COMES TO PAYING OUR ARC ON OUR PENSION PLANS WHEN IT'S BEEN NECESSARY OVER THE PAST EIGHT YEARS. AND BY ALSO DOING SO, WE'VE REDUCED BENEFITS, WE'VE INCREASED CONTRIBUTIONS FOR ALL PARTIES. IN CONTRAST, WHEN THE RETIREMENT COMMITTEE REVIEWED THE HISTORY OF THE ARC PAYMENTS IN RELATIONSHIP TO THE OSERS PLAN, WE DISCOVERED THE FOLLOWING. IN 2007, THE OSERS ONLY PAID \$5 MILLION OF THE \$8 MILLION REQUIRED FROM THEIR ARC. IN 2010, 2011, AND 2013, THEY DID NOT PAY ANY OF THE ARCS, WHICH WERE ROUGHLY \$1.7 MILLION, \$3.9 MILLION, AND \$1.4 MILLION, RESPECTIVELY. AND IN 2012 THE ARC PAYMENT WAS BECAUSE THE BARGAINING UNITS AND THE OMAHA PUBLIC SCHOOL DISTRICT AGREED TO HAVE THE \$4.3 MILLION HEALTH INSURANCE PREMIUM HOLIDAY CONTRIBUTION PAID TO THE OSERS PLAN. THE BILL AS AMENDED DEFINES SOLVENCY, WHICH WILL DEFINE THE ACTUARIAL REQUIRED CONTRIBUTION AND IT WILL REQUIRE THE OMAHA PUBLIC SCHOOL DISTRICT TO PAY THIS AMOUNT MOVING FORWARD. THIS PROVISION IS NECESSARY IN ORDER TO IMPROVE THE GUARANTEE THAT THE SCHOOL DISTRICT WILL MAKE THE REQUIRED ARC PAYMENTS OR REDUCE BENEFITS IN THE OSERS PLAN. WITH THAT, MR. PRESIDENT, I'LL SPEAK MORE TO THE AMENDMENT AS WE GET TO IT. BUT I WANT TO THANK SPECIFICALLY CHAIRMAN KOLTERMAN AND LEGAL COUNSEL, KATE ALLEN, IN REGARDS TO WORKING ON THIS ISSUE OVER THE INTERIM, AS WELL AS VICE CHAIRMAN SENATOR DAVIS IN LIGHT OF REALIZING THAT WE NEEDED TO TAKE SOME ACTION IN REGARDS TO THE OMAHA PUBLIC SCHOOL PLAN IF WE WISH TO MORE ALIGN THAT PLAN WITH THE STATE PLAN. PRIMARILY THOUGH, THE CONCERNS THAT WE'LL DISCUSS A LITTLE FURTHER AS IT COMES TO THE LACK OF, I WOULD SAY, FISCAL RESPONSIBILITY AND FISCAL DUE DILIGENCE ON BEHALF OF THIS PLAN OVER THE PAST TEN YEARS IS A BIT ALARMING. AND I KNOW SENATOR KOLTERMAN WILL TALK A LITTLE BIT ABOUT THIS IN LIGHT OF ENSURING, AS WE KNOW, THE ONLY WAY YOU SOLVE PENSION PROBLEMS MOVING FORWARD IS THAT YOU HAVE TO START WITH BEST

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PRACTICES. AND THAT INITIAL BEST PRACTICE IS ENSURING THAT YOU PAY YOUR ACTUARIALLY REQUIRED CONTRIBUTION ON AN ANNUAL BASIS. WE'VE COME TO OUR CONCLUSION, COME TO OUR REALIZATION OVER THE LAST FEW MONTHS THAT THAT'S NOT BEEN THE CASE, AS YOU WILL SEE FROM THE HANDOUT FROM SENATOR KOLTERMAN. AND I'LL LET HIM TALK A LITTLE BIT MORE ABOUT THAT ON AMENDMENT AM1979. BUT, OBVIOUSLY, COLLEAGUES, IT GOES WITHOUT SAYING THAT THIS IS A PLAN THAT NEEDS STRONGER STATE OVERSIGHT. AND WITH THE AMENDMENT, I THINK WE PROVIDE THAT BY PROVIDING A DEFINITION OF SOLVENCY TO HELP MOVE THIS OSERS PLAN TOWARDS MORE, I WOULD SAY, FULLY FUNDING THE PLAN INTO THE FUTURE, BUT ALSO ENSURING WE CREATE SAFEGUARDS AND REDUCING BENEFITS THAT HAVE BEEN AGREED UPON BY COMPROMISES AND NEGOTIATIONS WITH ALL THE INTERESTED PARTIES. WITH THAT I'D URGE THE BODY TO ADVANCE LB447 WITH THE UNDERLYING COMMITTEE AMENDMENT, AM1979. THANK YOU, MR. PRESIDENT. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR MELLO. AS THE CLERK INDICATED, THERE ARE AMENDMENTS FROM THE RETIREMENT SYSTEMS COMMITTEE. SENATOR KOLTERMAN, AS CHAIR OF THE COMMITTEE, YOU'RE RECOGNIZED TO OPEN ON THE COMMITTEE AMENDMENT. [LB447]

SENATOR KOLTERMAN: THANK YOU, MR. LIEUTENANT GOVERNOR, AND THANK YOU, SENATOR MELLO, FOR THOSE OPENING REMARKS. THIS AMENDMENT BEGAN AS LB448, WHICH WAS INTRODUCED AND DEBATED LAST YEAR AND ULTIMATELY BRACKETED AFTER I RAISED CONCERNS ABOUT SOME OF THE PROVISIONS. THE GOAL OF LB448 AS IT WAS ADVANCED FROM THE COMMITTEE INCLUDES FOUR THINGS: FURTHER ALIGNMENT OF THE BENEFITS OF THE OMAHA PUBLIC SCHOOL RETIREMENT SYSTEMS; MEMBERS WITH BENEFITS OF STATEWIDE SCHOOL EMPLOYEES RETIREMENT SYSTEMS; WE'RE GOING TO MOVE THE INVESTMENT AUTHORITY FROM OMAHA PUBLIC SCHOOLS BOARD OF TRUSTEES AND OMAHA SCHOOL BOARD TO THE NEBRASKA INVESTMENT COUNCIL; WE'D LIKE TO RESTRUCTURE THE ADMINISTRATION AND GOVERNANCE OF OSERS TO MORE CLOSELY ALIGN WITH THE PUBLIC EMPLOYEES RETIREMENT BOARD; AND WE'RE GOING TO CREATE GREATER STATE FUNDING PARITY BETWEEN THE SCHOOL EMPLOYEES RETIREMENT SYSTEM AND THE OSERS PLAN. AS SENATOR MELLO INDICATED, DURING THE INTERIM SENATORS MELLO, DAVIS, LEGAL COUNSEL, KATE ALLEN, AND I MET WITH INTERESTED PARTIES THAT WORKED ON AND REACHED THE NEGOTIATED AGREEMENT ON THIS BILL. WE REWORKED THE PROVISIONS I HAD OBJECTED TO AND ALL PARTIES COMMITTED TO MOVING FORWARD THIS SESSION. AS A

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RESULT, AM1815 WAS FILED IN EARLY JANUARY OF THIS YEAR, AND A HEARING WAS HELD ON THE AMENDMENT ON JANUARY 25 OF THIS YEAR. AM1815 STRUCK THE ORIGINAL LANGUAGE IN LB447 AND INSERTED THE PROVISIONS OF LB448 AS ADVANCED BY THE COMMITTEE IN 2015 AND AMENDED DURING 2015 FLOOR DEBATE. IN ADDITION, THE AMENDMENT INCLUDED SEVERAL NEW BENEFIT REDUCTIONS, PROVISIONS RELATED TO THE SCHOOL EMPLOYEES IN CLASS V OMAHA SCHOOL EMPLOYEES RETIREMENT PLAN. IT ALSO REWROTE THE PROVISIONS I HAD RAISED OBJECTIONS TO LAST YEAR, WHICH ORIGINALLY MANDATED STATE PAYMENTS OF THE OSERS ACTUARIALLY REQUIRED CONTRIBUTIONS. AFTER THE HEARING THIS YEAR, THE COMMITTEE ADDED SEVERAL OTHER TECHNICAL AMENDMENTS AND ADVANCED COMMITTEE AMENDMENT AM1979 TO THE FLOOR. AM1979 CONTAINS THE FOLLOWING PROVISIONS: BENEFIT CHANGES FOR OSERS MEMBERS. OVER THE PAST SEVERAL YEARS, A RETIREMENT COMMITTEE HAS WORKED TO MAKE THE TWO SCHOOL RETIREMENT SYSTEMS MORE SIMILAR. THE FOLLOWING CHANGES WILL APPLY TO NEW OSERS EMPLOYEES HIRED ON OR AFTER JULY 1, 2016. THESE ARE THE CHANGES: THE SERVICE ANNUITY IS ELIMINATED. THIS BENEFIT IS FUNDED BY THE STATE. THE ANNUITY IS EQUAL TO \$3.50 PER MONTH TIMES YEARS OF SERVICE. THE CURRENT ANNUAL COST TO THE STATE IS ABOUT \$1 MILLION. THE MEDICAL COST OF LIVING ADJUSTMENT, WHICH IS ONLY AVAILABLE TO OSERS MEMBERS, IS ELIMINATED. IN ADDITION TO THE REGULAR COLA, CURRENT OSERS MEMBERS ALSO RECEIVE A MEDICAL COLA THAT BEGINS TEN YEARS AFTER RETIREMENT. IT PAYS \$10 A MONTH FOR EACH YEAR OF RETIREMENT AND INCREASES \$10 A YEAR TO A MAXIMUM OF \$250 A MONTH. THE RETIREMENT BENEFITS ARE UNREDUCED AT AGE 65 RATHER THAN AGE 62. BENEFITS ARE ELIMINATED FOR MEMBERS OF THE SCHOOL EMPLOYEES RETIREMENT PLAN MEMBERS. BEGINNING ON THE EFFECTIVE DATE OF THE ACT, A MEMBER RECEIVING A DISABILITY RETIREMENT BENEFIT MAY NO LONGER WORK UP TO 20 HOURS A WEEK WHILE RECEIVING THE DISABILITY BENEFIT. THIS CHANGE IS NEEDED BECAUSE THE ACT CURRENTLY ALLOWS AN IN-SERVICE DISTRIBUTION TO MEMBERS WHICH IS CONTRARY TO WHAT THE IRS ALLOWS FOR QUALIFIED GOVERNMENT PLANS. NUMBER TWO, AN EMPLOYEE HIRED ON OR AFTER JULY 1, 2016, WILL NO LONGER BE ABLE TO VEST WITH HALF A YEAR OF SERVICE CREDIT AT AGE 65. THIS WILL HELP REDUCE THE DOUBLE DIPPING THAT OCCURS WHEN MEMBERS RETIRE AND RETURN TO WORK AFTER AGE 65; WORK HALF A YEAR AND EARN A NEW RETIREMENT BENEFIT. THIS AMENDMENT ALSO CHANGES OSERS GOVERNANCE AND ADMINISTRATIVE PROVISIONS. THE THREE BOARD OF EDUCATION MEMBERS ARE ELIMINATED FROM THE OSERS BOARD OF TRUSTEES AND THE EMPLOYEE REPRESENTATIVES ARE ELECTED BY THEIR OWN MEMBERSHIP. THE

