

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

Floor Debate
February 21, 2017

[LB11 LB18 LB18A LB19 LB29 LB62 LB74 LB88 LB94 LB131 LB132 LB289 LB342 LB346
LB355 LB470 LB607 LR42 LR43 LR44 LR45]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for the thirty-second day of the One Hundred Fifth Legislature, First Session. Our chaplain for today is Pastor Adam Stahr of the Two Pillars Church in Lincoln, Nebraska, a guest of Senator Murante. Please rise.

PASTOR STAHR: (Prayer offered.)

PRESIDENT FOLEY: Thank you, Pastor Stahr. I call to order the thirty-second day of the One Hundred Fifth Legislature, First Session. Senators, please record your presence. Roll call. Mr. Clerk, please record.

CLERK: I have a quorum present, Mr. President.

PRESIDENT FOLEY: Thank you, Mr. Clerk. Are there any corrections for the Journal?

CLERK: I have no corrections.

PRESIDENT FOLEY: Thank you, sir. Are there any messages, reports, or announcements?

CLERK: Mr. President, your Committee on Enrollment and Review reports LB74, LB131, and LB132 to Select File. Revenue Committee reports LB607 to...as indefinitely postponed. And Senator Stinner reports...offers LR42; that will be laid over. That's all that I have, Mr. President. (Legislative Journal pages 501-502.) [LB74 LB131 LB132 LB607 LR42]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Speaker Scheer, you are recognized.

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. Just a quick note to everyone, we'll be passing out in reference to the Speaker priorities and your own individual priority bills as well as committee priorities. I wanted to note that the Speaker priority deadline we changed, and I mentioned it, but I want to make sure everyone is fully aware of it. We backed it up a day so we have a little bit more time to review all of those. So the deadline for the Speaker priorities is March 7. We had earlier notated that it would be the 8th, so I want to make sure everybody

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

Floor Debate
February 21, 2017

understands it's a day earlier. The deadline for the senator individual priority and the committee bills are still the 9th, March 9. We will be accepting any priority designation at this point, noting that there's 117 bills on General File right now. If you know what you are going to be prioritizing and if indeed it does happen to be on General File, this certainly would be advantageous to you to do that early. I'm not trying to get things going, but if indeed those two scenarios work out for you that you have something on General File and you want to prioritize it, it jumps to the head of the class so it would be...could be heard as quickly as the next couple of days. So, it would help you, in relationship to that. I'm not trying to imply if you don't have something out of committee, that's your choice. I personally probably would not prioritize something still in the committee, but if you wish to, that's fine too. But we can only take up what's outside of the committee. I'm not going to read the whole thing. The pages have these or will have these, we'll pass them out. Please take a look at them to make sure that everybody is on the same wavelength as far as priorities. It also talks a little bit about the Speaker priorities and relationship what we would like to see in those as well. So, any questions, either contact myself, Laurie, or Spencer in my office. Thank you, Mr. Lieutenant Governor.

PRESIDENT FOLEY: Thank you, Mr. Speaker. (Doctor of the day introduced.) We'll now proceed to the first item on the agenda, legislative confirmation reports. Mr. Clerk.

CLERK: Mr. President, the Agriculture Committee reports on the appointment of Dennis Hoffman to the Nebraska State Fair Board. (Legislative Journal page 412.)

PRESIDENT FOLEY: Senator Brasch, you are recognized to open on the confirmation report.

SENATOR BRASCH: Thank you, Mr. Lieutenant Governor, good morning; and good morning, colleagues. The Agriculture Committee wishes to report favorably on the appointment of Dennis Hoffman to the Nebraska State Fair Board. Section 2-103 provides for an 11-member State Fair Board. Seven members are drawn from among leaders of county agricultural societies and county fair boards who are nominated and selected by the district as provided in the constitution of the State Fair Board. Four members appointed by the Governor, three of whom represent the business community of the state and selected by Congressional district, and one member is selected to represent the business community of the State Fair host community. Mr. Hoffman is nominated for appointment to represent the business community of the Third Congressional District. He would be appointed to fill the remainder of the term of his predecessor, Lowell Minert, who passed away earlier this year. Mr. Hoffman's term will expire in December 2018, and he would be eligible to serve two additional three-year terms. Mr. Hoffman and his wife have resided in Thedford, Nebraska, since 2008 when they relocated their ranching operation from California to Nebraska. Prior to leaving California, Mr. Hoffman was manager of the Inter-Mountain County Fair located in McArthur, California, from 1988-2005. When the State Fair

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

Floor Debate
February 21, 2017

relocated to Grand Island in 2010, he served as the fair's beef cattle superintendent for the first three years and his wife has also assisted with livestock shows during the fair. Further qualifications include past membership in boards of three breed associations, the American Hereford Association, California-Nevada Hereford Association, and the Oregon-Washington Hereford Association of which he served as president in 1978 and 1979. Mr. Hoffman studied animal science at both Kansas State and Oregon State. One of the important roles that we anticipate Mr. Hoffman fulfilling as a member of the board is the recruitment in off-season national and regional livestock shows. Lowell Minert, who Mr. Hoffman replaces, was instrumental in helping the fair facilities attract national and regional breed association shows to Grand Island. Mr. Hoffman with his connections to livestock breed associations and past experience as a county fair manager will be an asset to the Fair Board and Fonner Park in that regard. Due to the inclement weather on the date of his confirmation hearing on January 24, the appointee participated via a conference call. He gave a review of his qualifications and visions for the State Fair and answered the committee's questions well. The committee appreciated Mr. Hoffman's relevant experience, his apparent pride in our State Fair facilities, and his eagerness to contribute to the fair's success. The committee voted with six ayes and no dissenting votes to recommend confirmation of Mr. Hoffman's appointment. I, therefore, move the adoption of the committee report. Thank you, colleagues.

PRESIDENT FOLEY: Thank you, Senator Brasch. Debate is now open on the confirmation report. Seeing no senators wishing to speak, Senator Brasch, you're recognized to close. She waives closing. The question for the body is for the adoption of the confirmation report of the Committee on Agriculture. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal pages 502-503.) 38 ayes, 0 nays, Mr. President, on the adoption of the report.

PRESIDENT FOLEY: The Committee on Agriculture's report has been adopted. Next confirmation report, Mr. Clerk.

CLERK: Mr. President, the Natural Resources Committee reports on the appointment of Randy Gard to the Nebraska Ethanol Board. (Legislative Journal page 461.)

PRESIDENT FOLEY: Senator Hughes, as Chair of the committee, you're recognized to open on the confirmation report.

SENATOR HUGHES: Thank you, Mr. President. Good morning, members of the Legislature. I present for your approval the appointment of Randy Gard to the Nebraska Ethanol Board. Randy

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

Floor Debate
February 21, 2017

came before the Natural Resources Committee for his confirmation hearing on February 8. Mr. Gard is the executive director of Bosselman Enterprises in Grand Island, Nebraska. The Nebraska Ethanol Board is comprised of seven members, all appointed by the Governor. Each member represents a specific area of interest related to Nebraska's ethanol industry. Mr. Gard is fulfilling the petroleum marketing position on the Ethanol Board. The Nebraska Ethanol Board is a state agency created in 1971 by the Nebraska Legislature, the first and only state agency in the United States devoted solely to the development of the ethanol industry. The board focuses on four key issues: ethanol production, industry support, market development and research, and technology issues and public policy development. The committee advanced Mr. Gard's appointment by an 8-0 vote, and I ask for the confirmation of Randy Gard to the Nebraska Ethanol Board. Thank you.

PRESIDENT FOLEY: Thank you, Senator Hughes. Debate is now open on the confirmation report. Seeing no senators wishing to speak, Senator Hughes, you are recognized to close. He waives closing. The question for the body is the adoption of the confirmation report of the Natural Resources Committee. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal 503.) 39 ayes, 0 nays on adoption of the report.

PRESIDENT FOLEY: The confirmation report of the Natural Resources Committee is adopted. Next confirmation report. Mr. Clerk.

CLERK: Mr. President, the Judiciary Committee reports on three appointments to the Crime Victim's Reparations Committee. (Legislative Journal page 472.)

PRESIDENT FOLEY: Senator Ebke, as Chair of the Judiciary Committee, you're recognized to open on the confirmation report.

SENATOR EBKE: Thank you, Mr. President. The Judiciary Committee heard...had confirmation hearings for reappointment to the Crime Victim's Reparations Committee. The appointees were Joe P. Kelly who is county attorney for Lancaster County, Mayor Rita Sanders from the city of Bellevue, and then Sheriff Jeffrey Davis from Sarpy County Sheriff's Office. The Nebraska Crime Victim's Reparations Act was created in 1979 and provides compensation to innocent victims of a crime for certain expenses related to the criminal act, that is part of the Nebraska Crime Commission. These are all reappointments and the Judiciary Committee recommends the confirmation of all three.

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

Floor Debate
February 21, 2017

PRESIDENT FOLEY: Thank you, Senator Ebke. Debate is now open on the confirmation report. Senator Chambers, you are recognized.

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, just very briefly to make a comment for the record, Mr. Kelly and I have had our disagreements on very serious issues, some of the disagreements were contentious, at least from my side. But these nominations were voted on 8-0 in front of the Judiciary Committee with me voting aye. It demonstrates that I am able to separate any disagreement I may have with somebody when we're dealing with that individual in a different area where he--it's a he in this situation--or she has competency and the ability to carry out the duties. I just want to make that claim for the record and I hope my colleagues are paying attention. Because we have a contentious disagreement today does not mean that tomorrow we will not continue it. You weren't listening, but for the record, tomorrow we will not necessarily continue it. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Chambers. Seeing no other members wishing to speak, Senator Ebke waives closing. The question for the body is the adoption of the confirmation report of the Judiciary Committee. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: (Record vote, Legislative Journal 504.) 36 ayes, 0 nays on adoption of the report.

PRESIDENT FOLEY: The confirmation report of the Judiciary Committee is adopted. Next item on the Agenda is the Executive Board report. Mr. Clerk.

CLERK: Mr. President, Senator Watermeier, as Chair of the Executive Board, reports on the reappointment of Marshall Lux as Public Counsel as per statute 81-8,241. (Legislative Journal page 489.)

PRESIDENT FOLEY: Senator Watermeier, as Chair of the Executive Board, you're recognized to open on the confirmation report.

SENATOR WATERMEIER: Thank you, Mr. President; good morning Nebraska and colleagues. This morning I am pleased to rise today to ask for your support for the reappointment of Marshall Lux as the Public Counsel for the state of Nebraska, or it is better known as the state ombudsman. Mr. Lux has held this position since 1981 and has done an outstanding job. For those of you who are not familiar with the duties of the Ombudsman's Office, it is a division of the Legislature which serves as an independent complaint handling office for citizens who have concerns about actions of state agencies. The Ombudsman Office and his staff seek to resolve

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

Floor Debate
February 21, 2017

these complaints, thereby providing not only justice to citizens but also promoting accountability in state agency administration. The jurisdiction of the Ombudsman Office was expanded in 2012 when the Legislature created the office of the Inspector General of the Nebraska Child Welfare. The Inspector General of Child Welfare provides an independent form of inquiry and review of the actions of individuals and agencies responsible for the care and protection of children in the Nebraska Child Welfare and juvenile probation system. Then, in 2015, the Legislature created the office of Inspector General of the Correctional System within the Ombudsman Office to provide for increased accountability and oversight of the Nebraska Correctional System. The Public Counsel is appointed by the Legislature to serve a six-year term, after the recommendation by the Executive Board. The previous Executive Board met and voted unanimously to recommend Mr. Lux for another term. The motion before you today is to reappoint Mr. Lux to another term. I would ask for your support. This does require a two-thirds vote today. Thank you, Mr. President.

PRESIDENT FOLEY: Thank you, Senator Watermeier. Debate is now open on the reappointment of Public Counsel pursuant to the recommendation of Executive Board. Seeing no members wishing to speak, Senator Watermeier waives closing. The question for the body is the reappointment of Public Counsel pursuant to the recommendation of the Executive Board. This requires a two-thirds vote. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk.

CLERK: 39 nays, 0 nays on the adoption of the report.

PRESIDENT FOLEY: Public Counsel has been reappointed. We move on to General File. Mr. Clerk.