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SUPERINTENDENT REMAINS A VOTING EX OFFICIO MEMBER. THE BOARD OF TRUSTEES APPOINTS THE OSERS ADMINISTRATOR AND OVERSEES THE ADMINISTRATOR AND OSERS STAFF RATHER THAN THE BOARD OF EDUCATION. THE BOARD OF TRUSTEES MAY CONTRACT FOR SERVICES WITH LEGAL ADVISER. THE BOARD OF TRUSTEES CONTRACTS WITH THE ACTUARY FOR OSERS, HOWEVER, THE SELECTION OF THE ACTUARY IS APPROVED BY THE BOARD OF EDUCATION. THE RETIREMENT SYSTEM OPERATING EXPENSES WILL BE CHARGED TO THE RETIREMENT SYSTEM. A DEFINITION OF SOLVENCY IS ADDED FOR PURPOSES OF DETERMINING THE ACTUARIALLY REQUIRED CONTRIBUTION PAID BY THE BOARD OF EDUCATION. IT IS SIMILAR TO LANGUAGE IN THE STATE ADMINISTERED DEFINED BENEFIT PLAN STATUTES. SHIFTING THE OSERS OPERATING EXPENSES, ACTUARIAL, AND LEGAL COSTS OF THE RETIREMENT SYSTEM WILL RESULT IN SIGNIFICANT COST SAVINGS TO THE SCHOOL DISTRICT'S BUDGET. TRANSFER OF INVESTMENT AUTHORITY: NUMBER ONE, ON THE EFFECTIVE DATE OF THIS ACT NEBRASKA INVESTMENT COUNCIL STAFF WILL BEGIN WORKING WITH THE SCHOOL DISTRICTS AND OSERS STAFF TO ACCOMPLISH THE TRANSITION OF THE INVESTMENT AUTHORITY TO THE NEBRASKA INVESTMENT COUNCIL. BEGINNING JANUARY 1, 2017, INVESTMENT AUTHORITY IS TRANSFERRED FROM THE BOARD OF TRUSTEES AND THE SCHOOL DISTRICT TO THE NEBRASKA INVESTMENT COUNCIL. THE STATE TREASURER BECOMES THE TREASURER AND CUSTODIAN OF THE OSERS RETIREMENT SYSTEM AND SELECT THE BANKS USED TO HOLD THE OSERS ASSETS AND PROCESS BENEFITS AND REFUND PAYMENTS. NUMBER FOUR, NPERS WILL SERVE AS A PASS-THROUGH AGENCY FOR PURPOSES OF TRANSFER OF FUNDS THROUGH THE STATE TREASURER FOR PAYMENT, BENEFITS, REFUNDS, AND EXPENSES OF THE OSERS RETIREMENT SYSTEM. NUMBER FIVE, THE OSERS STAFF WILL CONTINUE TO CALCULATE BENEFITS AND REFUNDS FOR OSERS MEMBERS. NUMBER SIX, THE OSERS ADMINISTRATOR SERVES AS AN EX OFFICIO, NONVOTING MEMBER OF THE NEBRASKA INVESTMENT COUNCIL. AND NUMBER SEVEN, THE STATE INVESTMENT OFFICER IS REQUIRED TO SUBMIT QUARTERLY REPORTS TO THE OSERS BOARD OF TRUSTEES REGARDING THE ASSETS OF THE RETIREMENT SYSTEM AND RELATED COSTS, FEES, AND EXPENSES. NEITHER THE STATE, THE NEBRASKA INVESTMENT COUNCIL, NOR THE STATE TREASURER HAVE ANY LIABILITY FOR PREVIOUS INVESTMENT DECISIONS MADE BY THE OSERS BOARD OF TRUSTEES AND THE OMAHA BOARD OF EDUCATION. THIS AMENDMENT ESTABLISHES A PROCESS FOR POTENTIAL STATE FUNDING OF OSERS OR THE ARC THAT I OBJECTED TO LAST YEAR. CURRENTLY, THE STATE IS STATUTORILY RESPONSIBLE FOR FUNDING ANY ACTUARIALLY REQUIRED CONTRIBUTIONS FOR THE SCHOOL EMPLOYEES RETIREMENT SYSTEM, WHICH INCLUDES ALL SCHOOL DISTRICTS EXCEPT OMAHA PUBLIC SCHOOL DISTRICT.

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OMAHA TAXPAYERS ARE STATUTORILY RESPONSIBLE FOR FUNDING ANY ACTUARIALLY REQUIRED CONTRIBUTIONS FOR THE CLASS V OMAHA SCHOOL EMPLOYEES RETIREMENT SYSTEM. IN THE PAST, WHENEVER THERE'S BEEN A NEED FOR FUNDING OF THE SCHOOL PLAN AND THE OSERS PLAN, THE STATE HAS INCREASED FUNDING FOR BOTH PLANS. THE PROVISIONS IN THIS AMENDMENT PROVIDES AN OPPORTUNITY FOR A CONTINUATION OF EQUALIZED FUNDING FOR BOTH PLANS. THE PROVISION AS AMENDED NOW SAYS: IN ANY YEAR THAT AN ARC IS NECESSARY TO FUND THE SCHOOL PLAN AND THE STATE APPROPRIATES MONEY FOR THE ARC AND IF THE OSERS PLAN HAS AN ARC, THEN THE SCHOOL ARC PAYMENT WILL BE COMPUTED AS A PERCENT OF PAYROLL. IF THE APPROPRIATIONS COMMITTEE RECOMMENDS AND THE LEGISLATURE APPROVES PAYMENT OF THE OSERS ARC, THEN THE STATE WILL CONTRIBUTE TO THE OSERS THE SAME PERCENT OF PAYROLL AS IT PAID TO THE SCHOOL PLAN. AS ADVANCED LAST YEAR IN LB448, THIS PAYMENT WOULD HAVE BEEN MADE AUTOMATICALLY. THAT'S WHAT I OBJECTED TO. AS AMENDED, A HEARING BEFORE THE APPROPRIATIONS COMMITTEE... [LB447 LB448]

PRESIDENT FOLEY: ONE MINUTE. [LB447]

SENATOR KOLTERMAN: ...MUST BE REQUESTED BY THE SCHOOL DISTRICT. THE APPROPRIATIONS COMMITTEE HAS TO RECOMMEND PAYMENT TO THE OSERS ARC AND THE ENTIRE LEGISLATIVE BODY HAS TO APPROVE THE PAYMENT. THESE CHANGES, I BELIEVE, BUILD IN SUFFICIENT OPPORTUNITY FOR DEBATE AND A VOTE BY ALL MEMBERS. ALSO ALONG THOSE STATE LINES OR ALONG THOSE LINES, IF THE GOVERNOR SHOULD VETO THE BILL--THAT'S A THIRD FAIL-SAFE--IT HAS TO COME BACK. IN ADDITION, AM1979 ALSO INCORPORATES THE FOLLOWING BILLS INTO LB447. LB805 WAS INTRODUCED BY SENATOR MELLO. IT REQUIRES EACH POLITICAL SUBDIVISION THAT HAS A DEFINED BENEFIT PLAN TO CONDUCT AN ACTUARIAL EXPERIENCE STUDY AT LEAST EVERY FOUR YEARS. RIGHT NOW, THAT'S BEING DONE AN A RANDOM BASIS; SOME ARE THREE, SOME ARE FIVE. WE'RE REQUIRING THAT TO HAPPEN EVERY FOUR YEARS. LB922 IS INTRODUCED AT THE REQUEST OF THE PUBLIC EMPLOYEES RETIREMENT BOARD. [LB447 LB805 LB922]

PRESIDENT FOLEY: TIME, SENATOR. [LB447]

SENATOR KOLTERMAN: OKAY. [LB447]

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PRESIDENT FOLEY: THANK YOU VERY MUCH, SENATOR KOLTERMAN. (VISITORS INTRODUCED.) MR. CLERK. [LB447]

ASSISTANT CLERK: MR. PRESIDENT, SENATOR KOLTERMAN WOULD MOVE TO AMEND THE COMMITTEE AMENDMENTS WITH AM2282. (LEGISLATIVE JOURNAL PAGE 712.) [LB447]

PRESIDENT FOLEY: SENATOR KOLTERMAN, YOU'RE RECOGNIZED TO OPEN ON AM2282. [LB447]

SENATOR KOLTERMAN: I DON'T HAVE THAT AMENDMENT. [LB447]

PRESIDENT FOLEY: SENATOR KOLTERMAN, YOU'RE RECOGNIZED TO OPEN ON AM2282. [LB447]

SENATOR KOLTERMAN: THANK YOU, MR. LIEUTENANT GOVERNOR. AM2282 REALLY JUST CHANGES THE DATES TO 2016, THEY WERE 2015 LAST YEAR UNDER THIS AMENDMENT TO THE BILL. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR KOLTERMAN. MEMBERS, THE DEBATE IS NOW OPEN ON LB447 AND THE RELATED AMENDMENTS. SENATOR KOLOWSKI, YOU'RE RECOGNIZED. [LB447]

SENATOR KOLOWSKI: THANK YOU, MR. LIEUTENANT GOVERNOR. COLLEAGUES, I STAND BEFORE YOU IN SUPPORT OF ALL THE AMENDMENTS AND THE BILL THAT YOU SEE BEFORE YOU, LB447. SERVING ON THE RETIREMENT COMMITTEE, I WANT TO THANK SENATOR MELLO FOR HIS INTRODUCTION THIS MORNING AND SENATOR KOLTERMAN AND SENATOR DAVIS FOR THEIR LEADERSHIP IN THE PAST YEAR TO GET US TO THIS POINT WHERE THIS BILL CAN BE PRESENTED AS IT IS. IT'S A GREAT DEAL OF WORK. A GREAT DEAL OF SUPPORT IS IMPORTANT ON THIS TO BRING THESE PLANS INTO COMPLIANCE AND A POSITIVE DIRECTION FOR THE FUTURE. I URGE YOUR SUPPORT FOR THE BILL AND THE AMENDMENTS THAT YOU SEE. AND I YIELD THE REST OF MY TIME TO SENATOR KOLTERMAN FOR HIS ...TO FINISH HIS INTRODUCTORY SPEECH. THANK YOU SO MUCH. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR KOLOWSKI. SENATOR KOLTERMAN, 4:00. [LB447]

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SENATOR KOLTERMAN: THANK YOU, MR. LIEUTENANT GOVERNOR. THANK YOU, SENATOR KOLOWSKI. AS I INDICATED, THERE'S A LOT GOING ON IN THIS BILL, SO I WOULD LIKE TO FINISH. LB922, AS I INDICATED, WAS INTRODUCED AT THE REQUEST OF THE PUBLIC EMPLOYEES RETIREMENT BOARD. IT MERELY ADJUSTS THE TERMS SO THAT NO MORE THAN TWO PERB MEMBERS WOULD BE APPOINTED IN ANY ONE YEAR. IT STAGGERS THEIR TERMS. AND THEN LB986 AS AMENDED WAS INTRODUCED BY THE RETIREMENT COMMITTEE. IT ADDS NEW DUTIES FOR THE NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEM EXECUTIVE DIRECTOR, THE PERB, AND THE ACTUARY. THE PROVISIONS INCLUDE THE FOLLOWING: EXPERIENCE STUDIES NEED TO BE CONDUCTED EVERY FOUR YEARS. THE NEBRASKA PUBLIC EMPLOYEES RETIREMENT SYSTEM IS REQUIRED TO PROVIDE FIRST DRAFT, FINAL DRAFT COPIES OF THE ANNUAL VALUATION REPORTS AND EXPERIENCE STUDIES TO THE RETIREMENT COMMITTEE AND THE GOVERNOR AS SOON AS THE DRAFTS ARE RECEIVED FROM THE ACTUARY. THE DRAFTS ARE CONSIDERED CONFIDENTIAL DOCUMENTS AND THE ACTUARY IS REQUIRED TO PRESENT THE EXPERIENCE STUDY TO THE RETIREMENT COMMITTEE WITHIN 30 DAYS. THE PERB IS REQUIRED TO SUBMIT A WRITTEN EXPLANATION TO THE RETIREMENT COMMITTEE WITHIN TEN BUSINESS DAYS OF TAKING FORMAL ACTION TO ADOPT ONE OR MORE OF THE RECOMMENDATIONS IN THE EXPERIENCE STUDY. IN CONCLUSION, THIS BILL HAS INVOLVED A GREAT DEAL OF NEGOTIATIONS OVER THE PAST TWO YEARS BY BOTH THE OMAHA PUBLIC SCHOOL DISTRICT, THE OSERS BOARD OF TRUSTEES, THE NSEA, OMAHA EDUCATION ASSOCIATION, AND CONSIDERABLE TIME AND EXPERTISE HAVE BEEN CONTRIBUTED BY THE STATE INVESTMENT OFFICER, THE STATE TREASURER, THE DIRECTOR OF NPERS, AND THE STAFF OF EACH OF THESE AGENCIES. THE COMMITTEE IS GRATEFUL FOR EVERYONE'S WORK AND THANKS THEM. IT IS IMPORTANT THAT THIS BILL IS PASSED THIS YEAR WITH THE EMERGENCY CLAUSE IN ORDER TO FURTHER ALIGN THE OSERS BENEFITS WITH THE SCHOOL PLAN, WHICH WILL REDUCE THE COST OF THE BENEFITS IN THE OSERS PLAN AND MOVE THESE PLANS CLOSER TO AN ULTIMATE MERGER. IT IS ALSO IMPORTANT THAT THE INVESTMENT AUTHORITY IS TRANSFERRED TO THE PROFESSIONAL MANAGEMENT OF THE NEBRASKA INVESTMENT COUNCIL, THE STATE INVESTMENT OFFICER, AND THEIR INVESTMENT MANAGERS. LAST YEAR THE INVESTMENT RETURN FOR THE OSERS PLAN WAS MINUS 4.1 PERCENT WHILE THE INVESTMENT RETURNS OF THE SCHOOL PLAN WAS 3.9 PERCENT. THE FUNDING STATUS OF THE PLANS ARE ALSO GETTING FARTHER APART. THE OSERS PLAN IS CURRENTLY FUNDED AT 73 PERCENT WHILE THE SCHOOL PLAN IS FUNDED AT 88 PERCENT. FINALLY, THE GOVERNANCE CHANGES WILL PROVIDE A CLEAR DELINEATION OF DUTIES AND RESPONSIBILITIES FOR THE OSERS BOARD OF TRUSTEES AND THE SCHOOL BOARD REGARDING ADMINISTRATION, PLAN

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OVERSIGHT, AND ALLOCATION, PLAN EXPENSES TO THE RETIREMENT SYSTEM. I DID PASS OUT A TWO-PAGE SHEET THAT TALKS ABOUT THE HISTORY FROM 2003-2015 OF THE OSERS ARC PAYMENTS,... [LB447 LB922 LB986]

PRESIDENT FOLEY: ONE MINUTE. [LB447]

SENATOR KOLTERMAN: ...AND THE SECOND SHEET TALKS ABOUT THE INVESTMENT RESULTS. I WOULD ENTERTAIN ANY QUESTIONS THAT YOU MIGHT HAVE. THANK YOU VERY MUCH. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR KOLTERMAN. SENATOR DAVIS, YOU'RE RECOGNIZED. [LB447]

SENATOR DAVIS: THANK YOU, MR. PRESIDENT. COLLEAGUES, I JUST RISE IN STRONG SUPPORT OF THIS BILL AND THE AMENDMENT. I WANT TO GIVE A LOT OF THANKS TO SENATOR KOLTERMAN, SENATOR NORDQUIST, SENATOR MELLO, SENATOR KOLOWSKI, AND KATE ALLEN, ESPECIALLY, WHO'S WORKED SO HARD TO GET THIS DONE. THIS IS A VERY IMPORTANT BILL AND I THINK THE AMENDMENTS ARE VERY WORTHWHILE. AS MANY OF YOU KNOW, WE HAD SOME DISCUSSION THIS LAST YEAR ABOUT THE ASSUMED RATE; AND IT IS OUR RESPONSIBILITY TO MAKE PAYMENTS AND TO MAKE SURE THAT THE PLANS ARE FULLY FUNDED. WITH THE OSERS PLAN, I GUESS, IN REVERSAL FROM OUR STATE PLAN, I THINK IT'S IMPERATIVE THAT THE STATE BEGIN TO MANAGE THESE FUNDS IN A WAY WHICH I THINK WILL BE BENEFICIAL FOR NOT JUST THE TEACHERS THAT ARE IN OMAHA, BUT THE ENTIRE STATE OF NEBRASKA WITH REGARD TO THE TAXPAYERS. THE AMENDMENTS ARE GOOD, RATIONAL AMENDMENTS THAT DEAL WITH THINGS THAT THE PERB NEEDS DONE AND THAT THE COMMITTEE FELT WERE IMPORTANT FOR OPENNESS AND TO BE SURE THAT THE INVESTMENT COUNCIL AND THE PERB ARE ON TRACK WITH THEIR GOALS. SO WITH THAT, I WOULD URGE YOU TO SUPPORT THE BILL. AND, AGAIN, THANKS TO ALL THOSE WHO HAVE WORKED SO HARD TO MAKE IT HAPPEN. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR DAVIS. SENATOR KOLTERMAN, YOU'RE RECOGNIZED TO EITHER SPEAK TO THE AMENDMENT OR TO CLOSE, AT YOUR OPTION. [LB447]

SENATOR KOLTERMAN: I'LL CLOSE. THANK YOU, MR. PRESIDENT. THIS BILL IS IMPORTANT. IT DOES ALIGN US, THE TWO STATE TEACHER RETIREMENT PLANS,

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CLOSER TOGETHER. I WANT YOU TO UNDERSTAND WE'RE NOT TAKING OVER THE OMAHA PUBLIC SCHOOL PLAN, BUT WHAT WE ARE IS WE'RE ALIGNING BENEFITS AND WE ARE GOING TO DO THEIR INVESTMENT MANAGEMENT. THEY'VE BEEN COMPLETELY OPEN TO THIS. THANK YOU TO SENATOR NORDQUIST LAST YEAR FOR STARTING THIS PROCESS, AND IT HAS BEEN A JOINT EFFORT OF ALL INVOLVED. I WOULD APPRECIATE A GREEN LIGHT ON THE TWO AMENDMENTS AS WELL AS THE LB447. AND THANK YOU FOR LISTENING. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR KOLTERMAN. MEMBERS, YOU'VE HEARD THE DEBATE AND CLOSING ON AM2282. THE QUESTION IS THE ADOPTION OF THE AMENDMENT. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD, PLEASE, MR. CLERK. [LB447]

ASSISTANT CLERK: 26 AYES, 0 NAYS ON THE ADOPTION OF SENATOR KOLTERMAN'S AMENDMENT, MR. PRESIDENT. [LB447]

PRESIDENT FOLEY: AM2282 IS ADOPTED. SEEING NO OTHER MEMBERS WISHING TO SPEAK ON THE COMMITTEE AMENDMENT, SENATOR KOLTERMAN, YOU'RE RECOGNIZED TO CLOSE ON THE COMMITTEE AMENDMENT. [LB447]

SENATOR KOLTERMAN: THANK YOU, MR. VICE (SIC) PRESIDENT. ONE OTHER THING THAT I WOULD INDICATE IS THAT THIS DID...ALL THESE AMENDMENTS AND THIS BILL ALL ADVANCED OUT OF COMMITTEE 6-0. WE HAVE FULL SUPPORT OF OUR COMMITTEE. I WOULD ENCOURAGE YOU THAT YOU SUPPORT AM1979. THANK YOU. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR KOLTERMAN. MEMBERS, YOU'VE HEARD THE DEBATE ON AM1979, THE COMMITTEE AMENDMENT. THE QUESTION IS THE ADOPTION OF THE COMMITTEE AMENDMENT. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD, PLEASE, MR. CLERK. [LB447]

ASSISTANT CLERK: 34 AYES, 0 NAYS ON THE ADOPTION OF THE COMMITTEE AMENDMENTS, MR. PRESIDENT. [LB447]

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PRESIDENT FOLEY: THE COMMITTEE AMENDMENTS ARE ADOPTED. DEBATE IS NOW OPEN ON LB447 AS AMENDED. SENATOR SCHUMACHER, YOU'RE RECOGNIZED. [LB447]

SENATOR SCHUMACHER: THANK YOU, MR. LIEUTENANT GOVERNOR, MEMBERS OF THE BODY. THIS BILL DOES REPRESENT A LOT OF HARD WORK AND A PROMISING SHOWING OF COGNIZANCE OF THE MESS THAT WE ARE LOOKING FORWARD TO, MAYBE NOT THOSE OF US IN THE BODY NOW BECAUSE THE TIDAL WAVE PROBABLY WON'T HIT TILL SOMEWHAT AFTER MOST OF US ARE GONE, EXCEPT MAYBE FOR SENATOR CHAMBERS WHO WILL BE CELEBRATING HIS 95TH BIRTHDAY IN THE LEGISLATURE. WELL, HAVE A LITTLE DISCUSSION AS TO WHO ALL IS GOING TO BE HERE OR NOT, I GUESS. BUT EVEN THOUGH THIS IS A STEP IN THE RIGHT DIRECTION, WE GOT TO KEEP IN MIND THE BIG PICTURE HERE. SOONER OR LATER THE GUESSTIMATES, THE HOPES, THE CALCULATIONS COOKED UP BEFORE 2008 THAT THERE WOULD BE 7 PERCENT OR 8 PERCENT OR SOMETHING LIKE THAT ANNUAL RETURN ON INVESTMENT INTO...WELL INTO THE FUTURE AND THE BOATS WOULD ALL FLOAT AND EVERYBODY WOULD BE HAPPY. SOONER OR LATER WE'RE GOING TO REALIZE THE INEVITABLE AND THAT THOSE RATES OF RETURN AREN'T GOING TO HAPPEN AND THAT VARIOUS EMPLOYEES AND VARIOUS PENSION PLANS HAVE BEEN PROMISED BY SOMEBODY, EITHER US OR SOME LOCAL SUBDIVISION, THAT THEY WOULD HAPPEN. AND THERE WILL BE CONTRACTUAL RIGHTS THAT THE COURTS WILL ENFORCE. AND IF THE CORRECT RATE TURNS OUT TO BE, INTO THE FUTURE, 4 PERCENT, 5 PERCENT, 6 PERCENT, THE SHORTFALLS ARE GOING TO BE DRAMATIC. AND SO WHEN WE HEAR LATER THIS SESSION AND NEXT SESSION A CLAMOR FOR REDUCING TAXES, FOR BLEEDING DOWN--WHETHER IT IS IN LITTLE SHADES IN THE BUDGET OR WITH MORE GRAND PLANS OF INVESTMENT BANKS OF SOME KIND OR JUST USING IT FOR TAX RELIEF--BLEEDING DOWN OUR RESERVES FROM A VERY MODEST REQUIREMENT OF TWO MONTHS' REVENUE, WE NEED TO BE VERY CAUTIOUS. BECAUSE IF WE LOCK INTO THAT PATTERN AND FUTURE LEGISLATORS FACE THE SAME KIND OF RESISTANCE TO RAISING TAXES THAT WE DO, WE ARE GOING TO HAVE DONE A GREAT DISSERVICE TO THE STATE. AND YOU CAN BET THAT WHEN THE RUBBER HITS THE ROAD THOSE SHORTFALLS ARE GOING TO END UP HERE ON SOMEBODY'S DESK IN A VERY PAINFUL MANNER. SO NOW IS THE TIME, AS THIS BILL DOES, TO START THINKING ABOUT INEVITABILITIES. BUT THE IMPLICATIONS OF THE PROBLEMS REPRESENTED BY THIS BILL WILL OVERSHADOW OUR DISCUSSIONS ON OTHER ISSUES THIS SESSION AND OUR TEMPTATIONS TO DO MAGIC TODAY AT THE COST OF GREAT PAIN IN FUTURE LEGISLATURES. THESE ARE IMPORTANT FINANCIAL ISSUES. AND I CONGRATULATE THE COMMITTEE, CONGRATULATE SENATOR

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KOLTERMAN FOR RECOGNIZING THE ISSUE AND BEGINNING TO TAKE THE STEPS TO TRY TO COME TO GRIPS WITH A VERY, VERY MISERABLE PROBLEM. THANK YOU. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHUMACHER. MR. CLERK. [LB447]

ASSISTANT CLERK: MR. PRESIDENT, SENATOR MELLO WOULD MOVE TO AMEND WITH AM1815, BUT I HAVE A NOTE THAT HE WISHES TO WITHDRAW. [LB447]

PRESIDENT FOLEY: WITHOUT OBJECTION, THE AMENDMENT IS WITHDRAWN. RETURNING NOW TO DEBATE, SENATOR KOLTERMAN, YOU'RE RECOGNIZED. [LB447]

SENATOR KOLTERMAN: THANK YOU, MR. LIEUTENANT GOVERNOR. SENATOR SCHUMACHER, I COULDN'T CONCUR MORE WITH WHAT YOU JUST SAID. IN FACT, TO THE POINT THAT THE COMMITTEE IN EARLY DECEMBER HAD A HEARING TO TALK WITH THE PERB AND THE INVESTMENT COUNCIL SPECIFICALLY ABOUT RETURNS. AT THE PRESENT TIME, OUR EXPECTED RETURN IS SET AT 8 PERCENT. WE ALL REALIZE THAT THAT'S PROBABLY NOT ACHIEVABLE. RATHER THAN DISRUPT THEIR PROCESS, THEY HAVE A STUDY COMING OUT IN AUGUST WHICH WILL TELL US EXACTLY WHERE THEY OUGHT TO BE MOVING THEIR INVESTMENT RETURNS TO, AND WE'RE STAYING ON TOP OF THAT AS CLOSE AS WE CAN. BUT YOU ARE ABSOLUTELY CORRECT. WE HAVE TO CONTINUE TO MONITOR THESE PLANS, BECAUSE WE CAN'T TAKE BENEFITS AWAY. ON THE OTHER HAND, IF WE START MOVING IN A DIFFERENT DIRECTION, IT WOULD COST US MILLIONS OF DOLLARS TO CHANGE AT THIS POINT IN TIME. WE ARE WELL FUNDED. THESE PLANS ARE MANAGED PROPERLY, THANK YOU TO PREVIOUS LEGISLATURES. AND I WOULD HOPE THAT WE CAN CONTINUE TO DO WHAT'S RIGHT FOR THE PEOPLE THAT ARE IN THE PLANS AS WELL AS THE CITIZENS OF THE STATE OF NEBRASKA. BUT YOUR REMARKS ARE WELL HEADED. WE UNDERSTAND THAT, AND I CAN ASSURE YOU THAT THE COMMITTEE AND OUR LEGAL COUNSEL, WITH THE PERB AND THE INVESTMENT COUNCIL, WILL CONTINUE TO DO WHAT WE CAN TO KEEP THESE AS SOUND AND SOLID AS POSSIBLE. SO THANK YOU FOR YOUR REMARKS. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR KOLTERMAN. SENATOR KRIST, YOU'RE RECOGNIZED. [LB447]