CLERK: Mr. President, LB18, a bill by Senator Kolterman. It's a bill for an act relating to the Dentistry Practice Act. (Read title.) It was introduced in January, referred to the Health Committee. Senator Kolterman presented his bill, Mr. President, on Thursday, February 16. He also offered an amendment, AM24, as an amendment to the bill, Mr. President. That amendment is pending. (Legislative Journal page 496.) [LB18]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Kolterman, you've already opened on this bill. If you would like to take a moment just to refresh us on where we are on the debate. [LB18]

SENATOR KOLTERMAN: Yes, good morning, Mr. Lieutenant Governor and colleagues. This is a scope of practice bill that deals with a collaborative model of team work and promotes better efficiency in the dental arena. Dental care of Nebraska should improve with this bill. We have a scope of practice that now creates a license for dental assistants. Dental hygienists have some

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

Floor Debate
February 21, 2017

expanded duties as do the dental assistants, and they all work in harmony with the dentists. I passed out a sheet of paper last week that talked about the different levels of licensure and would tell you that both the dental assistants, as well as the dental hygienists, have been through the 407 process. For those of you who are not aware of that, that involves going before a technical review committee, the State Board of Health, and the chief medical officer. They've both been approved, and I'd ask that you move this forward today. Thank you. [LB18]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Debate is now open on LB18 and the pending amendment, AM24. Senator Chambers, you are recognized. [LB18]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, last year some bills similar to this were derailed and I would like to ask Senator Kolterman a question or two if he will answer. [LB18]

PRESIDENT FOLEY: Senator Kolterman, will you yield, please? [LB18]

SENATOR KOLTERMAN: Yes, sir, I will. [LB18]

SENATOR CHAMBERS: Senator Kolterman, was this one of those bills which I was instrumental for my reasons in derailing? [LB18]

SENATOR KOLTERMAN: Yes, sir, it was. [LB18]

SENATOR CHAMBERS: Were you aware at that time, or have you become aware that I did not have objection to the bills themselves? [LB18]

SENATOR KOLTERMAN: Yes, sir, I did. I was aware of that. [LB18]

SENATOR CHAMBERS: And I can atone for all of that since circumstances have changed by changing my conduct in supporting these bills, would you agree? [LB18]

SENATOR KOLTERMAN: That would be very nice, sir. [LB18]

SENATOR CHAMBERS: And now that we've established such a cordial relationship, I would like to call your attention to a very well-done handout with a headline Dental Hygiene and Assistants Scope of Practice Expansion, and it is in multicolors. Do you see it? [LB18]

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

Floor Debate
February 21, 2017

SENATOR KOLTERMAN: Yes, sir. I have it right in front of me. [LB18]

SENATOR CHAMBERS: Who originated and executed this document which I find to be very appealing and pleasing to the eye and instructive to the mind? [LB18]

SENATOR KOLTERMAN: It was a collaboration of the dental hygienists and the dental assistants as well as the Dental Association. [LB18]

SENATOR CHAMBERS: So the people who worked on this knew what they were doing and what the subject matters are, and we can rely on what's in here as being accurate, correct? [LB18]

SENATOR KOLTERMAN: Absolutely. Yes, sir. [LB18]

SENATOR CHAMBERS: Do you have your copy in front of you? [LB18]

SENATOR KOLTERMAN: Yes. [LB18]

SENATOR CHAMBERS: Do you see three columns? [LB18]

SENATOR KOLTERMAN: Yes, sir. [LB18]

SENATOR CHAMBERS: In the third column, what is the heading? [LB18]

SENATOR KOLTERMAN: Well, there's two sides, so the first...if you're looking at the dental assistants or the dental hygienists? [LB18]

SENATOR CHAMBERS: Oh, dental assistants. [LB18]

SENATOR KOLTERMAN: Okay. It's expanded function dental assistant. [LB18]

SENATOR CHAMBERS: Expanded what? [LB18]

SENATOR KOLTERMAN: Function. [LB18]

SENATOR CHAMBERS: I don't think so. [LB18]

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

Floor Debate
February 21, 2017

SENATOR KOLTERMAN: No, it's not. There's a misprint there, sir. [LB18]

SENATOR CHAMBERS: I bet they thought nobody would find it because generally these items are not read, correct? Well, that can be speculated. Right? [LB18]

SENATOR KOLTERMAN: Yes. [LB18]

SENATOR CHAMBERS: Would you let them know that I did pay attention. I did note it. And I won't make you pronounce the misprint because it could sound like something which it is not. [LB18]

SENATOR KOLTERMAN: Thank you, Senator Chambers. [LB18]

SENATOR CHAMBERS: Thank you, and I would support these bills...this bill, and I hope everybody else does too. My final comment: I go to the dentist twice a year. When you reach my age, you want to keep these tusks in the best shape possible, but I've had teeth extracted in the past and because there may be an atomic holocaust at some point and humans or intelligent life forms, more intelligent than those who led to that holocaust, may be in existence, so to assist them in their studying of those who lived at this time, I had two or three of my teeth encased in a very hard plastic-like substance which can withstand an atomic bomb explosion. And should there be intelligent life, I'm sure they'll find a way to get into that and extract those teeth from that in the same way they were extracted from my jawbone. But I gave a...I heard a chuckle. I was going to tell you a rhyme that accompanied it, but I'm not going to do it today. Maybe I can be prevailed on later, but I just want all the dentists to know that I'm contributing what I can while I'm alive to what future generations may want to know about who were here. And on the chance that DNA can be extracted, and that from which the DNA came can be resurrected, voila. Thank you, Mr. President. [LB18]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Crawford, you are recognized. [LB18]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in support of LB18 and AM24, and would like to thank Senator Kolterman for his work on this bill. It has been a multi-year process, and I also thank and applaud the dentists and dental assistants and dental hygienists who have worked so hard together to come up with a resolution that allows us to expand dental access in our state and another important feature of this bill and these expansions of opportunities is in these expansions of scope is really an expansion of career opportunities. We have worked hard in this body trying to expand opportunities for career pathways to allow people to start in a career

Floor Debate
February 21, 2017

and work in that career and continue moving up in that career pathway to expand their skills and expand their salary and improve their ability to support their family while still being attentive to the issues that are important in terms of work force shortages. And so trying to make sure that as we allow opportunities for career pathways, that we make sure that the first step on to that career pathway is one that is appropriate for our communities of all sizes and appropriate to make sure there are opportunities for people of different education levels to get on to that career pathway. And this bill accomplishes that. It make sure that there is still a pathway or first step on for dental assistants that makes sense, especially some of our smaller communities and the way dental assistant practice has happened. But then it creates an opportunity for increased credentialing and education to allow really a career pathway for those dental assistants. And we heard testimony from one of the dental assistants who was very excited about having this opportunity to increase her skills and increase her credentials and have a sense of expanding her professional opportunities in that dental assistant field. And we also heard from dentists about how these changes would allow them to serve more patients and serve more of our children and improve access in that way. So it's an exciting bill and I appreciate the work of all the stakeholders and Senator Kolterman in pushing it to completion and making sure we have an opportunity to make this change in our state, and I look forward to seeing how it plays out. I also have e-mails from dental assistants in my own district as well talking about how important this is to them and how they look forward to seeing this change in their profession and how it will open up our opportunities for them. So again, I stand in support of LB18 and AM24 and urge your support as well. Thank you, Mr. President. [LB18]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Ebke, you are recognized. [LB18]

SENATOR EBKE: Thank you, Mr. President. I wonder if Senator Chambers would yield to a question. [LB18]

PRESIDENT FOLEY: Senator Chambers, would you yield, please? [LB18]

SENATOR CHAMBERS: Yes, I shall. [LB18]

SENATOR EBKE: Senator Chambers, I couldn't let this go. Have you ever seen the movie Jurassic Park? [LB18]

SENATOR CHAMBERS: Yes. [LB18]

SENATOR EBKE: You should know then that it's very dangerous to resurrect something from the past. (Laughter) [LB18]

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

Floor Debate
February 21, 2017

SENATOR CHAMBERS: Yes. [LB18]

SENATOR EBKE: Thank you, Mr. President. [LB18]

PRESIDENT FOLEY: Thank you, Senator Ebke. Senator Krist, you are recognized. [LB18]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues. Good morning, Nebraska. I was not going to say anything on this bill, although I have been involved with this scope of practice issue since going back into the 2010 and '11 time frame, but I had the sheer luck yesterday of spending about three hours in the dentist's chair with...I would like to reenact it for you, but I can't. As she was doing this kind of thing and my jaw was blocked open so she could do what she needed to do, she said, have you heard about LB18? (Laughter) And I said yeah, oh, oh, (guttural noises). After I got the block out of my mouth, she explained to me how important it was and I explained to her how many of us have been working on this for a very long time. And I thanked her for her good work and painless work yesterday. She said, make sure LB18 goes passed or the next time you are in here, I will reinforce what LB18 should have done. Thank you. Thank you, Mr. President. [LB18]

PRESIDENT FOLEY: Thank you, Senator Krist. Seeing no other members wishing to speak, Senator Kolterman, you are recognized to close on AM24. He waives closing. The question for the body is the adoption of AM24 to LB18. All those in favor vote aye; those opposed vote nay. Have you all voted who care to? Record, please, Mr. Clerk. [LB18]

CLERK: 44 ayes, 0 nays on adoption of the amendment. [LB18]

PRESIDENT FOLEY: AM24 is adopted. Continuing debate on LB18 as amended. Seeing no other members wishing to speak, Senator Kolterman, you're recognized to close. He waives closing. The question for the body is the advance of LB18 to E&R Initial. All those in favor vote aye; those opposed vote nay. Have you all voted? Record, please, Mr. Clerk. [LB18]

CLERK: 40 ayes, 0 nays, Mr. President, on the advancement of the bill. [LB18]

PRESIDENT FOLEY: LB18 advances. Next bill. Mr. Clerk. [LB18]

CLERK: LB18A, by Senator Kolterman. Appropriates funds to implement the provisions of LB18. [LB18A]

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

Floor Debate
February 21, 2017

PRESIDENT FOLEY: Senator Kolterman, you are recognized to open on LB18A. [LB18A]

SENATOR KOLTERMAN: Good morning and thank you. This is a fiscal note. It has approximately \$44,000 the first year and \$59,000 the second year. It's all handled through license fees and it would allow for...since there are going to be approximately 1,650 new applicants for licensure, HHS has decided they need one full-time equivalent health licensing specialist. It would allow for that and again it's all covered by fees. So I would appreciate adoption of LB18A. [LB18A]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Debate is now open on LB18A. Seeing no members wishing to speak, Senator Kolterman waives closing. The question is the advance of LB18A 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. [LB18A]

CLERK: 36 ayes, 0 nays, Mr. President, on the advancement of LB18A. [LB18A]

PRESIDENT FOLEY: LB18A does advance. Next bill in General File. Mr. Clerk. [LB18A]

CLERK: LB19 by Senator Kolterman. (Read title.) Introduced on January 5 of this year, referred to the Health Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB19]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Kolterman, you are recognized to open on LB19. [LB19]

SENATOR KOLTERMAN: Thank you, Mr. Lieutenant Governor. Good morning, colleagues. I would like to ask for your support of LB19, a bill that changes requirements for the practice of acupuncture. This is the same bill that former Senator Nicole Fox introduced last year, advanced unanimously out of committee and was designated a Speaker priority bill. Unfortunately, we ran out of time and were unable to debate it on General File. LB19 also passed out of committee unanimously this year with no opposition testimony, and no fiscal note. LB19 is a codification of a 407 report dealing with referrals to and from licensed acupuncturists. Currently under state statute, an individual seeking services from a licensed acupuncturist must first, within a 90-day period prior to visiting the acupuncturist, obtain a referral from a medical doctor and present that referral to the acupuncturist. LB19 is the result of a 407 review process during which the Board of Health reviewed the current 90-day referral process to determine if the referral scheme actually served any viable or necessary purpose in terms of services provided and/or safety of the patient. Upon review, it was determined that there was no public safety interest served by

Floor Debate
February 21, 2017

maintaining this requirement in statute. As such, the Board of Health and the state medical officer recommended that the 90-day referral requirement be removed from statute and be replaced with the standardized referral language used in other states. Rather than requiring the prereferral from a doctor, if adopted as presented in both the 407 report and LB19, the licensed acupuncturist would now be required to refer patients, they may see, that presents to them upon initial examination with problems or symptoms outside or beyond their scope of area of training. The new referral language in statute will read as follows: "An acupuncturist licensed under the Uniform Credentialing Act shall refer a patient to an appropriate practitioner when the problem of the patient is beyond the training, experience, or competence of the acupuncturist." This new language is standardized referral language. It has been put in place in other states, such as Minnesota. The Board of Medicine has reviewed and recommended the placement of the referral language in statute along with the removal of the 90-day prereferral from a doctor. LB19 simply codifies in statute the findings of the 407 report dated February 14, 2014. Thank you, and I'd ask you for your green vote on LB19. [LB19]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Debate is now open on LB19. Seeing no members wishing to speak, Senator Kolterman, you're recognized to close. He waives closing. The question is the advance of LB19 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. [LB19]