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SENATOR KRIST: THANK YOU, MR. PRESIDENT, AND GOOD MORNING, COLLEAGUES. GOOD MORNING, NEBRASKA. I WILL BE VERY BRIEF. MANY TIMES DOING IT RIGHT AND GETTING TO THE POINT THAT WE ARE AT RIGHT NOW WITH LB447 DO NOT HAPPEN OVERNIGHT. THEY DON'T HAPPEN IN A BIENNIUM. I HAVE TO REWIND TO A POINT, NOT SENATOR KOLTERMAN'S REIGN AS CHAIR, BUT TWO "CHAIRMANS" AGO WHEN THESE DISCUSSIONS WERE ON THIS FLOOR WHEN I WAS REALLY WET BEHIND THE EARS. I'M JUST SORT OF DAMP BEHIND THE EARS NOW. BUT WHEN I FIRST STARTED, THOSE TWO "CHAIRMANS" AGO RECOGNIZED THAT THERE WAS PROBLEMS, PAST CHAIR RECOGNIZED THERE WERE PROBLEMS. EVERY YEAR WE'VE COME UP WITH A PIECE OF LEGISLATION THAT IS NOT...THAT IS VERY, VERY FOCUSED IN TERMS OF WHAT SENATOR SCHUMACHER IS SAYING. AND WE MADE POTENTIAL TO HAVE WRONG TURNS AND THIS REPRESENTS ALL OF THOSE KINDS OF ISSUES THAT IS THE RIGHT SOLUTION TO THE PROBLEM. SO I WOULD GO BACK SIX YEARS AT LEAST AND SAY, THANK YOU FOR YOUR LEADERSHIP IN THE PAST. AND TO SENATOR KOLTERMAN, THANK YOU FOR YOUR PRESENT LEADERSHIP. THIS NEEDS A GREEN VOTE, EVEN IF IT IS A MELLO BILL. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR KRIST. SENATOR DAVIS, YOU'RE RECOGNIZED. [LB447]

SENATOR DAVIS: THANK YOU, MR. PRESIDENT. I KIND OF WANT TO ECHO WHAT SENATOR KRIST JUST SAID. GOING BACK TO MY FIRST YEAR IN THE LEGISLATURE WHEN I WAS FLOODED BEHIND THE EARS, WE DIDN'T HAVE AN APPROPRIATION REALLY AND SO SOMETHING HAD TO BE PUT TOGETHER TO ADDRESS THE ISSUES THAT WE WERE DEALING WITH. AND THAT WAS THE EFFORT THAT WAS PUT FORWARD TO REFORM THE PLANS WITH A LOT OF CONCESSIONS AND A LOT OF HEARTACHE FOR SOME PEOPLE, BUT IT WAS THE ONLY WAY THAT WE WERE GOING TO BE ABLE TO GO FORWARD WITH THIS. AND I APPRECIATE WHAT SENATOR SCHUMACHER IS SAYING, IT IS A GRAVE CONCERN. BUT THAT PLAN WAS PUT TOGETHER ON THE BASIS OF A ASSUMED RATE, WHICH WAS ACTUALLY LOWER THAN WHAT THE PERB HAD PROJECTED, BECAUSE PEOPLE RECOGNIZED IN HERE THAT IF WE DIDN'T ADDRESS SOME OF THE PROBLEMS THAT WE HAD WE WERE GOING TO HAVE A PROBLEM DOWN THE LINE THAT WOULD BE UNSOLVABLE FOR THE LEGISLATURE. WHAT WE'RE DOING WITH THIS BILL IS, ESSENTIALLY, BY BRINGING THE OMAHA TEACHERS RETIREMENT PLAN INTO THE STATE SYSTEM WE'RE GOING TO PROVIDE STABILITY, WE'RE GOING TO PROVIDE I THINK BETTER RETURNS, AND WE CAN BRING THAT PLAN INTO BETTER FINANCIAL SHAPE TO GET IT BACK UP TO A POINT WHERE IT'S SIMILAR TO THE PLAN THAT IS FOR OUR STATE TEACHERS.

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THE COMMITTEE IS DEDICATED AND DETERMINED TO LOOK AT AND FIND SOLUTIONS WHEN WE NEED TO DO THAT. IT'S A GOOD GROUP OF PEOPLE ON THAT COMMITTEE AND THEY'RE ALL HARDWORKING. WE HAD MEETINGS JUST RIGHT UP TILL CHRISTMAS TO TRY TO ADDRESS SOME OF THESE ISSUES. SO I'M VERY SUPPORTIVE OF WHAT'S BEING DONE HERE, AND I WOULD URGE THE BODY TO CAST A GREEN VOTE. THANK YOU. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR DAVIS. SENATOR GROENE, YOU'RE RECOGNIZED. [LB447]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. SINCE WE'RE ALL GIVING WARM HUGS, THIS WOULDN'T HAVE HAPPENED IF IT WOULDN'T HAVE BEEN FOR SENATOR NORDQUIST AND MELLO BEING OMAHA SENATORS AND EXPLAINING THE REALITY AND WORKING WITH THOSE FOLKS IN OMAHA. AND I WANT TO GIVE A SHOUT OUT TO KATE ALLEN. I'VE BEEN HERE ONLY A YEAR AND A HALF, SHE DOES A VERY GOOD JOB, VERY DEDICATED TO HER JOB AS A COMMITTEE COUNSEL. QUESTIONS NEED TO BE ANSWERED. SHE ANSWERED QUESTIONS BEFORE I ASKED THEM. SHE KNOWS WHERE THEY'RE COMING FROM. SO IT'S BEEN GOOD. I'M REALLY A BIG PROPONENT OF FISCAL CONSERVATIVES IN PUBLIC RETIREMENT PROGRAMS. AND SENATOR KOLTERMAN AND EVERYBODY WORKED WELL. THIS IS GOING TO HELP IN THE LONG RUN. I SHOUT OUT TO THE UNIONS IN OMAHA. THEY UNDERSTOOD THEY NEEDED TO MAKE SOME CHANGES. THIS ISN'T CHICAGO. THESE FOLKS WORKED WELL WITH EVERYBODY ALSO, SO THANK YOU. AND VOTE RED ON...GREEN OR RED? I'M SO USED TO SEEING MELLO AND VOTING RED. VOTE GREEN ON LB447. THANK YOU. [LB447]

PRESIDENT FOLEY: THANK YOU, SENATOR GROENE. SEEING NO OTHER MEMBERS WISHING TO SPEAK, THE QUESTION IS THE ADVANCE OF LB447 TO E&R INITIAL. I APOLOGIZE. SENATOR MELLO, YOU'RE RECOGNIZED TO CLOSE ON LB447. [LB447]

SENATOR MELLO: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE. AFTER SO MUCH LOVE ON THE FLOOR TODAY, I ASSUME I HAVE TO GIVE SOME KIND OF CLOSING. I DON'T WANT TO REPEAT WHAT YOU HEARD FROM A MAJORITY OF THE RETIREMENT SYSTEMS COMMITTEE. THERE'S A NUMBER OF PROPOSALS IN LB447 AS ADOPTED BY THE COMMITTEE AMENDMENT. BUT THE REALITY IS, IS THAT REFORMING PUBLIC PENSIONS IS DIFFICULT WORK. AND THIS IS...AS SENATOR DAVIS HAD SAID, THIS HAS BEEN GOING ON NOW FOR MY ENTIRE...THIS IS MY EIGHTH YEAR HERE. AND BEING THE LONGEST SERVING MEMBER ON THIS COMMITTEE, WE'VE BEEN DOING IT

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EVERY BIENNIUM OF TRYING TO REFORM THE STATE'S PUBLIC PENSIONS IN SOME FORM OR ANOTHER. AND THIS STARTS TO MOVE THE OMAHA SCHOOL EMPLOYEES PLAN TOWARDS THE STATE PLAN SO THAT SOME DAY IT IS IN A POSITION TO BE ABLE TO BE MERGED INTO HAVING ONE SCHOOL EMPLOYEES PLAN INSTEAD OF THE TWO SEPARATE PLANS WE HAVE NOW. AND I CAN'T REITERATE ENOUGH THAT THERE IS A LOT OF WORK THAT STILL LIES AHEAD. I THINK THE BIGGER BILL--WHILE LB447 IS A VERY IMPORTANT BILL THAT REFORMS THE PENSION PROCESS BOTH AT THE STATE LEVEL BUT MOSTLY AT THE LOCAL LEVEL AS IT RELATES TO THE ONLY MUNICIPAL OR SCHOOL OR POLITICAL SUBDIVISION PLAN WHERE THE STATE PUTS MONEY INTO THAT PLAN, THE OSERS PLAN--THE BIGGER BILL WE HAVE IN FRONT OF US THIS YEAR IS LB467 IN REGARDS TO REFORMING THE LAST OF THE MAJOR THREE STATE PLANS IN REGARDS TO THE STATE PATROL DEFINED BENEFIT PLAN THAT'S GOING TO BE COMING UP LATER THIS SESSION AS WELL. BUT I THINK, AS YOU HEARD FROM OTHER SENATORS WHO ARE ON THE COMMITTEE, WE'VE DONE SOME DUE DILIGENCE. WE'VE DONE SOME HARD WORK. BUT IT'S GOING TO REQUIRE A VERY VIGILANT EYE FROM THE LEGISLATURE MOVING FORWARD TO ENSURE THAT WE FOCUS ON THE LONG-TERM SUSTAINABILITY OF OUR DEFINED BENEFIT PLANS. AND IT CAN BE DONE SO BY ADHERING TO A NUMBER OF THE BEST PRACTICES THAT ARE LISTED IN THE BILL AS IT WAS ADOPTED BY THE COMMITTEE AMENDMENT MOVING FORWARD, NOT JUST FOR OUR STATE PLANS, BUT FOR OUR OMAHA SCHOOL EMPLOYEES PLAN AS WELL. WITH THAT, MR. PRESIDENT, I URGE THE BODY TO ADVANCE LB447. THANK YOU, MR. PRESIDENT. [LB447 LB467]

PRESIDENT FOLEY: THANK YOU, SENATOR MELLO. MEMBERS, YOU'VE HEARD THE DEBATE AND CLOSING ON LB447. THE QUESTION IS THE ADVANCE OF THE BILL. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD, PLEASE, MR. CLERK. [LB447]

ASSISTANT CLERK: 32 AYES, 0 NAYS ON THE ADVANCEMENT OF THE BILL, MR. PRESIDENT. [LB447]

PRESIDENT FOLEY: LB447 ADVANCES. NEXT BILL, MR. CLERK. [LB447]

ASSISTANT CLERK: MR. PRESIDENT, LB447A BY SENATOR KOLTERMAN. (READ TITLE.) [LB447A]

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PRESIDENT FOLEY: SENATOR KOLTERMAN, YOU'RE RECOGNIZED TO OPEN ON LB447A. [LB447A]

SENATOR KOLTERMAN: THANK YOU, MR. LIEUTENANT GOVERNOR. THE A BILL GRANTS CASH FUND SPENDING AUTHORITY TO THE NEBRASKA INVESTMENT COUNCIL. THE FIRST YEAR AUTHORITY IS \$175,000, WHICH IS WHEN THE TRANSFER OF THE INVESTMENT AUTHORITY IS MOVED FROM OSERS PLAN TO THE NEBRASKA INVESTMENT COUNCIL. THERE'S ALSO ONGOING CASH FUND SPENDING AUTHORITY OF \$25,000. THESE COSTS WILL BE CHARGED TO THE OSERS RETIREMENT PLAN AND WILL NOT COME FROM GENERAL FUNDS. SO I WOULD REQUEST THAT YOU APPROVE THE A BILL AS PROPOSED. THANK YOU. [LB447A]

PRESIDENT FOLEY: THANK YOU, SENATOR KOLTERMAN. DEBATE IS NOW OPEN ON LB447A. SEEING NO MEMBERS WISHING TO SPEAK, SENATOR KOLTERMAN WAIVES CLOSE. THE QUESTION IS THE ADVANCE OF LB447A TO E&R INITIAL. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD, PLEASE, MR. CLERK. [LB447A]

ASSISTANT CLERK: 32 AYES, 0 NAYS ON THE MOTION TO ADVANCE THE BILL. [LB447A]

PRESIDENT FOLEY: LB447A ADVANCES. RETURNING TO THE AGENDA, GENERAL FILE 2016 SENATOR PRIORITY BILLS. MR. CLERK. [LB447A]

ASSISTANT CLERK: NEXT BILL, MR. PRESIDENT, IS LB897 INTRODUCED BY SENATOR LINDSTROM. (READ TITLE.) THE BILL WAS INTRODUCED JANUARY 11, REFERRED TO THE NATURAL RESOURCES COMMITTEE. THAT COMMITTEE PLACED THE BILL ON GENERAL FILE WITH COMMITTEE AMENDMENTS. (AM1968, LEGISLATIVE JOURNAL PAGE 636.) [LB897]

PRESIDENT FOLEY: THANK YOU, MR. CLERK. SENATOR LINDSTROM, YOU'RE WELCOME TO OPEN ON LB897. [LB897]