CLERK: 38 ayes, 0 nays, Mr. President, on the advancement of LB19. [LB19]

PRESIDENT FOLEY: LB19 does advance. Next bill. Mr. Clerk. [LB19]

CLERK: LB29 is by Senator Kolterman. (Read title.) The bill was introduced on January 5, referred to the Retirement Systems Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB29]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Kolterman, you are recognized to open on LB29. [LB29]

SENATOR KOLTERMAN: Thank you, and, again, good morning. LB29 is truly a cleanup bill. Last year when LB447 was passed to transfer the investment authority from Class V School Employees Retirement Plan, also known as OSERS, to the Nebraska Investment Council, a cash fund was set up to accept funds from OSERS for costs, fees, and expenses incurred by the council related to the investment and reinvestment of OSERS' assets. During the interim, it was determined that an existing cash fund is being used for the purpose, so this new cash fund is unnecessary. LB29 simply eliminates the unneeded cash fund. There was no opposition to the bill and I encourage you to advance it. Thank you. [LB29]

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

Floor Debate
February 21, 2017

PRESIDENT FOLEY: Thank you, Senator Kolterman. Debate is now open to LB29. Seeing no members wishing to speak, Senator Kolterman is recognized to close. He waives closing. The question is the advance of LB29 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. [LB29]

CLERK: 34 ayes, 0 nays, Mr. President, on the advancement of LB29. [LB29]

PRESIDENT FOLEY: LB29 advances. Next bill on General File. Mr. Clerk. [LB29]

CLERK: LB94 is by Senator Kolterman. (Read title.) Introduced on January 5, referred to the Retirement Systems Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB94]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Senator Kolterman, you're recognized to open on LB94. [LB94]

SENATOR KOLTERMAN: Thank you, again. This is a reintroduction of LB747 which I introduced last year that advanced to General File but didn't have the priority status, so it died at the end of the session. LB94 increases from \$6 million to \$16 million the maximum amount of time deposit open accounts made available to banks, capital stock, financial institutions, and qualifying mutual financial institutions willing to meet the rate and other requirements of the Nebraska Capital Expansion Act. The Nebraska Capital Expansion Act was adopted in 1978 and was designed to provide additional capital to financial institutions to help meet agricultural and housing credit needs. Currently under the act, banks, capital stock, financial institutions, and qualifying mutual financial institutions are eligible to obtain time deposit open accounts in the amount of \$1 million from funds available from investment by the state investment officer provided they meet the rate and other requirements established by the act. There are currently 188 banks that are eligible for \$1 million each, so a total of \$188 million is eligible to be taken. If the total amount of funds initially offered to all eligible institutions is not accepted, the balance of funds are immediately reoffered to institutions desiring additional funds in an amount not to exceed an institutions pro-rata share of the remaining funds, or \$5 million for each institution, whichever is less. When the maximum amount of time deposit open accounts available to banks was increased in 2014 from \$1 million to \$6 million, approximately one-third of the banks in Nebraska were participating and were assessing approximately \$33 million in the aggregate. The 2016 end of year report on the same time deposit open account program reflects that approximately one-third of the banks in Nebraska were participating in the program with just under \$41 million in deposits being accepted and one bank taking advantage of the \$6 million allotment. While bank participation in the Nebraska Capital Expansion Act ebbs and flows, depending on the economy and interest rates, when loan demand is strong, banks are looking for

Floor Debate
February 21, 2017

additional sources of liquidity to continue to satisfy the loan demand on their communities. Providing additional access to time deposit open accounts in the amounts proposed under LB94 will assist banks seeking additional liquidity for lending purposes. So what this bill is attempting to do is raising the limit from \$6 million to \$16 million. And the way this works, there's 188 banks in the state, and of those banks approximately one-third of them are participating. They go to the state investment officer and they borrow money from the state investment officer. So if we have 188 banks involved, that means there's \$188 million available, but no one can exceed at the present time \$6 million. Everybody can get the \$1 million, but if there is leftover money, and let's say there's only 33 banks participating, that opens up some other opportunities. Now, there is, there is...this money is used by banks to be loaned out in the communities throughout the state and there's banks all throughout the state, it doesn't matter where they are of the metropolitan size or they're small town banks in western Nebraska or central Nebraska, so out of the 33 or 34 banks that are participating this year, it varies all across the state. And at the present time, there's only one bank that has accessed the \$6 million. What the bankers are asking for here is the ability to attach, raise that limit...the total limit would not exceed the \$188 million, but the one bank, any one bank could borrow up to \$16 million if we approve this. So what we're doing is we're just granting more authority. I will also tell you that the banks pay approximately 1 percent interest to the state investment officer at the present time. The state investment officer is getting about 2.8 percent, so there is an opportunity cost there that the state might be losing out on some interest, but at the same time, we're helping the local economy by investing in the banks throughout the state. So with that, I would entertain any questions you might have. [LB94]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Debate is now open on LB94. Senator Groene, you are recognized. [LB94]

SENATOR GROENE: Thank you, Mr. President. I sit on the Retirement Committee and I had questions about exactly what Senator Kolterman mentioned there at the end. We have a budget crisis. Our investment board invests billions of dollars that are influxed, tax dollars, until they're used, they keep them invested in short-term notes. And that interest they bring in, or bear, adds to the tax, to the funds that we have to spend which alleviates taxation on the citizens. I had a real concern that that difference between 1 percent the banks pay and the 2.8 percent that the investment council was investing amounted to millions. Six hundred thousand was one estimate, two million was another one. You just take \$200 million, it's all loaned out, it depends how much is loaned out, times 1.8 percent. I love bankers. They loan money to our communities, they're good citizens, but I was concerned that they really didn't need a handout from the state. The fed loans them money. I'm not a banker. I'm not an expert on it, but I understand that some people are up to the limit...some banks are at the limit of what they can borrow from the fed and those banks then come in are willing to pay 1 percent. I had one banker tell me it was too high, because they can get it at half percent or zero there for a while from the fed. I guess as an elected official, I thought my interest should be with the taxpayers and the state to maximize our return

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

Floor Debate
February 21, 2017

on investment on our citizens' tax dollars, so I raised some concerns in committee. I did not vote for it or against it in Exec. I understand the well-meaning of it, but I don't see the necessity of it. If they really need the extra funds, pay the same amount, 2.8 percent that the taxpayers are getting on the short-term investments. That was my concern, and I probably still won't support it today. I don't think it's necessary. We need to maximize returns in these financial short times, a million here, \$600,000 there starts adding up in a hurry. Think of all the programs that \$600,000 would keep in the Appropriations Committee or \$1 million would keep...that could be kept doing Appropriations. So, I guess, I look at the big picture. So, in fact, I will vote against LB94. Thank you, Mr. President. [LB94]

PRESIDENT FOLEY: Thank you, Senator Groene. Seeing no other members wishing to speak, Senator Kolterman, you're recognized to close on LB94. [LB94]

SENATOR KOLTERMAN: Thank you. I understand Senator Groene's concerns, and we talked about that, he and I. I appreciate him in his candor on that. It's not like we're losing money on this situation because we're putting money back into the economy through investments in our local communities as banks need capital to loan out to people whether it's for housing, whether it's for agriculture, whether it's for expansion of a business. That's important that our banks have the ability to go and get money where it's needed. I would tell you probably back in the time when interest rates were...in 2008 when interest rates were falling apart and we weren't getting a good return on our investment, this investment looked pretty good to the state. So, I would appreciate you move forward with this and approve this and allow our banks to continue to move forward. Thank you. [LB94]

PRESIDENT FOLEY: Thank you, Senator Kolterman. Members, you've heard the debate on LB94. The question is the advance of the bill 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. [LB94]

CLERK: 40 ayes, 1 nay, Mr. President, on the advancement of LB94. [LB94]

PRESIDENT FOLEY: LB94 advances. Next bill on General File. Mr. Clerk. [LB94]

CLERK: Mr. President, LB62, introduced by Senator Scheer. (Read title.) Introduced on January 5 of this year, referred to the Education Committee, advanced to General File. I have no amendments to the bill, Mr. President. [LB62]

PRESIDENT FOLEY: Thank you, Mr. Clerk. Speaker Scheer, you're recognized to open on LB62. [LB62]

Floor Debate
February 21, 2017

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. LB62 is a very simple bill. It repeals a nearly 100-year-old statute that prohibits teachers from wearing religious garb in the classroom. I brought this bill at the request of Sister Madeleine Miller of the Missionary Benedictine Sisters in Norfolk. Sister Miller graduated from Wayne State with a teaching degree in 2015, subsequently applied to teach at many of the private schools in the area. After she was told there were no current openings, she applied to be a substitute teacher for the Norfolk Public Schools. Sister Miller was told that if she was to be hired, she would have to remove her habit; otherwise, she would be subject to statute 79-898 and 79-899. (Statute) 79-899 requires that any teacher who violates the garb ban be suspended for a year for the first violation and to disqualify from teaching in that school for a second violation. Further, any member of the school board who fails to take action against the teacher who violates the statute is guilty of a Class V misdemeanor. Norfolk Public Schools did exactly what they were required to do under the laws that exist today. However, they shouldn't be required to turn away qualified applicants because of the clothing they wear or their religious beliefs. If a person is qualified to teach and certified by the state, why would we turn them away? Continuing with Sister Miller's story, no openings came about in the private schools in the immediate area of her convent within the last year, so she ended up relocating to a sister convent and taking a job teaching in Sioux City, Iowa. This should not have happened. In Nebraska, specifically in rural areas, we're hurting for qualified teachers and substitutes. I know a few years ago the Department of Education actually changed the requirement for a substitute teacher so that students in higher level college courses could substitute teach before earning their degree, specifically because of this shortage. If we're going to make an exemption, why would we turn away any certified, competent applicants? I was on the Norfolk Board of Public Schools Board of Education for a number of years, and before coming down here I served eight years on the State Board of Education. Before Sister Miller contacted me, I truly had never heard of that statute. This is something that, looking at other states that have been extremely lucky, has not been legally challenged in Nebraska. It's important to note that the term "religious garb" technically not only covers clothing but also jewelry. So under this statute any teacher in Nebraska today, over the past 98 years who has been wearing or has worn a cross necklace or a ring with a cross or any other type of signification, for example, would be guilty of violating 79-898. After introducing this bill, I was approached by a member of the State Board of Education. She informed me that a young woman who was working towards her teaching degree contacted her because she was, just this year, confronted with these statutes. She's further along in the process of earning her teaching certificate and ready to begin student teaching. Her adviser informed her that, while she would be an excellent teacher, she needs to reconsider that she'll have a hard time finding a teaching job in Nebraska. This individual speaks five languages fluently, can write in four languages, and also just happens to be a Mennonite. As such, she wears the traditional garb clothing of those of the Mennonite faith--a long homemade dress with her hair up and covered. A little bit of history for the purpose of putting this statute in context. It was originally passed in 1919. Thirty-five other states passed similar prohibitions around the same time as Nebraska. At the time, the United States was in the

Floor Debate
February 21, 2017

middle of a very strong anti-Catholic phase. These bills were passed nationwide, were largely at the urging of the Ku Klux Klan and other hate groups in an effort to keep Catholic nuns and priests out of the public school systems. The idea at the time was that Catholic religion was anti-American and that priests and nuns were corrupting the minds of students with undemocratic thoughts. In the century since this bill was passed, we have come a long way as society. Thirty-four of the original thirty-six states have passed...that have passed this discriminant law have repealed it. Only Nebraska and Pennsylvania continue to have this intact. It is time that Nebraska become the 35th state to repeal this law. LB62 simply removes the archaic statutes and says the state of Nebraska does not discriminate against people simply because of the clothes they wear or their religious beliefs. As a state, we understand that a teacher that teaches...it's a teacher that teaches, not the clothing they wear. We believe that individuals are professionals and that they're fully capable of wearing garb that expresses their First Amendment rights while remaining religiously neutral in the classroom. Further, I would add that our own constitution perhaps invalidates the statute LB62 would seek to repeal. Article VII, Section 11 states a religious test or qualification shall not be required of any teacher or student for admission or continuance of any school or institution supported in whole or in part by public funds or taxation. (Statute) 79-898 and 79-899 in effect create a religious test for teachers. These statutes say that in order to work in the public schools, a teacher cannot be a strict adherent to any religious. Religious tests are generally thought of being utilized to promote a majority religion over another. In this case the religious tests discriminates against all religion. It discriminates against the followers of any religion. If a religion requires you to wear a yamaka or habit or hijab or otherwise, you could choose between that or working as a teacher. It is my belief that the state, we are better than these statutes. Nebraska is a welcoming place. Our values promote mutual respect for those in all the kinds of backgrounds, faiths, and beliefs. These statutes state that if you believe this, you cannot do that. This is wrong, in my opinion. We would be better than that. With that, I would encourage your support of LB62. Thank you, Mr. President. [LB62]

PRESIDENT FOLEY: Thank you, Mr. Speaker. Debate is now open on LB62. Senator Chambers, you're recognized. [LB62]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I understand the power that Catholics have in this state and in this country. They are the ones who have been pushing bills to say that if a pharmacist has a religious belief which prevents him or her from accepting birth control, then those medications need not be dispensed and the licensing agency cannot do anything about it. They want stores to be able to reject serving people if their religion prohibited them from doing that. In most cases, it's talking about same-sex couples or members of the LGBTQ community. And it's been made very clear that the church is opposed to legislation that would protect these citizens from discrimination based on their sexual orientation. Well, suppose they say it's based on their religion, that they have a religious belief? Then these same people would say, well, that's a sham religion. That is a way to hide what is

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

Floor Debate
February 21, 2017

really going on here. This is not an easy vote to give. By that I meant a vote to repeal this statute. There are religions, many. Some religions may require a person to wear a garment, which based on the Catholic view would be the clothing of a woman. Could this man wearing what some people consider to be women's clothing teach in the schools? Or maybe a woman would be required to wear something which resembled the clothing of a man. Could the woman do this? This is a blade that cuts both ways. I'd like to ask Senator Scheer a question or two, if he would respond. [LB62]

PRESIDENT FOLEY: Senator Scheer, would you yield, please? [LB62]

SPEAKER SCHEER: Most certainly. [LB62]

SENATOR CHAMBERS: Senator Scheer, private schools can discriminate in practically any way they choose when it comes to religious matters. Isn't that true? [LB62]

SPEAKER SCHEER: That would be my opinion, yes. [LB62]

SENATOR CHAMBERS: Say it again? [LB62]

SPEAKER SCHEER: That would be my opinion, yes. [LB62]

SENATOR CHAMBERS: So if they didn't want to hire a Muslim, they wouldn't have to, and they wouldn't have to give any reason for it. [LB62]

SPEAKER SCHEER: That's correct. [LB62]

SENATOR CHAMBERS: If they wanted to reject a practicing Jew, they could do it... [LB62]

SPEAKER SCHEER: Yes, they could. [LB62]

SENATOR CHAMBERS: ...or any other. [LB62]

SPEAKER SCHEER: Yes, they could. [LB62]

SENATOR CHAMBERS: But they want to be able to come into the public schools, which are to serve all children, with their particular garb and in that position of authority and a representative

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

Floor Debate
February 21, 2017

of the state, in a manner of speaking, proclaim their religion and perhaps cause confusion in the minds of children. Is that possible? And if you'd rather not answer, it's not a trick question. You don't have to answer that one. [LB62]

SPEAKER SCHEER: Well, Senator, I don't believe that would be the case, but I do believe you are correct to the extent that this bill is nondiscriminatory. So some of those examples you gave would also be acceptable in the public schools as well. From my vantage point, what I'm trying to do, as well as the two instances that I gave, I'm also looking at a multitude of teachers. And I spent a lot of time during my years as a school board member, in the school building. And I can't remember going into any single building that I would not have noticed one or more of the teachers perhaps having a cross necklace on or a bracelet or some other type of thing signifying a religious connotation. Based on this statute, not only would she lose her license for a year but any school board member, myself included--thankfully, I wasn't aware of the law--would have been violating a Class V misdemeanor. So I think you are correct, this can go both ways. But I do think we are improving education and bringing more in to the table than we currently have. [LB62]

SENATOR CHAMBERS: Thank you. Members of the Legislature, I have no problem whatsoever removing criminal sanctions for the individual who would violate the law by wearing the garb or for administrators in the school system, members of the school board, or anywhere else. If it's to be used at all, there should be a directive across the board, applied to everybody. And if a person couldn't comply with that, then the person... [LB62]

PRESIDENT FOLEY: Time, Senator. [LB62]

SENATOR CHAMBERS: ...would not. Thank you, Mr. President. [LB62]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB62]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This one is just too much fun, because when you start thinking about it, it opens all kinds of doors. Here's what it says. We got a law now that says that it's wrong for any member or adherent to a religious order...of a religious order, sect, or denomination to wear that garb in the public schools. Okay. We're about, probably with good cause, to remove that rule. So, once we do this, in the public schools it will be clear that men can wear cassocks, robes, ribbons, flowery caps, caps with feathers sticking out the top, crowns. And I just looked up on the Internet as to what a bishop's garb might be and I saw the cutest patent leather shoes. Okay? And in order to be able to do that, all you have to do is be a member or adherent to a religious order. Is this giving preference to

Floor Debate
February 21, 2017

religious folks to dress that way in the classroom over people who just want to dress that way in the classroom? So what door are we opening here? We are now allowing and discriminating in favor of religious people being able to dress a certain way in the classroom, and we all know that if a nonreligious person showed up in pink patent leather shoes they'd probably have a problem. And so this undercurrent here, even though the example, the particular example that Senator Scheer gives is very common sense, leads us down a road of questioning a lot of other mores, a lot of other sensibilities, and a lot of other things that are really touchy subjects. And so ask yourself, is the only...if a man can show up dressed in that flowery outfit, and it's okay if he's religious, then why can't he show up in the same type of outfit if he's not religious? And is this granting a special privilege or status in our system? Kind of an interesting discussion. And that's why these simple bills that just simply say, "The following sections are outright repealed: Sections 79-898 and 79-899," can raise really interesting issues because they cloud what is going on underneath. Always read a line that says, "these things are repealed", because if you're really good at it you can slide a lot of repealers through without people even knowing what's being repealed or looking into the underlying language. How many of you looked at what 79-898 and 899 actually said, pulled it up on you gadgets, read it up, thought about it? When you do, you raise and you start thinking about these kind of consequential issues, and this one is actually, when you think about it, kind of important. We are saying religious people can dress in a manner in a classroom differently... [LB62]

PRESIDENT FOLEY: One minute. [LB62]

SENATOR SCHUMACHER: ...than what we hold everyone else right to dress in a classroom. Thank you. [LB62]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Chambers, you're recognized. [LB62]

SENATOR CHAMBER: Mr. President, members of the Legislature, there are times when a bill can be made into law, and it can represent a slam at or against a particular religion. Senator Scheer made some references to anti-Catholic attitudes and he mirrored, in his comments, those that the World-Herald, in an editorial, also stated about this particular law that talks about religious garb. All of that might be true. The motivation may be tainted. But when you come to a law that's on the books, you have to look at what the words of that law are. If these words are a violation of the Nebraska Constitution or the United States Constitution, both of which have a requirement that there can be no religious test to hold a public office, and in Nebraska it specifies teachers, among others, let them go to court. Let the court take evidence and determine if, on the basis of what the requirement is, whether it is reasonable and does not run afoul of the proper operation of the public schools, which are mandated under the constitution. The common

Floor Debate
February 21, 2017

schools, all children have to go between the ages of whatever unless they're going to go to some alternative school system, and the Catholics have an alternative or a parallel school system, from preschool to postdoctoral, and they can do anything they want to in terms of banning other people. So there should be plenty of opportunities in their system to hire their own teachers because they can say nobody who is not a Catholic can teach in these schools, and not violate any law, as long as they make that an element of their religious belief. And that has been bled over, and I didn't go into a large number of examples, the secular world where people hiding behind religion can discriminate. They use religion as a basis to elude the constitutional provisions banning discrimination. So religious people have always been able to find ways to have their way. They don't have to pay taxes on their buildings. And there are some huge religious structures, not just Catholic, who get the benefits of snow removal from around their churches, street lights to light the schools, fire and police protection, all these things that are underwritten and paid for by people who may not only be nonreligious but antireligious. And the religious entities that condemn those people gain benefits from those people's money which the religious people don't have to pay. I think all these religious outfits ought to pay taxes. They ought to carry their fair share. Jesus even told these people, bring me a coin, because he was asked, should we pay taxes? He said bring me a coin. They brought him a coin. He said whose image and superscription is on this coin? They said, Caesar's. He said, render unto Caesar that which is Caesar's--pay your taxes. But religious people can worm their way...weasel their way, as I call it, around that. This particular structure of Senator Scheer's bill makes it difficult to offer amendments because there is no textual material before us which is being presented. Had that been the case, I would have stricken some of the language from the current statute while leaving that provision about no religious garb. [LB62]

PRESIDENT FOLEY: One minute. [LB62]

SENATOR CHAMBERS: I don't have a religious corpuscle in my body. I genuinely believe that if all religions, except for the fact that they contaminate the life they're in, should be thrown in the ocean and the world as a whole would be better off. I heard, and people say it is not just a myth, that Germans and Americans on one Christmas Eve stopped killing each other in honor of Christmas. So the Christian Germans stopped killing the Christian Americans, and vice versa, serving the same God, the same Jesus whom Christmas is supposed to acknowledge. But it doesn't stop them from killing. So I'm not one of these who thinks that religion, like love, should hide a multitude of faults within that religion. I cannot, as I stated,... [LB62]

PRESIDENT FOLEY: Time. Time, Senator. Time, Senator. [LB62]

SENATOR CHAMBERS: You said time? Thank you, Mr. President. [LB62]

Floor Debate
February 21, 2017

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Pansing Brooks, you're recognized. [LB62]

SENATOR PANSING BROOKS: Thank you, Mr. President. Well, it's been a very interesting discussion so far, and I have read the bills. And usually when they take big, large swaths out of statute, that is a warning that we need to look up what in the heck is being taken out of statute. That being said, I sat through the testimony and heard the various people speaking. And I just want to stand up because I thought I had given my vote to Senator Groene regarding my stand on this, and it looks like there are three of us who were absent when the vote was taken. But anyway, I do stand in support of this. I...my experience in the public schools has been that I've seen people wearing Stars of David, Christian crosses who are teaching my children in the public schools. I didn't have any problem with that. I didn't even realize there was a law. And to have a law that suspends and can charge somebody with a misdemeanor and place them in jail for this I think is wrong. It should be stricken from our statutes. I agree with a lot of the discussion that Senator Chambers has brought forward, and part of Senator Schumacher's comments that, you know, we do have to be careful, and that we don't want to get in a situation where people are discriminating against children because of their faith. But really, to have this as a misdemeanor and have a teacher subject to jail time, and clearly the testimony in the hearing covered everything from Christian crosses to a hijab and...a Muslim hijab. And so I think it is important to be able to hire a person because of the person they are and because of their knowledge and not necessarily because of the faith that either their religion requires them to wear and profess or because they have a certain belief. Of course, if anything is taken to an extreme, as Senator Schumacher is discussing, it's clear that then the schools have to come in and determine whether or not it's interfering with the education and the normal functioning of a day in school. So anyway, I am going to vote in favor of this bill. Thank you, Mr. President. [LB62]

PRESIDENT FOLEY: Thank you, Senator Pansing Brooks. Senator Linehan, you're recognized. [LB62]

SENATOR LINEHAN: Thank you, Mr. President. Senator Scheer, would you...may I ask a question? [LB62]

PRESIDENT FOLEY: Senator Scheer, would you yield, please? [LB62]

SENATOR LINEHAN: Yield for a question? [LB62]

SPEAKER SCHEER: Yes, I will. [LB62]

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

Floor Debate
February 21, 2017

SENATOR LINEHAN: If I remember correctly from our hearing on this bill, this wouldn't prohibit the schools from having a dress code, right? [LB62]

SPEAKER SCHEER: No. Schools could have a dress code if they wish. [LB62]

SENATOR LINEHAN: So if the schools, any of the schools...public schools in Nebraska wanted to have a dress code that you could wear no jewelry and had to wear a long-sleeved shirts and slacks, that would be the dress code and it wouldn't...this bill wouldn't affect it whatsoever, right? [LB62]