SENATOR LINDSTROM: THANK YOU, MR. LIEUTENANT GOVERNOR AND COLLEAGUES. THIS MORNING I BRING TO YOU LB897. I'D FIRST LIKE TO THANK SENATOR FRIESEN FOR MAKING THIS HIS PERSONAL PRIORITY. LB897 WOULD ALLOW CERTAIN PUBLIC POWER DISTRICTS TO PARTICIPATE IN HEDGING AS A

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RISK MANAGEMENT TOOL. HEDGING IS COMMONLY USED IN THE ELECTRIC INDUSTRY TO MITIGATE MARKET RISK BY LOCKING IN PRICES OF FUEL, POWER, AND ENERGY COMMODITY FUTURES. YOU SHOULD HAVE A HANDOUT IN FRONT OF YOU THAT GIVES A GOOD EXAMPLE AND EXPLAIN WHAT A FUTURES CONTRACT IS. LB897 ONLY APPLIES TO GENERATING PUBLIC POWER DISTRICTS THAT ARE PART OF A REGIONAL TRANSMISSION ORGANIZATION, NEBRASKA'S BEING THE SOUTHWEST POWER POOL. THE AUTHORITY TO ENTER INTO HEDGING TRANSACTIONS NEEDS TO BE AUTHORIZED BY THE GOVERNING BODY OF THE POWER DISTRICT. POWER DISTRICTS PARTICIPATING IN HEDGING CAN ONLY USE 5 PERCENT OF THEIR ANNUAL GROSS REVENUE AVERAGED OVER THE PRECEDING THREE CALENDAR YEARS FOR SUCH INVESTMENT. IN ESSENCE, LB897 PROVIDES A WAY FOR GENERATING PUBLIC POWER DISTRICTS TO LIMIT THE EFFECT OF VOLATILE ENERGY MARKET ON PRICES. BY ENTERING INTO CONTRACT, THESE PRICE...THEIR PRICE IS LOCKED IN TO BUY OR SELL AT A FUTURE POINT IN TIME SHOULD THEY SO CHOOSE...SHOULD THEY CHOOSE TO DO SO, AND THEY ARE GUARANTEED TO GET THAT PRICE. OUR POWER DISTRICTS WILL BE ABLE TO BE LESS REACTIONARY TO MARKET CHANGES AND WILL BE ABLE TO PROCEED WITH MORE CERTAINTY THAN THEY ARE CURRENTLY ABLE TO DO, WHICH WILL ALLOW THEM TO KEEP PRICES LOW. THIS BILL CAME OUT OF NATURAL RESOURCES ON AN 8-0 VOTE. THERE WERE NO OPPOSING OR NEUTRAL TESTIMONY AND THERE WAS NO FISCAL NOTE. THANK YOU AND I ASK FOR YOUR GREEN LIGHT ON LB897. [LB897]

PRESIDENT FOLEY: THANK YOU, SENATOR LINDSTROM. AS THE CLERK INDICATED, THERE ARE AMENDMENTS FROM THE NATURAL RESOURCES COMMITTEE. SENATOR SCHILZ, AS CHAIR OF THE COMMITTEE, YOU ARE RECOGNIZED TO OPEN ON THE COMMITTEE AMENDMENT. [LB897]

SENATOR SCHILZ: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE BODY. I BRING...NATURAL RESOURCES COMMITTEE BRINGS AM1968, WHICH BASICALLY WHAT IT DOES IS IT CHANGES A COUPLE THINGS. AND IT WOULD...AND IN THE SECTIONS IT TALKS ABOUT THE BONDING AND WHAT GOES ON. AND IT SAYS, "BOND MEANS ANY BOND, NOTE, WARRANT, LOAN AGREEMENT, LEASE, LEASE-PURCHASE AGREEMENT, PLEDGE AGREEMENT," OR--AND THIS IS THE NEW PART--"AGREEMENT AUTHORIZED BY THE GOVERNING BODY OF A GENERATING POWER AGENCY PURSUANT TO SECTION 2 OF THIS ACT." AND IF YOU MOVE DOWN TO SECTION 2, THEN WHAT THAT DOES IS IT SAYS "ANY GENERATING POWER AGENCY BUYING OR SELLING FUEL, POWER, OR ENERGY WHICH OPERATES IN A REGIONAL TRANSMISSION ORGANIZATION SHALL BE AUTHORIZED TO ENGAGE IN COMMODITY FUTURES FINANCIAL HEDGING

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TRANSACTIONS WITH PRODUCTS REGULATED UNDER THE FEDERAL COMMODITY FUTURES TRADING COMMISSION FOR FUEL, POWER, OR ENERGY AS A PART OF ITS SOUND BUSINESS PRACTICES. ANY GENERATING POWER AGENCY ENGAGED IN SUCH TRANSACTIONS IS AUTHORIZED TO GRANT A FORECLOSABLE SECURITY INTEREST IN AND A LIEN ON SUCH AGENCY'S COMMODITY FUTURES ACCOUNT CONTRACTS OR FUNDS USED FOR SUCH TRANSACTIONS IN AN AMOUNT NOT EXCEEDING FIVE PERCENT OF SUCH AGENCY'S ANNUAL GROSS REVENUE AVERAGED OVER THE PRECEDING THREE CALENDAR YEARS." AND IF I UNDERSTAND IT RIGHT, BASICALLY WHAT IT DOES IS IT GIVES THEM THE POWER TO THEN HAVE A HEDGING ACCOUNT AND TO BE ABLE TO OPERATE THAT AND ALLOW THE FUTURES COMPANY OR WHOEVER THEY'RE TRADING WITH TO BE ABLE TO MOVE MONEY IN AND OUT OF THERE AS IT GOES FORWARD AND TO PUT SOME THINGS IN PLACE TO MAKE SURE THAT THOSE FUNDS ARE PROTECTED. THANK YOU, MR. PRESIDENT. [LB897]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHILZ. MEMBERS, YOU'VE HEARD THE OPENINGS ON LB897 AND THE COMMITTEE AMENDMENT. SENATOR FRIESEN, YOU'RE RECOGNIZED. [LB897]

SENATOR FRIESEN: THANK YOU, MR. PRESIDENT. AS SOMEONE WHO HAS USED THE FUTURES TRADING INDUSTRY FOR OVER 20 YEARS IN THE FARMING BUSINESS, I WAS RATHER SURPRISED TO LEARN THAT INDUSTRIES SUCH AS THIS DID NOT HAVE THE AUTHORITY TO DO THIS IN THE PAST. IN TODAY'S ENERGY MARKETS, AS VOLATILE AS THEY ARE, THIS IS A PERFECT OPPORTUNITY I THINK TO GIVE THEM THE TOOLS THEY NEED TO OPERATE IN A MORE EFFICIENT MANNER WHERE THEY CAN LOCK IN LOWER FUEL COSTS OR POSSIBLY LOCK IN HIGHER ELECTRICITY COSTS AS THEY LOOK INTO THE FUTURE MONTHS IN A CERTAIN TIME FRAME. SO I THINK THIS IS A REALLY GOOD BILL THAT GIVES THEM THE OPPORTUNITY TO OPERATE IN THE COMPETITIVE MARKET THAT WE'RE IN TODAY. AND I URGE EVERYONE TO VOTE GREEN ON THIS BILL. THANK YOU, MR. PRESIDENT. [LB897]

PRESIDENT FOLEY: THANK YOU, SENATOR FRIESEN. SENATOR COASH, YOU'RE RECOGNIZED. [LB897]

SENATOR COASH: THANK YOU, MR. PRESIDENT. WOULD SENATOR SCHILZ YIELD TO A QUESTION? [LB897]

PRESIDENT FOLEY: SENATOR SCHILZ, WOULD YOU YIELD, PLEASE? [LB897]

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SENATOR SCHILZ: I WILL SURE TRY, YES. [LB897]

SENATOR COASH: THANK YOU, SENATOR SCHILZ. YOU'VE TALKED ABOUT THE ABILITY OF THESE COMPANIES TO HEDGE. IS THAT BECAUSE THERE'S SOME RISK INVOLVED? [LB897]

SENATOR SCHILZ: YES. [LB897]

SENATOR COASH: SO IT MAY GO THE WAY YOU WANT TO AND IT MAY GO A DIFFERENT WAY. WOULD THAT BE ACCURATE? [LB897]

SENATOR SCHILZ: YES. [LB897]

SENATOR COASH: WOULD YOU SAY IT'S A GAMBLE? [LB897]

SENATOR SCHILZ: DEPENDS ON HOW YOU DEFINE GAMBLE. IN THIS BODY, YES. [LB897]

SENATOR COASH: LB897 IS EXPANDED GAMBLING? I EXPECT EVERYBODY TO GO TO THEIR SIDES. [LB897]

SENATOR SCHILZ: YEAH. NO, IT'S NOT, BUT I SEE WHERE YOU'RE GOING. [LB897]

SENATOR COASH: I THINK I'M GOING TO YIELD YOU THE REST OF MY TIME, SENATOR SCHILZ, BECAUSE I WOULD LIKE YOU TO EXPLAIN HOW LB897 IS NOT EXPANDED GAMBLING. SENATOR SCHILZ... [LB897]

PRESIDENT FOLEY: SENATOR SCHILZ, YOU'VE BEEN YIELDED 4:00. [LB897]

SENATOR SCHILZ: THANKS, COASH. LOOK...AND I APPRECIATE WHERE SENATOR COASH IS GOING WITH THIS. BUT I THINK, AND IN ALL SERIOUSNESS THOUGH, HEDGING...AND WHEN WE TALKED ABOUT THIS, WE ARE TALKING ABOUT A STRICT HEDGING OPPORTUNITY, NOT SPECULATION OR ANYTHING LIKE THAT. THEY HAVE TO ACTUALLY AT SOME POINT TAKE DELIVERY OF THE PRODUCT THAT THEY'RE ACTUALLY HEDGING. SO THEY CAN'T GO OUT THERE AND SAY, HEY, WE THINK THAT COFFEE BEANS ARE GOING UP TODAY OR SOMETHING LIKE THAT. LET'S BUY INTO THAT AND SEE HOW THAT ALL WORKS. OR WE THINK

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COFFEE BEANS ARE GOING DOWN THIS MUCH, LET'S SELL THAT SO WE DON'T HAVE TO TAKE THAT LOSS. SO WE NEED TO BE CAREFUL WHEN WE UNDERSTAND THIS. YES, THERE IS A RISK TO IT. BUT BECAUSE THEY'RE TAKING DELIVERY OF THE PRODUCT ITSELF AT SOME POINT, IT'S NOT LIKE THEY'RE JUST THROWING IT ALL TO THE WIND AND SAYING WE CAN DO WHATEVER WE WANT. WHAT THIS DOES IS IT ALLOWS THEM TO MITIGATE THE RISK OF THE COST OF THAT RAW PRODUCT TO GO INTO THEIR FUEL TO HELP THEM NOT ONLY PREDICT, YEAH, TO HELP THEM PREDICT WHAT THE COSTS WILL BE GOING FORWARD. SO IT'S A HUGE TOOL. IT'S A TOOL THAT I, QUITE FRANKLY, I WAS SURPRISED THEY DIDN'T HAVE EITHER. AND SO I THANK SENATOR LINDSTROM FOR INTRODUCING THE BILL AND MAKING IT AS EASY AS POSSIBLE TO UNDERSTAND SO THAT WE CAN MOVE THIS FORWARD. THANK YOU. [LB897]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHILZ. (VISITORS INTRODUCED.) SENATOR SCHUMACHER, YOU'RE RECOGNIZED. [LB897]

SENATOR SCHUMACHER: THANK YOU, MR. LIEUTENANT GOVERNOR AND MEMBERS OF THE BODY. I BIT MY TONGUE THROUGH THE LAST EXPANDED GAMBLING DEBATE THAT WE HAD, SENATOR LARSON'S BILL. BUT I RISE IN SUPPORT OF SENATOR LINDSTROM'S EXPANDED GAMBLING BILL. I'LL COMMENT ON THIS AFTER. I DO WANT TO ASK SENATOR SCHILZ A COUPLE QUESTIONS. I REVIEWED THIS WITH NPPD AND WITH OUR PUBLIC POWER FOLKS, AND THEY PROBABLY NEED THIS AS AN EFFECTIVE TOOL IN ORDER TO STAY IN THE CASINO AND GENERATE POWER. AND THEY MAY ACTUALLY WIN AT THIS. IT'S A MEASURE THAT LEVELS OFF THE PEAKS AND FILLS IN THE VALLEYS AND DOES NOT CARRY WITH IT MUCH EXPOSURE. WILL SENATOR SCHILZ YIELD TO A QUESTION? [LB897]

PRESIDENT FOLEY: SENATOR SCHILZ, WOULD YOU YIELD, PLEASE? [LB897]

SENATOR SCHILZ: I WILL SURE TRY, YES. [LB897]

SENATOR SCHUMACHER: SENATOR SCHILZ, WHEN YOU WERE DESCRIBING THIS YOU MENTIONED GRANTING A SECURITY INTEREST. AM I CLEAR AND ARE WE CLEAR THAT THIS SECURITY INTEREST, THIS LIEN TO SECURE THESE TRADES IS NOT ON ANY OF THE GENERATION FACILITIES, NOT ON ANY OF THE TRANSMISSION FACILITIES, IT IS ON ACCOUNTS OF SOME DESCRIPTION? [LB897]