SPEAKER SCHEER: I don't believe so, but, Senator Linehan, I do want to preface, I'm not an attorney and I have not gone to law school, so anything I'm saying is more logical perhaps than legal. [LB62]

SENATOR LINEHAN: Thank you, Senator Scheer. Senator Pansing Brooks, would you yield for a question? [LB62]

PRESIDENT FOLEY: Senator Pansing Brooks, will you yield, please? [LB62]

SENATOR PANSING BROOKS: Yes. [LB62]

SENATOR LINEHAN: If I recall correctly, you are a lawyer, right? [LB62]

SENATOR PANSING BROOKS: I am. [LB62]

SENATOR LINEHAN: So was it your understanding during the hearing on this bill that it would not prohibit the schools from having a dress code? [LB62]

SENATOR PANSING BROOKS: It was not my understanding that it would prohibit schools to have... [LB62]

SENATOR LINEHAN: So what we're trying to do with this bill is just remove the fact that it is currently against the law to wear even a cross or a Star of David in a public school, if you are teaching there, and you could be arrested for that. [LB62]

SENATOR PANSING BROOKS: That was my understanding of the bill. [LB62]

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

Floor Debate
February 21, 2017

SENATOR LINEHAN: And not only could you be arrested but anybody on the school board could also be held in contempt. [LB62]

SENATOR PANSING BROOKS: Yes,... [LB62]

SENATOR LINEHAN: Okay. Thank you very much. [LB62]

SENATOR PANSING BROOKS: ...and charged with a misdemeanor. [LB62]

SENATOR LINEHAN: Thank you very much. Thank you, Mr. President. [LB62]

PRESIDENT FOLEY: Thank you, Senator Linehan. Mr. Clerk. [LB62]

CLERK: Mr. President, Senator Chambers would move to amend the bill. (FA27, Legislative Journal page 505.) [LB62]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your amendment. [LB62]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, this is where skill in drafting has to come in. I offer amendments and try to put them in a form where, if they would be accepted, would be clear enough so that the Bill Drafter could make any technical changes but the point of it would be clear. So what the amendment would do, since we only have two lines, in line 1 on page 2, we would strike the words "sections are" and insert "section is." At the end of the line, we'd strike the word, which is capitalized "Sections" and make that singular, "Section." Then in line 2, we would strike the words "and 79-899." The effect of this amendment would be to strike the second mentioned statute, and I'll read it, "In case of violation of section 79-898," which would remain under my amendment, "by any teacher employed in any public school, notice of which having been previously given to the school board or board of education employing such teacher, the board shall suspend such teacher from employment in such school for the term of one year. In case of the second offense by such teacher the board shall disqualify permanently such teacher from teaching in such school. Any member of a board who fails to comply with the provisions of this section is guilty of a Class V misdemeanor and upon conviction shall be punished by a fine not exceeding one hundred dollars and costs of prosecution." None of this should carry a criminal sanction. And in the prior, the other section, 79-898, there should not be a criminal sanction, there should be no misdemeanor involved, there should be no fine, there should be no jail time. But since all we have to work with are the two sections of statute by number, the only way they can be amended, this bill, is the way that I'm

Floor Debate
February 21, 2017

doing it. Religion and the state ought to be permanently separated. I have said in the past, publicly, that there should not just be a wall between the two, but there should be a great gulf fixed between the two, extremely deep, so deep it could be described as an abyss, but it would have a bottom so that you could fill it with water. It would be like a huge moat, and creatures of every variety which would attack any living creature, especially humans, would be allowed to inhabit that moat to make sure that to all people there is no crossing of this moat for the purpose of intermingling the state with religion or religion with the state. Let the state remain in its realm, buildings such as this--courthouses and other structures. Let the religious people keep their temples, their synagogues, their churches, their storefronts, their tents out in the open. Anything that they want to have, let them have it. Leave the two separated, stay in their own respective realms, and then there could be peace, which is impossible now. The secular world is the one where everybody lives. Contrary to what people want to say, this is not a Christian country. This is a secular country. There were Christians who wanted to impose their views on other people. You've heard about the Salem witch trials, where they hanged women to the delight, the sexual ecstasy and orgasms experienced by the watchers. They loved it. They were torturous, sadistic, cruel people in the name of religion. They not only wanted people to not practice their religion if it were not what the Puritans, the Pilgrims wanted; they had to forsake their own. They had to articulate an acceptance of that which they did not want to believe. This country has a very sordid history when it comes to religion and religion itself has one of the bloodiest, most murderous, cruel histories that you can find. But the Catholics were not the only ones who burned people at the stake. There was a man, his last name was Servetus, and he was a doctor, a physician. He had done work, all those decades ago, on the circulation of the blood and other discoveries. But he happened to be in a location presided over by John Calvin, and because Servetus would not bend the knee, Servetus was burned at the stake, which many people don't know. So Calvin's people learned something from the Catholics. But here's one thing you will never find. You will never find where secular philosophers burned Christians at the stake. You will never find where harlots, trollops, bad women burned priests at the stake. You will not find where the bad people who were to go to hell ever burned people at the stake as did the religious people. So religion is not, in my mind, occupying a superior position when it comes to morality, moral rectitude, or any of the things that are supposed to contribute to civilizing people and uplifting society. As this bill...it probably is going to move, people who feel like I feel are afraid to say something. They've got to act like this is all right. I know it's not all right. I know there are a lot of people who don't have the money to send their children to a private school. They're going to have to go to the public schools and now the failure to have a child go to school can implicate the parents and the children in the juvenile court, which is one of the most damnable places, pardon the Christian expression, in Douglas County. So there are all of these threats, these punishments that can be heaped upon a family who will not send their child to school. And when the child goes to school, there is a person dressed in the garb of a religion which their parents not only disagree with but strongly condemn. And the child says, Mommy or Daddy, one of those people teaches me, and the people cannot bring any protest that would go anywhere because

Floor Debate
February 21, 2017

people persuaded the Legislature that the imprimatur of the Legislature and the state should be given to those who are going to wear religious garb and emblems which mark them as adherents to that particular religion. And they're going to teach it. How are they going to teach history? Are they going to teach about The Inquisition? Are they going to teach...will they even mention the Borgia Popes? Who ever heard of Cesare Borgia? You've heard of Lucrezia Borgia because she's a woman and bad women are always lionized, so to speak. Can the things that Catholics did and that their church did be taught about in the schools by a member of that faith? [LB62]

PRESIDENT FOLEY: One minute. [LB62]

SENATOR CHAMBERS: The Jewish faith? The Muslim faith? Native American faiths? This is a stand that ought to be taken by people on the floor of this Legislature, but it won't be. You're afraid of what people will say. You all don't have to sit in a classroom. You're not going to have children in these classrooms. I'm against this bill. But I'm also against things in the current law. The prohibition against religious garb, I think, ought to stand. But that is not before us. I do not have the time to craft an amendment that would strike everything from this bill and substitute, and what I would do with that substitution is to present the two sections of statute appropriately amended. [LB62]

PRESIDENT FOLEY: Time, Senator. [LB62]

SENATOR CHAMBERS: Thank you, Mr. President. [LB62]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Hilkemann, you're recognized. Senator Hilkemann, you're recognized. [LB62]

SENATOR HILKEMANN: Thank you, Mr. Speaker...or Mr. President. I promised Senator Kolterman yesterday that I would not talk before at least he got his bills introduced, because he's had bad luck in getting those bills across. And this would seem appropriate to talk about this at this time as my mother was a teacher in a small, one-room schoolhouse in a little village called Wareham, Nebraska. That's how she began her career. She was part of the Greatest Generation. She was born May 30, 1916, in Cereal, Alberta, Canada, to a circuit rider with the Methodist Church. At the age of about 10, they moved from Canada down to a little town or village called Inavale, Nebraska. I think that's in Senator Kuehn's district. And that's where my grandfather began his Methodist ministry in the Nebraska Conference. They lived in a lot of small towns: Louisville, Craig, Carroll, Randolph, and others. She lived all of her 100 years, other than those first 10, in pretty much in the state of Nebraska. As a member of the Greatest Generation, they oftentimes demonstrated their love and values not so much with words but how they lived. We experienced how they lived. And my mother, through those years, demonstrated to me the values

Floor Debate
February 21, 2017

of hard work, the importance to live by faith, loyalty to family. When she was widowed at the age of 49, she claims that she had never written a check. She reinvented herself. She went to nurses school training, became an LPN, and she enjoyed that career for about 20 years. My mom loved to read, sew, play the piano, play cards, do the crossword puzzles, and up until about two weeks ago would get up every morning at 6:00 at her care center, read the newspaper, and do her crossword puzzle because she wanted to get to it before someone else did. I am grateful that last Saturday...or last Friday we were not in session. I was able to spend that afternoon and day with my mother, massaging her hands and her feet and her face as she quietly went to her reward. Hours later, she would breathe her last. Rest well, Mom. Peace. Thank you. [LB62]

PRESIDENT FOLEY: Thank you, Senator Hilkemann. Senator Crawford, you're recognized. [LB62]

SENATOR CRAWFORD: Thank you, Mr. President. I rise in support of LB62. And I got in the queue when Senator Schumacher raised the question about whether the bill created special rights on ability to be treated differently. And as I read the bill, what we're doing with the bill is removing those sections of statute that I did look up and read, those sections of statute that currently are treating people wearing religious garb differently. So we are removing that part of the law that treats people who are wearing religious garb differently, and so we're pulling that out of the statute. I think Senator Schumacher's concern about whether we'd be creating a right for people who are religious to dress differently would be a concern that we would be discussing if LB62 was establishing or creating or adding that--an explicit religion protection in terms of dress. But that's not what LB62 is doing and so...because LB62 is removing a part of our statute or law that was treating people who are wearing religious garb differently. So I'd like to...I wonder if Senator Scheer would yield to a question to confirm that understanding. [LB62]

PRESIDENT FOLEY: Senator Scheer, would you yield, please? [LB62]

SPEAKER SCHEER: Certainly. [LB62]

SENATOR CRAWFORD: So, Senator Scheer, I don't know if you heard my understanding in terms of the intent of the bill and the purpose of the bill. We are really, I just wanted to get your confirmation, the intent of the bill is to remove a section of statute that treated people wearing religious garb differently. It is...and our purpose is really to remove that from statute. Then our constitutional rights and other statutes and other rules about how you dress as a teacher would still apply, but we're removing this one specific reference to religious garb from statute, so that is not treated differently. Is that correct? [LB62]

SPEAKER SCHEER: That would be my intent. [LB62]

Floor Debate
February 21, 2017

SENATOR CRAWFORD: And the bill is not intended to create any new religious protections in terms of what someone could wear. It's to remove...simply to remove a prior restriction. Is that correct? [LB62]

SPEAKER SCHEER: That is correct. [LB62]

SENATOR CRAWFORD: Thank you, Senator Scheer. I stand in support of LB62. I'll continue to listen to debate, but I don't believe that it causes the complication that Senator Schumacher asked us to consider, which is whether it created a complication of creating a new right. I believe that removing this restriction allows people of all faiths to be able to wear something they would consider appropriate but that also would comply with the other rules and standards that teachers must comply with in terms of dress. So I believe removing this restriction is an appropriate thing to do. Thank you, Mr. President. [LB62]

PRESIDENT FOLEY: Thank you, Senator Crawford. Senator Chambers, you're recognized. [LB62]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, a religious test goes to what a person believes, not what a person wears. You couldn't say, in my opinion, that if you're a Catholic you cannot get a teacher certification under the laws of the state; if you're Muslim, if you're a Jew, if you're a Hindu you cannot do that. That is the religious test. Because of your religious beliefs, you are denied privileges and rights available to everybody else, citizens in some cases, all persons in others. And that's where the so-called President doesn't understand, and a lot of others don't, the difference in constitutional provisions which relate to citizens specifically and others that are broader which will say no person. It means if you're a human being. You don't have to be a member of this society. You don't have to be religious. You don't have to be an American. You can even be in prison. In this case, you are giving to these religious people the sanction of the state to advertise their religion in the classroom where a child is compelled by law to attend. A child, if his or her parents will send him or her to a private school, is subject to whatever rules that school wants to impose. When it comes to the public schools, it has to be welcoming and open to all people's children--the religious, the unreligious, the nonreligious, as I say, the Bible burners and the Bible thumpers--just so they don't do it in the classroom. When you take away this statute, you are taking away a part of that separation that should forever exist between church and state. Let these people, if they have to wear that garb, go teach where that garb is accepted. If my religion is nudism and I want to teach in the public schools, I cannot go there naked and say that's my religion. That's when they would bring in the stuff about a dress code and decency and so forth. But all of these are conventions and notions agreed to by other people, nothing inherently moral or immoral about a naked body. Now this particular bill would say that a nun can wear a habit, that a priest, a brother, I guess they call

Floor Debate
February 21, 2017

some of them deacons, a bishop, can wear all their full regalia in the classroom. And there are people who are very anti-Catholic, very. And there are Catholics who are very antigay, very. So your child is in the 4th grade and is going to a school where there's one room for 4th graders, and the only teacher is a Catholic wearing the regalia, whether it's that of a male with a backward collar or a female wearing the habit. And that child's parent keeps the child home. They can be sanctioned and brought before the bar of so-called justice. They can become embroiled with the criminal justice system, even though it's called juvenile, because they don't want... [LB62]

PRESIDENT FOLEY: One minute. [LB62]

SENATOR CHAMBERS: ...their child in a classroom, taught by a person who acknowledges he or she is an adherent and an advertiser, an advocate of and for a religion that the parent hates. Those kind of issues do not have to be brought into the classroom. There are enough problems there now, especially for black children and poor white children, Asian children, Native American children where the school system is controlled by white people. The history is whitewashed. They don't talk about slavery. They don't talk about the Trail of Tears. They don't talk about any of the things that pertain to us. And if a teacher taught those things, that teacher would run into problems because the people in the community could have that teacher put out. There are books written about the black experience and by black authors which were banned by school boards in various cities. So we don't need to pour kerosene on a fire. [LB62]

PRESIDENT FOLEY: Time. [LB62]

SENATOR CHAMBERS: Thank you, Mr. President. [LB62]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Walz, you're recognized. [LB62]

SENATOR WALZ: Thank you, Mr. President. Senator Chambers, you said that peace is impossible, and I agree with you. I feel like our world is out of control, and we have a lot of hate. And I think that, as a teacher, peace is impossible, and it will continue to be impossible if we do not allow those teaching opportunities for our kids. I'm concerned about the prejudices that we have in our country, discrimination of another person's race, ethnic or religious backgrounds. I think that LB62 is a great opportunity to start exposing our children and to teach them. It teaches or it allows us to expose differences in people, you know, whether or not what they look like, whether or not they have abilities or disabilities, money, no money, and even what they wear. I think it allows students to learn about the differences of other people. And I think it promotes an appreciation and acceptance of others. I actually feel like this provides a perfect opportunity to teach our children in a controlled classroom environment, and I think that...or I would hope that someday it would promote peace. Thank you. [LB62]

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

Floor Debate
February 21, 2017

PRESIDENT FOLEY: Thank you, Senator Walz. (Visitors introduced.) Continuing debate, Speaker Scheer, you're recognized. [LB62]

SPEAKER SCHEER: Thank you, Mr. Lieutenant Governor. First, I stand opposed to the Chambers amendment. To the extent that we are still keeping the penalty on the books, just...or the crime on the books, there is just no penalty, that doesn't make sense to me. You still are going to be putting school districts at risk because they can't knowingly hire somebody that's against the law. You're putting teachers at risk because they would be doing things against the law if they were wearing some type of religious signification. I think Nebraska is better than that. By allowing this doesn't stop any school board in the state of Nebraska from developing their own dress code that would be appropriate for their teachers. That's done all the time. Most school districts have a dress code for their teachers. As far as those producing...bringing religion or their religion into the school system, I can only speak to what I am familiar with. But for over 20 years, I worked on the Norfolk School Board and was in school districts. And I don't know what the population might be in Norfolk in relationship to what percentage of our teachers might have been Catholic, but I suspect it's a fairly high percentage. I've never had any complaints about any teacher bringing religion into a classroom, promoting one religion, be it Catholic or Lutheran or anything else that's available in Norfolk, into a classroom by any staff. Teachers are professionals. They know how to teach. They know what they're supposed to do, and they abide by it. All we're doing is taking something that was promoted a hundred years ago in attempt to quash a religion that was becoming more pronounced at that point in time. I think it has outlived its usefulness. We can say the sky is going to fall, but realistically it's not. The sun is still going to rise in the morning. Everything remains the same. It's just so longer part of statute that people cannot wear something that has a religious connotation. It's as simple as that. I would also like people to think about, when we talk about religious garb, I'm not Jewish. If I'm a P.E. teacher and I've got a bald spot on the top of my head, if I put a yamaka on the top of my head is that religious? I'm not Jewish, so I'm not exactly sure how it can be considered religious. And a great many times people's attire, although some general public may attribute it to a religion, it's cultural. A lot of the garb worn in Middle Eastern areas of the world is more cultural than religious. What makes it more one religion versus another? It doesn't. If I'm an atheist and I wear a cross, is it still religious because I just happen to like the looks of a cross? There are a lot of things that this impedes. I think, you know, teachers have been teaching for a long time in the state of Nebraska. They've been doing an awfully good job. This is just... [LB62]

PRESIDENT FOLEY: One minute. [LB62]

SPEAKER SCHEER: ...one remedy to make it easier for those that are actually licensed and certified to do the job in the state of Nebraska. Thank you, Mr. President. [LB62]

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

Floor Debate
February 21, 2017

PRESIDENT FOLEY: Thank you, Mr. Speaker. (Visitors introduced.) Continuing debate, Senator Groene, you're recognized. [LB62]

SENATOR GROENE: Mr. President, first I'd like to correct the record on LB94. I did vote that bank loan out of the committee. We "execed" on the same day as the hearing, which I will never do in my committee. And the State Investment Officer got back to me later with the questions I had raised and then I had changed my mind. And I told Senator Kolterman immediately after that that I didn't support it. So I wanted to correct the record. Back to this bill, LB62, it came through our committee, the Education Committee. And I'd like to point out that I've never seen this happen before and I probably will never again. The Catholic Council, the ACLU testified for it, and the NSEA, the teachers' union, sent a letter in support for it. Three diverse groups supported this bill, Senator Scheer's bill. It is antiquated to put fear in someone's life that they might be charged, that an officer of the law might come to the classroom and remove them because they are wearing religious garb or a religious pennant (sic--pendant). Should not be in our statutes. A school board member who stands up for what is right should not be...fear being arrested because they stood up for what was right and did not fire a teacher. This is antiquated law. It needs to be removed. There was only, I think, Pennsylvania and Nebraska were the only two that had such statutes still on the books. We also received a letter from a young lady attending Peru State College. She was a Mennonite. And we have, out west, we have a lot of Mennonite communities. And if you've seen what they wear, very conservative dresses and a headgear. She was informed by her teachers that she could not teach in a public school if she dressed accordingly to her religion. That is not right. This law needs to disappear. Senator Chambers, would you take a question? [LB62 LB94]

PRESIDENT FOLEY: Senator Chambers, will you yield, please? [LB62]

SENATOR CHAMBERS: Yes. [LB62]

SENATOR GROENE: Sir, I was surprised you didn't like have this bill rereferenced because...try to rereference it because it talked about penalties and misdemeanors. Did you overlook it? [LB62]

SENATOR CHAMBERS: No, it wasn't worth that kind of an effort because I knew what the group on the Exec Board would do, and I didn't want to be trying to rereference every bill that I had a disagreement with. [LB62]

SENATOR GROENE: Thank you, sir. [LB62]

Floor Debate
February 21, 2017

SENATOR CHAMBERS: The ones that I chose were significant, in my opinion. [LB62]

SENATOR GROENE: All right. Thank you, sir. I stand in support of LB62. Quite frankly, it was a no-brainer to the committee members. And the three my counsel contacted, Senator Pansing Brooks, Senator Kolowski, and I can't remember...Senator Morfeld, and they had no problem with it. But we did not leave the vote open for them to vote later. So it was a simple bill. Thank you. [LB62]

PRESIDENT FOLEY: Thank you, Senator Groene. Senator Chambers, you're recognized. This is your third opportunity, Senator. [LB62]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, even if this insults some of you, I'm going to say it. I believe I think more deeply on these matters than anybody on the floor of this Legislature. I respect the constitution. And I respect the First Amendment, which indicates that church and state should not be together. Some people say there's nothing in the constitution that says explicitly that. Many things are done pursuant to the Interstate Commerce Clause which are not mentioned in the constitution. A right to privacy is not specifically mentioned in the U.S. Constitution. There are some things that are of the warp and woof of a democracy which need not be stated explicitly in a constitution, because a constitution is not a statute. It states broad, general principles, and these are to be filled in by appropriate legislation. And because legislators are so easily influenced by special interest groups, as in this case, the third branch of government, which is the judiciary, is to review legislation by Congress or state Legislature to see if it comports with the requirements of the U.S. Constitution. So there have to be checks and balances. I'm the check and balance in this Legislature. But if you have the scales and you put a grain of sand on one side and the Rock of Gibraltar on the other, the grain of sand loses every time. I know that I'm going to "lose," but it's not just me losing, a principle is being lost. Senator Scheer gave a preposterous example. You got a gym teacher with a bald spot on his head so he puts on a yarmulke. That is insulting and demeaning and degrading to a religion and that would not be done. But let's say you have a teacher wearing a yarmulke and a Star of David and is teaching current events and they talk about the Middle East and the Jewish settlements on Palestinian land, even Palestinian land owned privately by individual Palestinians. And he wants to argue that this land is a part of Israel and they have a right to build the settlements there. That's not injecting something based on his religion into that? He's a Zionist and he's bringing it into the classroom. You all are speaking from, again, the position of white privilege where things don't happen to you that happen to others. You're part of a majority group. You're a part of those who would wield the hammer and crush out other people's rights. Constitutions are designed to protect the weak from the strong, to keep the overreachers from going beyond what they should, under the constitution, be able to do. That's why sometimes the entire Supreme Court is hated, because those judges, by a majority vote at least, sometimes a unanimous vote, will say these things that are being done, even

Floor Debate
February 21, 2017

pursuant to laws, are wrong. They cannot be done. Such was the case with enforced segregation in the public schools. It was finally acknowledged that segregation in the public schools creates a situation and a system that is inherently unequal, because those who control that system are going to make sure that the schools their children attend are adequately provided for. And the children who are the other, who are on the outs, who are the inferiors are not going to have the same thing. We've experienced this as black people, and it causes me to look deeply into all kind of things that favor groups who have a history of mistreating others. So I'm going to fight this bill, knowing what the outcome is. I don't agree with every position the ACLU takes. I don't agree with the position any group takes. [LB62]

PRESIDENT FOLEY: One minute. [LB62]

SENATOR CHAMBERS: I don't agree with all their positions. I don't agree with the churches and a lot of what they teach in my community. And preachers have organized against me in elections, not all of them. I don't even respond to them. I don't even care. I tell them people can judge what you do as a preacher and what I do as a politician, and I bet I'll come out on top because I function as a politician should. Do you function as a preacher should? Those kind of disputes should not be in the classroom. You can see what's happening on the floor of the Legislature. We're being civil, but out there in the street it's not that way. And there are probably some people who wouldn't dare wear this religious garb in certain schools. But since my time is up for now, I'll have to stop here, but I'll draft another motion so I can continue the discussion. Thank you, Mr. President. [LB62]

PRESIDENT FOLEY: Thank you, Senator Chambers. Senator Schumacher, you're recognized. [LB62]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. These discussions lead into interesting things. The suggestion now that without these statutes...and I am for getting rid of these statutes. They are antiquated. And the general intention of the bill is good. But the suggestion has been made that school districts, irrespective of these statutes, can still mandate a dress code, which then brings about more questions that should be addressed so we have some legislative history and school boards have some idea what we're thinking, if we're thinking. If the school board says everybody wears this uniform, then we are preventing the religious from wearing their garb and we've accomplished nothing. If we are suggesting that the school boards can say, okay, you can wear a fancy headpiece, you can wear a gown, you can wear pink patent leather shoes if you are male and religious, but you can't if you're not religious. Then we are suggesting to them that they can do something that is patently unconstitutional, because you can't discriminate that way on account of religion. So what are we telling the school boards they can do? This whole deal of what people dress and how they look and our concern