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SENATOR SCHILZ: THAT'S CORRECT. IT'S ONLY ON THE ACCOUNTS...CASH ACCOUNTS THAT THEY HAVE. YEAH, IT WON'T GO BACK AGAINST THE ASSETS. [LB897]

SENATOR SCHUMACHER: AND SO WE'RE NOT GOING TO HAVE SOMEBODY, IF THERE'S A BAD BET PLACED, COME IN AND FORECLOSING ON THE GENTLEMAN STATION? [LB897]

SENATOR SCHILZ: NO. AND THAT'S WHY IT LIMITS THAT TO THAT 5 PERCENT AND ALL THESE OTHER SECURITIES ARE PUT IN PLACE. [LB897]

SENATOR SCHUMACHER: THANK YOU, SENATOR SCHILZ. I THINK AT THIS POINT THIS IS A GOOD BET. AND FINALLY WE'RE GOING TO GET SOMETHING ON EXPANDED GAMBLING THROUGH THE LEGISLATURE. THANK YOU. [LB897]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHUMACHER. SENATOR SCHILZ, YOU'RE RECOGNIZED TO CLOSE ON THE COMMITTEE AMENDMENT. HE WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE COMMITTEE AMENDMENT. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD, PLEASE, MR. CLERK. [LB897]

ASSISTANT CLERK: 29 AYES, 0 NAYS ON THE ADOPTION OF COMMITTEE AMENDMENTS. [LB897]

PRESIDENT FOLEY: THE COMMITTEE AMENDMENTS ARE ADOPTED. RETURNING NOW TO DEBATE ON LB897. SEEING NO MEMBERS WISHING TO SPEAK, SENATOR LINDSTROM, YOU'RE RECOGNIZED TO CLOSE ON LB897. [LB897]

SENATOR LINDSTROM: I NORMALLY WOULD WAIVE RIGHT THERE, BUT I JUST HAD TO CLARIFY THIS IS NOT EXPANDED GAMBLING (LAUGH). THIS IS NOT SPECULATION. THIS IS STRICTLY HEDGING FOR THE PURPOSES OF SMOOTHING OUT THE VOLATILITY IN THE ENERGY PRICES. SO THANK YOU AGAIN TO SENATOR FRIESEN FOR HIS PRIORITY ON THIS, AND I URGE THE BODY TO VOTE GREEN ON LB897. THANK YOU. [LB897]

PRESIDENT FOLEY: THANK YOU, SENATOR LINDSTROM. MEMBERS YOU'VE HEARD THE DEBATE ON LB897. THE QUESTION IS THE ADVANCE OF THE BILL TO

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E&R INITIAL. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED? RECORD, PLEASE, MR. CLERK. [LB897]

ASSISTANT CLERK: 34 AYES, 0 NAYS ON THE MOTION TO ADVANCE THE BILL, MR. PRESIDENT. [LB897]

PRESIDENT FOLEY: LB897 ADVANCES. MR. CLERK, ITEMS FOR THE RECORD. [LB897]

ASSISTANT CLERK: MR. PRESIDENT, THANK YOU. YOUR COMMITTEE ON NATURAL RESOURCES REPORTS LB712 AND LB902 TO GENERAL FILE AND LB1070 AND LB1100 AS INDEFINITELY POSTPONED. COMMITTEE ON ENROLLMENT AND REVIEW REPORTS LB698 AND LB1022 BOTH TO SELECT FILE. IN ADDITION TO THAT, ENROLLMENT AND REVIEW REPORTS LB954 AS CORRECTLY ENGROSSED, LB1016 CORRECTLY ENGROSSED. AMENDMENTS TO BE PRINTED: LB828 AMENDMENT FROM SENATOR BURKE HARR. NEW RESOLUTION: LR454 BY SENATOR CAMPBELL. THAT WILL BE LAID OVER. THAT'S ALL I HAVE. (LEGISLATIVE JOURNAL PAGES 733-736.) [LB712 LB902 LB1070 LB1100 LB698 LB1022 LB954 LB1016 LB828 LR454]

PRESIDENT FOLEY: THANK YOU, MR. CLERK. RETURNING NOW TO THE AGENDA. NEXT BILL LB371. MR. CLERK. [LB371]

ASSISTANT CLERK: MR. PRESIDENT, LB371 INTRODUCED BY SENATOR SULLIVAN. (READ TITLE.) THE BILL WAS READ FOR THE FIRST TIME ON JANUARY 15 OF LAST YEAR. IT WAS REFERRED TO THE EDUCATION COMMITTEE. THAT COMMITTEE PLACED THE BILL ON GENERAL FILE WITH COMMITTEE AMENDMENTS. (AM1268, LEGISLATIVE JOURNAL PAGE 1244, FIRST SESSION, 2015.) [LB371]

PRESIDENT FOLEY: THANK YOU, MR. CLERK. SENATOR SULLIVAN, YOU'RE RECOGNIZED TO OPEN ON LB371. [LB371]

SENATOR SULLIVAN: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE. LB371 WITH COMMITTEE AMENDMENT AM1268 IS A BILL THAT WOULD CREATE THE NEBRASKA COUNCIL FOR EDUCATIONAL SUCCESS AND WAS ADVANCED FROM THE EDUCATION COMMITTEE BY AN 8-0 VOTE. I ALSO THANK SENATOR BOLZ FOR MAKING THIS HER PERSONAL PRIORITY BILL THIS SESSION. MY INTRODUCTION OF LB371 WAS THE RESULT OF THE EDUCATION

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COMMITTEE HAVING SPENT THE PAST TWO INTERIMS STUDYING ISSUES RELATED TO SCHOOL FINANCE AND STRATEGIC PLANNING. TO THAT END, THE EDUCATION COMMITTEE SPENT THE ENTIRE 2014 INTERIM RESEARCHING AND IDENTIFYING IDEAS AND POLICIES TO CREATE A VISION OR A STRATEGIC PLAN FOR EDUCATION IN THIS STATE. THIS VISIONING PROCESS ENGAGED THE PUBLIC THROUGH THE USE OF AN ELECTRONIC SURVEY, ORGANIZED ROUND-TABLE DISCUSSIONS, AND THREE PUBLIC HEARINGS TO IDENTIFY EDUCATION PRIORITIES THAT THE COMMITTEE SHOULD RELY ON TO COORDINATE AND DIRECT LEGISLATIVE PRIORITIES. THE REPORT OF THESE EFFORTS IS ON THE EDUCATION COMMITTEE'S LEGISLATIVE WEB PAGE AND ON FILE WITH THE CLERK OF THE LEGISLATURE IN CASE ANYONE WOULD LIKE TO OBTAIN A COPY. I BELIEVE LB371 IS THE NEXT STEP IN THIS VISIONING EFFORT. IT CREATES THE NEBRASKA COUNCIL FOR EDUCATIONAL SUCCESS, AN ENTITY THAT WILL CONTINUE THE DISCUSSION OF THOSE EDUCATIONAL PRIORITIES AND IN SO DOING KEEP THE LEGISLATURE INFORMED ON THEIR RECOMMENDATIONS. I SEE THE NEBRASKA COUNCIL FOR EDUCATIONAL SUCCESS FOCUSING INITIALLY ON THREE AREAS. ONE, IDENTIFYING WAYS TO INCREASE COLLABORATION BETWEEN PUBLICLY FUNDED PROGRAMS FROM EARLY CHILDHOOD THROUGH POSTSECONDARY EDUCATION. TWO, MEASURING THE IMPLEMENTATION OF THE VISIONING PLAN FOR EDUCATION PURSUANT TO SECTION 50-427. AND, THREE, MAKE RECOMMENDATIONS FOR A MORE COORDINATED, INTEGRATED, AND SEAMLESS EDUCATION SYSTEM THAT ENABLES CHILDREN TO ENTER SCHOOL READY TO LEARN, RECEIVE CHALLENGING INSTRUCTION THROUGH THEIR SCHOOL CAREERS, AND GRADUATE FROM HIGH SCHOOL READY FOR POSTSECONDARY EDUCATION AND CAREERS. TIME AND TIME AGAIN, WHETHER IT'S IN CONVERSATIONS WITH MEMBERS OF THE K-12 COMMUNITY OR IN THOSE IN POSTSECONDARY EDUCATION OR WHEN I ATTEND EDUCATIONAL CONFERENCES IN OTHER STATES OR EVEN DISCUSSIONS WITHIN OUR OWN COMMITTEE, I HEAR THE NEED FOR MORE COLLABORATION, COMMUNICATION, AND COOPERATION AMONG THE DIFFERENT EDUCATIONAL ENTITIES. WE NEED TO FOCUS ON HELPING OUR NEBRASKA STUDENTS TRANSITION MORE SUCCESSFULLY FROM EARLY CHILDHOOD EDUCATION TO K-12, FROM K-12 TO POSTSECONDARY INSTITUTIONS, AND FROM POSTSECONDARY INSTITUTIONS TO THE WORKFORCE. THE NEBRASKA COUNCIL FOR EDUCATIONAL SUCCESS CAN HELP DO THAT. FURTHERMORE, IT WILL HELP GIVE US MORE GUIDANCE AND A CLEARER IDEA OF WHAT THE STATE SHOULD PRIORITIZE BY WAY OF EDUCATIONAL POLICY AND FUNDING. AND FINALLY, I BELIEVE THAT THIS COUNCIL WOULD BE ABLE TO REPORT TO THE LEGISLATURE PROGRESS TOWARDS IMPLEMENTING THE STRATEGIC PLAN THAT WAS CREATED UNDER LB1103 FROM 2014 AND MAKE RESEARCH-BASED RECOMMENDATIONS ON HOW

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TO BETTER IMPLEMENT THE STRATEGIC PLAN GOING FORWARD. IN OTHER STATES AND EVEN HERE IN NEBRASKA, SIMILAR ENTITIES ARE CALLED P-16 OR P-20 EDUCATIONAL COUNCILS. HERE IN NEBRASKA THE P-16 INITIATIVE WAS INSTITUTED THROUGH EXECUTIVE ORDER BY THEN GOVERNOR DAVE HEINEMAN. AND IT CONTINUES TO OPERATE AT THE PLEASURE OF GOVERNOR RICKETTS. I PROPOSE TO CREATE THE NEBRASKA COUNCIL FOR EDUCATIONAL SUCCESS THROUGH STATUTE, GIVING IT A PERMANENCE THAT IS CURRENTLY LACKING. IT ALSO TELLS NEBRASKA CITIZENS HOW SERIOUS WE ARE ABOUT SETTING EDUCATIONAL PRIORITIES IN OUR STATE. LB371 GIVES SPECIFIC RECOMMENDATIONS FOR THE LEADERSHIP AND MAKEUP OF THE NEBRASKA COUNCIL FOR EDUCATIONAL SUCCESS, NAMING THE COMMISSIONER OF EDUCATION AS THE CHAIR OF THE COUNCIL, AND PROVIDING THAT THE MEMBERS OF THE COUNCIL ELECT THE COCHAIR OF THE COUNCIL ON AN ANNUAL BASIS. I ALSO ATTEMPTED TO IDENTIFY THOSE WHO I THOUGHT NEEDED TO BE ON THIS COUNCIL IN TERMS OF BOTH PUBLIC OFFICIALS AND PRIVATE CITIZENS. I KNOW IT'S POSSIBLE THAT I LEFT INDIVIDUALS OFF THE COUNCIL WHO OTHERS MAY FEEL SHOULD BE ON IT. BUT I KNOW THAT I AM OPEN...BUT PLEASE KNOW THAT I'M OPEN TO MAKING CHANGES TO THE COUNCIL MEMBERSHIP. I WAS SIMPLY SEEKING MEMBERSHIP ON THIS COUNCIL THAT WOULD PROVIDE THE BEST INFORMATION PERTAINING TO EDUCATION TO THE LEGISLATURE AND EDUCATIONAL GOVERNING BODIES IN AS NONPOLITICAL A WAY AS POSSIBLE. GOING FORWARD ON THIS, AND I HOPE WHAT WILL BE SOME COMMENTS AND DEBATES AS WE GO FORWARD WITH THIS BILL, I KNOW THERE MIGHT BE QUESTIONS OF HOW THIS NEBRASKA COUNCIL FOR EDUCATIONAL SUCCESS INTERPLAYS OR IMPACTS, AS I ALLUDED TO EARLIER, THE P-16 INITIATIVE THAT GOVERNOR RICKETTS HAS GOING ON. AND I'D WELCOME THAT CONVERSATION AND I WOULD INVITE THOSE QUESTIONS, BECAUSE I KNOW THAT THE GOVERNOR CERTAINLY DOES HAVE OPINIONS ABOUT THIS PROPOSED LEGISLATION. HOWEVER, HE NOR ANYONE FROM HIS OFFICE WAS THERE TO TESTIFY ON THIS BILL. AND AT THE TIME THAT I INTRODUCED THIS LEGISLATION, THE FUTURE OF THE P-16 INITIATIVE WAS A LITTLE UNKNOWN BECAUSE GOVERNOR RICKETTS WAS JUST COMING ON BOARD. SO, AGAIN, I'M INTERESTED IN HEARING WHAT SOME OF THOSE CONCERNS MIGHT BE. AND CLEARLY, AS I JUST SAID, I'M WILLING TO LOOK AT THE MEMBERSHIP AND THE COMPOSITION OF THE NEBRASKA COUNCIL FOR EDUCATIONAL SUCCESS AND SEE IF THERE'S ANY WAYS THAT WE CAN MAKE IT BETTER. BUT, PLEASE, ALSO KNOW THAT MY CONCERN IS ABOUT MAKING EDUCATION BETTER AND STRONGER IN THIS STATE. AND I HOPE YOU FEEL THAT, AS I DO, THAT THE NEBRASKA COUNCIL FOR EDUCATIONAL SUCCESS CAN PAVE THE WAY FOR COMMUNICATION AND COLLABORATION AMONG ALL OUR