Floor Debate
February 21, 2017

with the outer part of our social interactions and not the mental and analytical powers of a teacher is somewhat disturbing. I would think that either one of these statutes--and there's no indication that it's ever gone to the Supreme Court--would get bounced pretty quickly because there is a criminal penalty for expression of religion and speech. But the follow-up suggestion that it's within the purview of school boards to then discriminate on the basis of religion, granting religious people more latitude in their clothing, in their jewelry, in their mannerisms and expression than a nonreligious person is very disturbing. These statutes should be repealed, but they also should be modified to make sure that when we allow the change of garb, we do not infect the system with a public school system being in a position, or someone in the school system, to do religious indoctrination of whatever flavor. That separation of church and state must remain. And The Inquisition must be taught in the history classes. Galileo on the rack being forced to say that the Earth does not move and is the center of the universe, that the Earth is 6,000 years old and any evidence of dinosaurs was planted there by the devil. Those are religious things. That snakes talk, those things belong in the churches. They do not belong in the classroom regardless of what kind of outfit the teacher is wearing. And these kind of issues have sociological implications in a lot of our decision making... [LB62]

PRESIDENT FOLEY: One minute. [LB62]

SENATOR SCHUMACHER: ...that we're going to be asked to do here, and it will be done here in the future, long into the future, because they are difficult topics and they challenge the very basis of our prejudices and the very basis of what we think are the foundations of the system or at least at one time were the foundations of the system. Thank you. [LB62]

PRESIDENT FOLEY: Thank you, Senator Schumacher. Senator Krist, you're recognized. [LB62]

SENATOR KRIST: Thank you, Mr. President. Good morning, colleagues, and good morning, Nebraska. For a second time, I rise just to add a comment. For a school board or a superintendent not to have the ability to regulate dress within the school for both the students and for the teachers is not good. I didn't realize, and I spoke very highly, very cautiously to the new director out at YRTC-Kearney about trying to keep those kids, the young people who are at Kearney, out of a uniform. He talked to me about what I had never understood in my world and that is colors. Colors mean a lot. What color you wear could signify what gang you belong to, and on any given day a color situation could create unrest, could create an unsafe environment within the institution. So picking a color for his folks out at YRTC, the young men who are currently at YRTC-Kearney, was a very difficult thing to do, a neutral color that had no significance to any gang or gang affiliation. I echo Senator Schumacher's concerns. Most of you know I am a practicing Roman Catholic and have had the opportunity both to attend and to send my kids to

Floor Debate
February 21, 2017

parochial schools, Catholic schools, and at one point sending them to a public school for a better education. I believe our public schools do a great job. But I think there are unique, very different challenges in those two types of institutions, as there are with other institutions, based upon religious conviction and religious studies. Having said that, I am going to support LB62 because in its essence that piece of legislation...I'm sorry, that statute, that law as it exists, is as antiquated as demanding that someone follow you into town with a lantern, escorting your vehicle in front of you back in the days when we didn't have headlights on carriages. It's as antiquated as saying you can't be a woman and be a CEO. It's as antiquated as saying you can't be a certain faction of your religious...a religious group or of a sexual persuasion and rest in different groups, as antiquated, as we know today, in our service in the military to differentiate and to not allow people to serve. We have evolved. If you talk to any dentist--back to my dentist conversation--if you talk to any dentist they will tell you that our kids are growing up and they're not getting molars come in the way they should be, and that's the evolution of the human race. LB62 represents an act that needs to be executed. We need to get rid of the antiquated legislation. I will listen, however, to anything that comes up in terms of an amendment that would deal specifically with some separation of church and state and something specifically that has to do with a constitutional issue. Thank you, Mr. President. [LB62]

PRESIDENT FOLEY: Thank you, Senator Krist. Senator Chambers, you're recognized to close on FA27. [LB62]

SENATOR CHAMBERS: Thank you, Mr. President. And to those who come to me when we're discussing the rules, and they don't want to be on the floor all the time, they give me time. This is more important than any rule discussion we had. You don't see them popping up saying, Senator Chambers, do you need time? I'll give you time. Who can say this not an important issue? That's why I have to be able to offer my motions, offer my amendments, because I know on these things I'm going to be virtually alone. And I will be alone, and I'll do it all pursuant to the rules. I believe that the rules are there for a purpose, and I'm going to use those rules to get done what I think needs to be done. At this point there needs to be discussion. I'd like to ask Senator...well, I'm not going to ask in the short time I have for closing, but they talk about a dress code. Could the dress code say what the statute says: no religious garb or symbols that obviously and notoriously link the teacher with a specific religion? Could they say that as a part of the dress code? Are they saying that this provision in law is unconstitutional? If it is, let the ACLU challenge it. Let the Catholics challenge it. They're the ones who are most concerned about it. Let them challenge it in court as I have challenged things in court and won. But this is such an important issue. I'm in the Legislature right now in a session. I can't take the time to do the research that's necessary for something like this, and nobody else will do it. And there are things dumped on me in this Legislature because people know I am not afraid to stand up and say what needs to be said. But, again, where are those...you all have seen when we had rules debate how much time would be given to me. But I know what the rules are, so I come prepared. I will offer

Floor Debate
February 21, 2017

a reconsideration motion after you vote this amendment down. Then I'll offer the amendment in the alternative where I attempt to strike the first section mentioned and leave the second one. That will give me the time. And I'll explain something to you all about drafting. When all that we have in a bill is a repealer clause, you cannot, because of the way that bill is structured, go into the statutes that are repealed by virtue of that repealer clause alone. What I have to do...and I can't do it on the floor because I don't have the time. I've got to give myself the time to do the work you all won't do and don't even think about having to do because you ride with the tide and go with the flow. You're crooked because you follow the path of least resistance, and I'll swim upstream. And if the stream is flowing the wrong way, I will try to dam it, d-a-m. I'm not a Christian. I don't put an "N" on the end of the word like the Christians do. I will have an amendment crafted, I'll do it myself, strike all of the original language and insert the following. I will then print the text of both of these bills...both of these statutes and then that amendment will contain interlineations. I will strike the language that I think is inappropriate in the law now: no criminal sanctions; no jail time; no fine; no punishing superintendents, teachers, school boards or anybody because somebody violates this provision. But the provision would be there and it should be there--no wearing of this religious garb,... [LB62]

PRESIDENT FOLEY: One minute. [LB62]

SENATOR CHAMBERS: ...and it could almost be in the language of the statute. But I've got to get things in the record because I know I cannot bring conviction to the minds of the people here, but there are many people outside of this body who are not Catholic and they wonder where are the people who will speak on the floor of the Legislature where it counts. I don't go to churches where everybody says the same thing. I don't go to atheist, what do they call them, agnostic meetings. I don't go to any of those. I don't accept a label. I think. The only label I will accept is an adherent to Popeye, who gives me the mantra, "I yam what I yam and that's all that I yam." And my grammar changes Popeye. He says, "I yam what I yam and that's all what I yam," but I substitute "that" for "what." I'm kind of a stickler on the sound and flow of language, but I'm not going to let this one go. [LB62]

PRESIDENT FOLEY: Time, Senator. [LB62]

SENATOR CHAMBERS: Thank you, Mr. President. I would ask for a call of the house and a roll call vote. [LB62]

PRESIDENT FOLEY: There's been a request to place the house under call. The question is, shall the house go under call? All those in favor vote aye; those opposed vote nay. Record, Mr. Clerk. [LB62]

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

Floor Debate
February 21, 2017

CLERK: 29 ayes, 3 nays to place the house under call. [LB62]

PRESIDENT FOLEY: The house is under call. Senators, please record your presence. Those unexcused senators outside the Chamber please return to the Chamber and record your presence. All unauthorized personnel please leave the floor. The house is under call. Senators Watermeier, Smith, Lindstrom, Larson, Murante, Harr, Wayne, and Linehan, please return to the floor. The house is under call. All members are now present. There's been a request for a roll call vote. The question before the body is the adoption of FA27 to LB62. Mr. Clerk, please call the roll. [LB62]

CLERK: (Roll call vote taken, Legislative Journal pages 505-506.) 1 aye, 38 nays, Mr. President, on the amendment. [LB62]

PRESIDENT FOLEY: The amendment is not adopted. I raise the call. (Visitors introduced.) Mr. Clerk. [LB62]

CLERK: Mr. President, Senator Chambers would move to reconsider that vote. [LB62]

PRESIDENT FOLEY: Senator Chambers, you're recognized to open on your reconsideration motion. [LB62]

SENATOR CHAMBERS: Thank you, Mr. President, members of the Legislature. I defy anybody who's in this Chamber and has listened to this debate to say that this is a filibuster, that substantive issues are not being discussed. It goes back to what I said the other day. See, at another time the Speaker can say the only one speaking at length is Senator Chambers; therefore, there's been adequate debate and we're cutting it off now. That's what you all can do and it's what you all will do. But I know what you are and I know what you will do, and it's not going to stop me from being what I am and stop me from doing what I know I must. I have to protect your constitution. Your constitution in several places recognizes slavery, and the only thing your constitution said could not be amended for a period of time was the provision that protected the slave trade. You could have amended the form of government. You could have done that. You could have had a king instead of a President. You could have done that. You could have had a parliament instead of a Senate and House of Representatives. You could have done that. You could have taken away the right to vote for anybody who's not a Democrat or a Republican. You could have done that. The only thing that was so sanctified, so essential to the makeup and the nature of this country was the provision that allowed people such as myself to be bargained and sold, to be treated like a cow, a pig or a chicken, to be sexually assaulted. Children could be made on the bodies of our women and sold into slavery. That one provision the constitution explicitly says cannot be amended for a period of years. And that affects me and my kind, not you and your kind. So you don't read the constitution the way I read it. You probably don't read it

Floor Debate
February 21, 2017

at all. So why do I try to defend it? As a black man, the constitution ain't much but it's all that we've got. It's full of hypocrisy. Fine-sounding words, phrases, and sentiments which for us are recognized more in the breach than in the following, but at least gives us a reed, a slender, weak reed to argue, don't be hypocritical. If you don't mean it, don't say it, and try to embarrass you. White people now will brag about how far black people have come in this country, but every single baby step was fought tooth and nail by people from the office of the President down to the worker who was a truck farmer or a sharecropper who happened to be white. They were all united in their attitude against black people. So I've got to protect your constitution for my own safety's sake, paraphrasing Sir Thomas More on another issue. Here's the way I'm going to offer an amendment. Why should I tell you all? You don't care. But I want the record to show that I'm not a fool, that I pay attention to what we are supposed to do as legislators. And I'll take the time, like talking to a wall, words blowing in the wind. The current law says, in Section 79- 898: Any teacher in any public school in this state who wears, in such school or while engaged in the performance of his or her duty, any dress or garb indicating the fact that such teacher is a member of...or an adherent of any religious order, sect, or denomination. Then it goes on to provide a penalty. I would restructure that and instead of the word "any" I would insert "no" and it would say: No teacher in any public school in this state who wears...who shall wear, in such school or while engaged in the performance of his or her duty, any dress or garb indicating the fact that such teacher is a member or an adherent of any religious order, sect, or denomination, period. And all the other stuff about the penalties, the fine, the jail time, all of that's gone. Then I would completely eliminate the following Section 79-899 where it talks about a second offense and so forth. The term "offense" would not be involved. No administrator, no school board, none of that would anymore be a part of the law. I have to read you-all's bad laws. Everybody says it's a bad law, everybody. I say it, but all you all do is say eliminate the whole thing because there are things in it you don't like. I have to say, we'll get rid of the bad and whatever is good we'll keep. I get invited, not now, I used to be invited to speak at churches, black churches. I got invited to speak at white churches too. They wanted to hear the truth, so they brought a man who didn't believe anything that they believed, one who made no pretense or protestation as to religion. I gave a talk. My mother used to be a member of that particular denomination. She had died. There was a young guy and he and I grew up in that church. He may have still been a member. I put away childish things, as Paul said happens when you become a man. So his mother knew that I had a lot of respect for her and she asked me, because they were having some kind of convention, would I come and address the congregation. I said, sure, if they can stand me, I can stand them. So I gave the talk, and I said the things that I thought needed to be said, and there was silence in the church. The minister got up. He said, I'm sitting up here and I can watch your faces. When Brother Chambers was talking, I could tell exactly how you all felt, and you didn't like what he said, and you probably felt he shouldn't be here. Well, you all know what Brother Chambers is going to say. You know how he is. You invited him here, and he said what you knew he was going to say. But here's what I'll tell you. He is a man who--it sounds like bragging but it's true--he is a man who's thoughtful. He doesn't just say things to be saying them.