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EDUCATIONAL ENTITIES WITH THE OUTCOME BEING MORE SUCCESSFUL, PRODUCTIVE, EDUCATIONAL EXPERIENCES FOR ALL NEBRASKANS. SO I THANK YOU IN ADVANCE FOR YOUR SUPPORT ON THIS BILL AND I ASK FOR ITS ADVANCEMENT OF LB371. THANK YOU, MR. PRESIDENT. [LB371]

PRESIDENT FOLEY: THANK YOU, SENATOR SULLIVAN. AS THE CLERK INDICATED, THERE ARE AMENDMENTS FROM THE EDUCATION COMMITTEE. SENATOR SULLIVAN, AS CHAIR OF THE COMMITTEE, YOU'RE RECOGNIZED TO OPEN ON THE COMMITTEE AMENDMENT. [LB371]

SENATOR SULLIVAN: THANK YOU, MR. PRESIDENT. YES, THE COMMITTEE, AS IT DELIBERATED AND LOOKED AT LB371 AND ITS INTENTIONS AND ITS MAKEUP, THEY SUGGESTED SOME CHANGES. AND WE ALSO LISTENED TO THE INPUT FROM DIFFERENT ENTITIES LIKE THE UNIVERSITY OF NEBRASKA AND HAVE MADE THE FOLLOWING CHANGES TO THE MAKEUP AND HOW THE COUNCIL WOULD OPERATE WITH AM1268. AND SO I'LL GO THROUGH BRIEFLY THE COMPONENTS OF THE AMENDMENT. FIRST, IT CLARIFIES THAT THE COMMISSIONER OF EDUCATION WILL SERVE AS THE CHAIRPERSON OF THE COUNCIL. IT REMOVES THE COCHAIRPERSON, THE EXECUTIVE DIRECTOR OF THE COORDINATING COMMISSION FOR POSTSECONDARY EDUCATION. IT CLARIFIES THAT THE MEMBERS OF THE LEGISLATURE WHO SIT ON THE COMMITTEE DO SO AS NONVOTING, EX OFFICIO MEMBERS. IT ALSO CLARIFIES THAT THE GOVERNOR SHALL APPOINT MEMBERS WITH SPECIFIED QUALIFICATIONS BEGINNING IN SUBSECTION 12 AND NOT SUBSECTION 13, AS ORIGINALLY STATED. IT ALSO PROVIDES THAT MEMBERS OF THE COUNCIL SHALL PICK AMONG THEMSELVES THE INDIVIDUAL WHO SHALL SERVE AS COCHAIRPERSON. IT FURTHER CLARIFIES THAT THE COUNCIL MAY CREATE COMMITTEES TO STUDY VARIOUS ISSUES, OF WHICH THEY WILL MAKE RECOMMENDATIONS AND UTILIZE INDIVIDUALS WHOM THE COUNCIL DEEMS TO HAVE A PARTICULAR EXPERTISE IN AN AREA OF STUDY. AND LASTLY, IT REQUIRES THAT THE COUNCIL, AT A MINIMUM, CREATE THREE COMMITTEES TO STUDY THE AREAS OF COLLEGE AND CAREER READINESS, POSTSECONDARY EDUCATION AFFORDABILITY AND ACCESS, AND LASTLY, BUSINESS AND EDUCATION INNOVATION. THAT, IN ESSENCE, IS THE CONTENT OF THE AMENDMENT, AM1268, AND I URGE YOUR ADOPTION OF IT. THANK YOU. [LB371]

PRESIDENT FOLEY: THANK YOU, SENATOR SULLIVAN. MEMBERS, YOU'VE HEARD THE OPENING ON LB371 AND THE RELATED COMMITTEE AMENDMENT. SENATOR McCOLLISTER, YOU'RE RECOGNIZED. [LB371]

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SENATOR McCOLLISTER: THANK YOU, MR. LIEUTENANT GOVERNOR, AND GOOD MORNING, COLLEAGUES. I WONDER IF SENATOR SULLIVAN WOULD YIELD TO A QUESTION OR THREE. [LB371]

PRESIDENT FOLEY: SENATOR SULLIVAN, WOULD YOU YIELD, PLEASE? [LB371]

SENATOR SULLIVAN: YES, I WOULD. [LB371]

SENATOR McCOLLISTER: IT'S MY UNDERSTANDING, SENATOR SULLIVAN, THAT THE GOVERNOR HAS A SIMILAR PLAN. ARE YOU AWARE OF THAT? [LB371]

SENATOR SULLIVAN: YES. ACTUALLY I'M INVOLVED IN IT, SENATOR McCOLLISTER. [LB371]

SENATOR McCOLLISTER: IS THE COMPOSITION OF THE TWO GROUPS, THE ONE PROPOSED BY THE GOVERNOR AND THE ONE PROPOSED BY THE EDUCATION COMMITTEE, SIMILAR? [LB371]

SENATOR SULLIVAN: IN SOME WAYS, IN SOME WAYS NOT. WE GIVE, THROUGH THIS BILL, WHICH WOULD ULTIMATELY BE PUT IN STATUTE, WHICH OF COURSE THE CURRENT P-16 INITIATIVE IS NOT, IT GIVES CLEARER DIRECTION OF WHAT THE MAKEUP SHOULD BE AND ALL THE DIFFERENT ENTITIES. I WILL SAY THAT THERE IS A STEERING COMMITTEE THAT EXISTS WITHIN THE P-16 INITIATIVE RIGHT NOW. AND IT'S BEEN RENAMED, CALLED THE EDUCATION AND WORKFORCE ROUND-TABLE. AND CURRENTLY THAT INVOLVES ME AS THE CHAIR OF THE EDUCATION COMMITTEE, THE GOVERNOR, AND A REPRESENTATIVE OF THE UNIVERSITY OF NEBRASKA SYSTEM, AND AS WELL AS A PERSON FROM THE...AN EDUCATIONAL NONPROFIT, AND THE COMMISSIONER OF EDUCATION. SO THAT IS HOW THE P-16 IS RIGHT NOW. OURS IS A LITTLE DIFFERENT, BUT INCLUDES SOME OF THE SAME PEOPLE. [LB371]

SENATOR McCOLLISTER: WELL, THAT'S GOOD TO HEAR. I SEE A DANGER IN THE GOVERNOR'S APPROACH DIFFERING FROM THE ONE THAT'S COMING OUT OF THE LEGISLATURE AND THE EDUCATION COMMITTEE. DO YOU SEE VALUE IN TRYING TO HARMONIZE THOSE TWO...THE TWO COMPOSITIONS OF THE VARIOUS APPROACHES? [LB371]

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SENATOR SULLIVAN: WELL, I WOULDN'T BE OPPOSED TO THAT. AND I THINK TO BE CLEAR, IT'S NOT THAT I'M IN OPPOSITION TO THE P-16 INITIATIVE; COULDN'T BE FARTHER FROM THE TRUTH. AS I SAID, I'M INVOLVED IN IT. IT'S JUST THAT THAT WAS CREATED VIA EXECUTIVE ORDER. THERE IS NOTHING IN STATUTE THAT CREATES IT. IT SERVES AT THE PLEASURE OF THE GOVERNOR, WHICH CAN CHANGE OVER TIME. IF WE WERE TO PUT SOMETHING LIKE THE NEBRASKA COUNCIL FOR EDUCATIONAL SUCCESS IN STATUTE, THERE'S SOME LONGEVITY TO IT, IF YOU WILL, AND PERMANENCY THAT I MAINTAIN IS NOT WITH THE CURRENT P-16. [LB371]

SENATOR McCOLLISTER: THANK YOU. WELL, I DO SEE SOME VALUE IN TRYING TO HARMONIZE OR AT LEAST COLLABORATE WITH THE GOVERNOR'S OFFICE AND WOULD ENCOURAGE YOU TO DO THAT BETWEEN GENERAL AND SELECT. THANK YOU. [LB371]

PRESIDENT FOLEY: THANK YOU, SENATOR McCOLLISTER. SENATOR KOLTERMAN, YOU'RE RECOGNIZED. [LB371]

SENATOR KOLTERMAN: THANK YOU, MR. LIEUTENANT GOVERNOR. SENATOR SULLIVAN, WOULD YOU YIELD TO A QUESTION? [LB371]

PRESIDENT FOLEY: SENATOR SULLIVAN, WOULD YOU YIELD, PLEASE? [LB371]

SENATOR SULLIVAN: YES, I WILL. [LB371]

SENATOR KOLTERMAN: SENATOR SULLIVAN, THANK YOU FOR BRINGING THIS LEGISLATION. I LIKE THE IDEA OF PUTTING IT IN STATUTE AND CONTINUING THE P-16 INITIATIVE. THE ONLY QUESTION I REALLY HAVE IS THERE'S A LOT OF PRIVATE SCHOOLS IN THIS STATE THAT SAVE THE TAXPAYERS A LOT OF MONEY, AND I DON'T SEE THEM REPRESENTED IN ANY FORM IN THIS. I KNOW THE INDEPENDENT COLLEGES ARE LISTED, BUT I'M TALKING ABOUT K-12 RIGHT NOW THAT ARE ACTIVELY INVOLVED IN THE NEBRASKA SCHOOL ACTIVITIES AND REGULATED BY THE DEPARTMENT OF EDUCATION. SO COULD YOU ADDRESS THAT? [LB371]

SENATOR SULLIVAN: YOU'RE RIGHT. I DON'T THINK THAT THEY ARE...THE K-12 PRIVATES ARE REPRESENTED RIGHT NOW. THAT'S NOT TO SAY THAT WE COULDN'T IN SOME WAY INCLUDE THEM IN THE CONVERSATION. BECAUSE AS I

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RECALL WHEN WE WENT THROUGH THE VISIONING PROCESS, THEY WERE INVITED TO COME TO THE TABLE IN THAT DISCUSSION. AND AS I SAID IN MY INTRODUCTION, I'M WILLING TO LOOK AT THE COMPOSITION AND THE MEMBERSHIP OF THIS PROPOSAL. AND IF WE CAN ENLARGE IT OR CHANGE IT, I'D BE OPEN TO THAT DISCUSSION. [LB371]

SENATOR KOLTERMAN: THANK YOU VERY MUCH. I'LL BE TALKING MORE WITH YOU. [LB371]

PRESIDENT FOLEY: THANK YOU, SENATOR KOLTERMAN. SENATOR BRASCH, YOU'RE RECOGNIZED. [LB371]

SENATOR BRASCH: THANK YOU, MR. PRESIDENT. AND THANK YOU, COLLEAGUES. WHEN I PULLED UP THE BILL AND I'M READING THROUGH IT AND SEEING THAT IT DOES RECOGNIZE THE OTHER INITIATIVES IN PLACE, SPECIFICALLY THE P-16, BECAUSE I DO RECALL SENATORS BEING INVITED TO ONE OF THE INITIAL ROUND-TABLES ABOUT THE PROGRAM. AND THE ONE THING THAT...WHEN WE HELD OUR JOINT MEETINGS THIS PAST INTERIM, EDUCATORS HAD EXPRESSED UNFUNDED MANDATES. THAT THERE'S MORE PRESSURE BEING PUT ON THEM FOR PERFORMANCE, FOR COMPLIANCE. AND AS I LOOK AT THIS AND I SEE THAT THERE IS ALREADY INITIATIVE IN PLACE, I DON'T KNOW...AND I'LL ASK SENATOR SULLIVAN TO YIELD TO A QUESTION. [LB371]

PRESIDENT FOLEY: SENATOR SULLIVAN, WILL YOU YIELD, PLEASE? [LB371]

SENATOR SULLIVAN: YES, I WILL. [LB371]

SENATOR BRASCH: WHY DO YOU BELIEVE IT MUST BE STATUTORY AND NOT VOLUNTARY? DO YOU BELIEVE EDUCATION WOULD SUFFER WITHOUT THESE COMPONENTS OR DO THEY SUFFER AT THIS POINT BECAUSE... [LB371]

SENATOR SULLIVAN: NO, NOT IN ANY WAY, SHAPE, OR FORM. IT'S JUST THAT BY PUTTING IT IN STATUTE...FIRST OF ALL, WE'VE NEVER HAD THIS DISCUSSION ON THE FLOOR OF THE LEGISLATURE, BECAUSE THE P-16 INITIATIVE HAS OPERATED, AS I'VE SAID, THROUGH EXECUTIVE ORDER AND UNDER THE LEADERSHIP OF THE EXECUTIVE BRANCH. I KEEP HEARING THAT THERE IS A NEED ACROSS THE WHOLE EDUCATION CONTINUUM TO HAVE THIS COMMUNICATION AND COLLABORATION. AND THAT'S NOT TO SAY THAT THAT'S NOT HAPPENING IN THE

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P-16 INITIATIVE. BUT THAT DOES SERVE AT THE--I WOULDN'T SAY THE WHIM-- BUT AT THE LEADERSHIP OF THE GOVERNOR. THERE IS NOTHING TO SAY THAT A FUTURE GOVERNOR MIGHT FEEL DIFFERENTLY. BY PUTTING IT IN STATUTE, IT SAYS THAT IT'S IMPORTANT ENOUGH TO HAVE THAT COLLABORATION OVER TIME BY THESE DIFFERENT EDUCATION ENTITIES. [LB371]

SENATOR BRASCH: THANK YOU, SENATOR SULLIVAN. AND ANOTHER QUESTION YET, TOO, BECAUSE I AM GLAD YOU SAID IT WAS NOT A WHIM. HOW MUCH OF OUR BUDGET GOES TO EDUCATION? [LB371]

SENATOR SULLIVAN: WELL, IF YOU INCLUDED NOT ONLY K-12 AND EARLY CHILDHOOD BUT ALSO POSTSECONDARY EDUCATION, ABOUT 47 PERCENT. [LB371]

SENATOR BRASCH: ABSOLUTELY. AND THAT'S WHERE I BELIEVE ANY GOVERNOR--NOW, PAST, PRESENT, OR FUTURE--WILL CERTAINLY HAVE A TABLE, A DISCUSSION, AN OPPORTUNITY TO HELP SHAPE EDUCATION THROUGH MANY ENTITIES. BUT, YES, IT...I DON'T FEAR THAT IT'S A SUBJECT THAT WILL DIMINISH AS A PRIORITY ON ANYONE'S ADMINISTRATION, SO, THANK YOU. AND I DO LOOK AT EVERYONE THAT HAS SUPPORTED THIS INITIATIVE, AND THAT'S IMPRESSIVE TOO. SOME MAY KNOW THAT OVER THE LAST DECADE, 12 YEARS OR MORE, MY OCCUPATION ASIDE FROM FARMING HAS BEEN WORKING WITH EDUCATIONAL SERVICE AGENCIES. THERE'S OVER 500 ACROSS THE COUNTRY, AND I'VE BEEN TO 43 STATES VISITING WITH ADMINISTRATORS, SUPERINTENDENTS, AND OTHERS THAN IN NEBRASKA. AND I BELIEVE THERE ARE A LOT...MANY, MANY ENTITIES, NOT JUST WHAT'S LISTED HERE THAT...WHOSE BUSINESS, WHOSE LIVELIHOOD, WHOSE PASSION, WHOSE GOALS ARE IN... [LB371]

PRESIDENT FOLEY: ONE MINUTE. [LB371]

SENATOR BRASCH: ...FURTHERING EDUCATION. AND WHEN YOU TALK TO THE TEACHERS IN THE CLASSROOM THAT'S WHERE, YOU KNOW, THE BUCK STOPS AND EDUCATION HAPPENS THERE. I HAVE ATTENDED MEETINGS AS A LEGISLATOR AND MEETINGS AS A NONLEGISLATOR, AND THAT'S WHAT THEY ARE, IS MEETINGS. I'M NOT SURE HOW...IF THEY ARE CHANGE AGENTS. SO I WILL CONTINUE READING THIS BILL, LOOKING AT...WE HAVE IN PLACE BEFORE I MAKE A DECISION. AND I DO THANK SENATOR SULLIVAN FOR THE INTRODUCTION. I'M NOT CONFIDENT THAT IT IS A STATUTORY VITAL TO OUR

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EDUCATION PROGRAM. THANK YOU, MR. PRESIDENT. AND THANK YOU, SENATOR SULLIVAN AND SENATOR BOLZ, FOR THE PRIORITY. [LB371]

PRESIDENT FOLEY: THANK YOU, SENATOR BRASCH. SENATOR SCHEER, YOU'RE RECOGNIZED. [LB371]

SENATOR SCHEER: THANK YOU, MR. LIEUTENANT GOVERNOR. IF I MIGHT, MAY I ASK SENATOR SULLIVAN A FEW QUESTIONS? [LB371]

PRESIDENT FOLEY: SENATOR SULLIVAN, WOULD YOU YIELD, PLEASE? [LB371]

SENATOR SULLIVAN: YES, I WILL. [LB371]

SENATOR SCHEER: SENATOR SULLIVAN, I WAS...I WANT TO MAKE SURE I INTERPRETED THE BILL CORRECTLY. BUT IN MY QUICK GLANCE OF THE LEGISLATION IN RELATIONSHIP TO THE MAKEUP OF PERHAPS PRIVATE OR PAROCHIAL PEOPLE WITHIN THOSE OTHER DOMAINS ON THE COMMITTEE, AS I READ IT, IT DOESN'T SPECIFY THAT THE ADMINISTRATOR OR THE PARENT OR THE SCHOOL BOARD MEMBER HAD TO BE NECESSARILY FROM A PUBLIC ENTITY. IT COULD BE FROM ANY TYPE OF SCHOOL BOARD. THE ADMINISTRATOR COULD BE FROM ANY TYPE OF FACILITY AND THE TEACHER COULD BE FROM ANY TYPE OF FACILITY. AM I CORRECT IN... [LB371]

SENATOR SULLIVAN: YOU'RE READING THAT CORRECTLY, YES. [LB371]

SENATOR SCHEER: OKAY. THE OTHER THING, IF YOU COULD...AND YOU MAY HAVE IN GENERALITY, BUT I GUESS IN PREFACE, I AS WELL HAVE SERVED ON THE P-16 EARLIER IN MY CAREER ON THE STATE BOARD OF EDUCATION ON OCCASION. AND I'M NOT TRYING TO BE DEROGATORY TO THE PROGRAM, BUT IT REALLY HAS NOT ACCOMPLISHED MUCH OVER A LONG PERIOD OF TIME. I THINK, YOU KNOW, JUST LIKE A LOT OF THINGS, IT WAS A GREAT IDEA, BUT IT REALLY NEVER GOT MUCH TRACTION NOR DID IT REALLY EVER--FROM, AGAIN, PERSONAL THOUGHT--DID NOT NECESSARILY ACCOMPLISH MUCH IN THE AREA OF EDUCATION. SO I'M JUST WONDERING IF PERHAPS THIS BEING ON A STATUTORY BASIS, WHICH I DON'T NECESSARILY FIND ALL BAD BECAUSE I THINK WE DO NEED TO HAVE SOMETHING, A PERMANENCY. IF WE EXPECT A BETTER RESULT, THEN WE CAN'T DO THE SAME THINGS WE'VE BEEN DOING AND EXPECT A DIFFERENT RESULT, SO TO SPEAK. GETTING DIFFERENT PEOPLE

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INVOLVED AND HAVING MORE OF A MISSION AND A GUIDANCE PERHAPS WILL HELP. AS ANYTHING ELSE, IF IT DOESN'T WORK STATUTORILY WE CAN ALWAYS TAKE IT OUT OF STATUTE. SO THAT, IN AND OF ITSELF, DOESN'T SCARE ME. BUT DO YOU SEE AT SOME POINT IN TIME EITHER A MELDING OR THIS SORT OF TAKING THE PLACE OF THE P-16 AS FAR AS EDUCATIONAL LEADERSHIP THROUGHOUT THE STATE? [LB371]

SENATOR SULLIVAN: WELL, I THINK THAT IF WE GO FORWARD WITH THIS BILL AT THIS POINT IN TIME I THINK PROBABLY THERE SHOULD BE SOME DISCUSSION. AND BECAUSE AS I INDICATED IN MY INTRODUCTION, I THINK THE GOVERNOR'S OFFICE HAS SOME CONCERNS. AND SO I'M OPEN TO HAVING A CONVERSATION ABOUT THAT. BUT, YOU KNOW, AS FAR AS ESTABLISHING LEADERSHIP AND IDENTIFYING EDUCATIONAL PRIORITIES, SENATOR SCHEER, YOU WERE PART OF THE EDUCATION COMMITTEE WHEN WE WENT THROUGH THAT VISIONING PROCESS; AND WE REACHED OUT ALL ACROSS THE STATE THROUGH THAT ELECTRONIC SURVEY, THROUGH THOSE ROUND-TABLE DISCUSSIONS, AND THEN IN OUR COMMITTEE ESTABLISHED, BECAUSE OF THOSE DISCUSSIONS, GOALS. AND THAT'S GOING TO BE THE STEPPING OFF POINT FOR THIS COUNCIL. AND SO YOU'VE GOT TO HAVE SOMEPLACE TO GIVE YOU DIRECTION. AND I THINK THAT WAS THE START OF IT AND THIS, TO ME, IS HOW WE CARRY THOSE THINGS FORWARD. [LB371]

SENATOR SCHEER: THANK YOU, SENATOR SULLIVAN. I DON'T DISAGREE THAT IF WE'RE GOING TO HAVE GOALS WE HAVE TO FIND SOME PATHWAY TO ACHIEVE THOSE GOALS. AND, AGAIN, THE P-16 WAS A GREAT IDEA THAT PERHAPS WE ALL HAVE TO ADMIT JUST DIDN'T FUNCTION VERY WELL OR IT DIDN'T REALLY PRODUCE WHAT WE HAD HOPED. THE MEMBERSHIP...AND I'M NOT TRYING TO DISCOUNT WHAT THE GOVERNOR'S TRYING TO DO, THERE MAY BE GREAT IDEAS. I'M NOT PART OF THAT DISCUSSION. SO I'M NOT TRYING TO MINIMIZE THE INPUT FROM THE GOVERNOR'S OFFICE, BUT I DO BELIEVE THAT IF WE ARE GOING TO IMPROVE AND CHANGE EDUCATION IN THE STATE OF NEBRASKA AND TRY TO IMPROVE... [LB371]

PRESIDENT FOLEY: ONE MINUTE. [LB371]

SENATOR SCHEER: ...THANK YOU, MR. LIEUTENANT GOVERNOR...IF WE'RE GOING TO WANT DIFFERENT OUTCOMES AND WE WANT TO HAVE A BETTER EDUCATIONAL SYSTEM WITHIN THE STATE, WE CAN'T CONTINUE TO DO THE SAME THINGS WE'VE BEEN DOING. SO THIS IS CERTAINLY A STEP IN THE RIGHT

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DIRECTION. IF THERE'S A MELDING PROCESS WITH THE GOVERNOR, SO BE IT. EVERYTHING'S...THERE'S PROBABLY GOOD IDEAS THERE AS WELL. I JUST WOULD LIKE US TO SEE...FORM SOMETHING THAT WE CAN START MOVING EDUCATION IN A DIFFERENT DIRECTION SO THAT WE ACTUALLY CAN ACHIEVE WHAT WE WANT. THANK YOU, MR. LIEUTENANT GOVERNOR. [LB371]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHEER. ITEMS FOR THE RECORD, MR. CLERK. [LB371]

ASSISTANT CLERK: MR. PRESIDENT, NEW BILL: LB914A, BY SENATOR SCHILZ. (READ LB914A BY TITLE FOR THE FIRST TIME.) NEW RESOLUTION: LR455 BY SENATOR KEN HAAR. AND ACCOMPANYING THAT RESOLUTION IS A COMMUNICATION FROM THE SPEAKER REFERRING THE LR TO THE REFERENCE COMMITTEE. SENATOR KOLTERMAN HAS AN AMENDMENT TO LB975 TO BE PRINTED IN THE JOURNAL. NAME ADDS: LB947, SENATOR GARRETT; LB884, SENATOR SMITH; SENATOR SCHILZ, CAMPBELL, KOLTERMAN, McCOLLISTER, BAKER, AND KOLOWSKI TO LB1109. (LEGISLATIVE JOURNAL PAGES 737-740.) [LB914A LR455 LB975 LB947 LB884 LB1109]

FINALLY, MR. PRESIDENT, A PRIORITY MOTION. SENATOR MURANTE WOULD MOVE TO ADJOURN UNTIL MONDAY, FEBRUARY 29, 2016, AT 10:00 A.M.

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADJOURN TILL NEXT MONDAY. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. WE ARE ADJOURNED.