Floor Debate
February 21, 2017

He used to believe in this church more seriously than you all because he would clean up the church, he'd cut the grass, he'd shovel the snow, and you all wouldn't. So here's what I tell you. When Brother Chambers comes and speak, you eat the fish and let the bones go, in other words, have sense enough to separate out. And that's what you all can't do and it's what you won't do because you're lazy. You are intellectually lazy, and you don't respect being a senator enough to study these bad laws and figure whether it's so bad it ought to be done away with, or if there are salvageable parts in it that relate to serious issues facing this society and, therefore, they ought to be reworked and salvaged. That's what I'm going to do. I'm ordinarily the garbage man picking up the mess that lazy senators leave. Now I'll be the salvage man, and that's what I'm going to do. I cannot make you all listen to me, but there are people outside this Chamber. I'm getting more mail than I ever got while I was in the Legislature, and you know what it's saying? Some of them mention their senator by name and say they will contact me because their senator won't respond to them, won't pay attention. And I'm going to let one reporter, I told her I'd let her read some of this, but she can't use the names of any of the people who signed the letters, to see the multiplicity of ideas and expressions that people make. Some old white people now will say how old they are--they're young unto me--75, 76, 77, 78, these youngsters. But one guy said, I want you to know there's one old white man out here who agrees with you and is pulling for you. I don't even know him, wouldn't know him if I saw him, and a lot of other things because they're watching this Legislature and they're seeing who takes seriously what we're supposed to do here. I'm always on the floor; a lot of you all are not. [LB62]

SENATOR KRIST PRESIDING

SENATOR KRIST: One minute. [LB62]

SENATOR CHAMBERS: It's your Legislature, not mine. Do you think that if you kill this law you're going to hurt me? Not in the least. But I don't want to see an organization of which I've voluntarily become a member behave in such a slipshod, slap-dash, helter-skelter, careless, mindless, thoughtless, simple-minded way. How am I going to be here among you and watch this without trying to stop it? So that's what I'm trying to do. Thank you, Mr. President. [LB62]

SENATOR KRIST: Thank you, Senator Chambers. You've heard the opening for the reconsideration motion to FA27. Those wishing to speak, Senator Chambers, you're recognized. [LB62]

SENATOR CHAMBERS: Thank you. Mr. President and members of the Legislature, I read the way I would change the law. It would just be a simple declaration. And somebody might say, well, why don't you put a penalty? If we're talking about professional people, we say that school people are professionals--the superintendent, the principals, the teachers, the counselors, all of

Floor Debate
February 21, 2017

these people who have to get certification from the state saying that they are professional, and here's a piece of paper that says so. You let those people know what is allowed and what's not. You don't have to have a hammer over their head to make them do it for fear of being punished. This is now a part of your professional description; this is not to be done in the classroom. And it won't be done. And if there are some people who will not comply with that they can administratively in the school deal with people like that. They can even craft rules and regulations that would contain the same statement. Then whatever the sanctions are for unprofessional conduct in the classroom would be invoked. Not me in the Legislature saying, this is what the punishment should be, and the harsher the punishment the more likely you are to force compliance. No. When you create a lot of harsh laws you create a lot of lawbreakers who in turn become criminals, and that's not what I'm interested in doing. I wish everybody would do what it is we're supposed to do because it's the right thing to do. Here's why that cannot be. What I think is right not everybody thinks is right; what I think is wrong not everybody thinks is wrong. So you have assemblies such as this who try to put their minds together and come up with a consensus of what seems reasonable in this set of circumstances. And you hear in these assemblies the word "compromise" all the time, and it's been stated almost as a maxim that you know you have a good compromise when those on neither side is satisfied. Nobody got everything they wanted. Everybody sees something they don't like. By that pushing, that pulling, that natural tension, you try to reach a point where this is about the best that we're going to get. It's an issue that must be dealt with. It must be resolved, but we can't have it all one way or the other. There has to be some place in the middle. And these legislative assemblies seldom have unanimity, so you have people who are happy, some people who are sad, people who are angry. Some who say, I don't care what you do, I'm just there to get my check and go home and eat off the lobbyists, that's all I'm there for. And they live up to that or live down to that. I think this could be a very important learning experience for all of us, including me. I would listen to people if they would talk, but they're not going to say anything. But then they wear labels. They want to be a conservative. They want to be a liberal. They want to be a progressive, and all these other things. I don't accept any of those labels. And people who are aware of the way I am and the things that I've done...by the way, I'm handing out information for you all to show you I did things before I came to this Legislature, that I had many doors that people wanted to open to me to keep me from wasting my life in a legislature like this, as backward as Nebraska is. I've had offers. Alfred A. Knopf is a publishing company some of you may have heard of. They wanted me to write a notion of what I would write if I would write a book, and I sent it in, and they were interested. But it would have taken me too much time to write the book and I didn't want to write that kind of book. That's when I was much younger... [LB62]

SENATOR KRIST: One minute. [LB62]

SENATOR CHAMBERS: ...and I didn't write a book just to write a book. So I didn't write it. And another peculiarity, it might be described as such: If there's a challenge, I'm stimulated and

Floor Debate
February 21, 2017

inspired to address it, but once it's resolved I'd have no longer any interest in it. If somebody told me I could never get a publisher interested in me writing a book then I'd have to show that a publisher is. But once the publisher showed the interest, I'm not interested in writing a book. That's not what I am. I'm not an author. I'm not a novelist. I am an artisan, where I try to take raw material and produce something that's better than what the raw material is. Thank you, Mr. President. [LB62]

SENATOR KRIST: Thank you, Senator Chambers. And you are recognized. And besides your closing, this is it. [LB62]

SENATOR CHAMBERS: Thank you. I'm looking at the clock, and I know that we don't have a lot of time before we will adjourn, so I have another motion or two that I can make sure we don't get off this bill before I have a chance to offer the amendment. Some people...not some...there haven't been that many talking. Somebody had indicated that even with this amendment I offer, a penalty is still in the other section of statute. I had explained why I could not touch that because the language of that statute is not before us in this bill. The only way I can get it before us is to have an amendment crafted which would replace everything in the green copy, and what I'm offering would open that section of statute. It would line through all of the punishments and so forth and leave that one pronouncement, that this religious garb is not going to be worn in the classroom, no punishments, none of that. The only way I can get to that is by holding us on this bill until I have the time to craft that kind of amendment. When you are the only one or one of a very few dealing with an issue on the floor of the Legislature, you have to be able to write motions on the fly. You have to find a way right this instant to prolong the discussion long enough to get something else done. And I did want to serve a message to some of my friends because...well, when I say "friends" I put that in quotation marks--some of my cohorts, my fellow conspirators. We're going to talk about the rules again later on in the session, and guess who they're going to come to and want to carry the ball? Who are they going to want to yield time to, who's willing to stand up here and argue and argue and push and pull and tug and stand for something? Me. They'll yield time to me. But this Legislature is a political body. It's one where using is the order of the day. People think they're using me. Well, a guy sang this song. He talked...he was singing to this woman. He said, well, use me, baby, until you use me up. He knew he was being used, and if this is what being used is, that's what he liked and use him up. So these people use me. It's not like a parasite and the host, where the parasite draws from the host. It's not like osmosis where substances, you have a semipermeable membrane and the area of lesser concentration is where the stuff from the side of greater concentration will wind up being until there's equilibrium on both sides of the membrane. It's not osmosis either. It's more like a symbiotic relationship where both sides gain from it. They gain by me standing and waging the fight that they're afraid to wage, and I gain by having the time I need to wage a fight that I think is worthy of being waged, even if by one person. And the ones that you admire the most in your history--and I have a degree in your history from Creighton, a Catholic school--the one who

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

Floor Debate
February 21, 2017

stood up when nobody else would, the one who was willing to be different, the one who risked life, limb, and fortune was the one, not the one who had a whole lot of company. [LB62]

SENATOR KRIST: One minute. [LB62]

SENATOR CHAMBERS: When I went to Creighton University I came from Technical High, and that term meant you learned how to work with wood, you learn how to work with metal, you learn how to set type and print, do all the kind of things with your hands, so it was considered a dumb school. All the kids in the neighborhood that I grew up in wanted to go to Central because that was the hoity-toity better school, so I went to Tech on purpose. And when a guy came from Creighton telling students why we ought to go to Creighton, it was supposed to be a hard school so I decided that's where I would go, and that's where I went. And on their entrance exam I scored so high I wound up in Honors English, not even the indigenous language of the country that I probably would have originated from if I trace my roots back. But I did better in white people's English than they did. But when I was in undergraduate school, every classroom had a cross with Jesus on it and they... [LB62]

SENATOR KRIST: Time, Senator. [LB62]

SENATOR CHAMBERS: Thank you, Mr. President. [LB62]

SENATOR KRIST: Thank you, Senator Chambers. Senator Schumacher, you are recognized. [LB62]

SENATOR SCHUMACHER: Thank you, Mr. President, members of the body. This tangent that we've gotten off on this morning may seem to some to be a waste of time, but very little that happens on this floor is a waste of time. We're supposed to be a deliberative body. Not just reacting to pieces of legislation, not just reacting to economic conditions or tax short polls but thinking about the big picture and the place we have in history by virtue of sitting in this room. I printed out these two bills that we're going to probably, eventually repeal here or, if Senator Chambers does what he says, may modify, and what I find interesting is the date. You print them out. On the bottom of the statutory printout it will tell you a little history of the law. These things go back to 1919. And they are clearly saying, we want an absolute separation of church and state, even to the extent of any teacher who wears an indicator of religion being fined and/or imprisoned. Now, could you imagine today if this bill were brought as a bill, if these laws didn't exist and somebody brought that bill? The religious influence would be so heavy that the bill would never ever make it out of committee much less be passed into law, modified half a dozen times over time and still stand. What has happened to the state that made that difference? Can you imagine what would happen if we were constructing this building today and we tried to put a

Floor Debate
February 21, 2017

flooring like there is in the halls outside and in the Rotunda, top and bottom nudity. We would be hounded right out of the world for having such things in the floor of the Rotunda. What mentality was different then than there is now? And is that mentality as big a factor, maybe much bigger factor, in our economic problems than a slight percentage of income tax rates or an adjustment in how property taxes are valued and assessed? What has happened in the last hundred years that has so dramatically changed the presumptions in this body and the attitudes in this body, and the way we approach our economy, approach our society, approach our freedoms? Something has happened and has it been good or bad? In 1919 our communities, all 500 of them, were growing like there was no tomorrow. [LB62]

SENATOR KRIST: One minute. [LB62]

SENATOR SCHUMACHER: And now they are shrinking like there is no future. How do those things all play together? And how have we become unenlightened in certain respects, so much so that maybe we are shaping an economy and a society that is dysfunctional in the modern world? Thank you, Mr. President. [LB62]

SENATOR KRIST: Thank you, Senator Schumacher. Senator Walz, you're recognized. [LB62]

SENATOR WALZ: Thank you, Mr. President. And I just having a discussion with Senator Chambers on what he would do and how he would change it, and I am not in agreement at this point with what he's saying or what he's wanting to do at all. But I will yield the rest of my time to Senator Chambers so he can better explain it to others who might not understand it, like I did not. Thank you. [LB62]

SENATOR KRIST: Senator Chambers, 4:30. [LB62]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Walz. I've mentioned what I would have to do to get the amendment before the body. This is all that LB62 would say if you would adopt the amendment that I'm interested in: No teacher in any public school in this state shall wear, in such school or while engaged in the performance of his or her duty, any dress or garb indicating the fact that such teacher is a member or an adherent of any religious order, sect, or denomination, period. That being in the law, if we would adopt it, in my view, would lead the school administrators, maybe it will be at the school board level, to put in their manual, or whatever they call it, regulations governing what happens in the classroom and shouldn't, and this would be there. Everybody would be on notice. And if you had a reason that was stronger than your desire to teach to wear this garb, then you would not apply for a job because you know that that is verboten. That's forbidden. As far as enforcing it by the administration of that school system, whatever the sanctions are for any other requirement in that manual, whatever the

Floor Debate
February 21, 2017

sanction is for violating it would be the sanction imposed in this particular situation. It would have the same status as any other "thou shalt" or "thou shalt not." Done away with entirely would be the concept of it being a crime, somebody being charged with an offense. There would be a fine, a jail sentence, and a conviction of a crime. That would all go away. And I think that it would be very wholesome, because the children are not going to be subjected to the arguments that adults have among and between themselves. In the classroom, it should be a place of refuge for children because when you don't know something you're being taught and you have to learn it, there can be a type of pressure because they're going to test you on this, so there's tension already. Let them focus on that alone in the classroom and not these other things. I was going to tell you about when I went to Creighton. By the way, Creighton was very easy for me and I didn't attend most of my classes, and I didn't know that taking 18 hours was a heavy load because 18 hours meant I went...I was in a classroom only 18 hours out of the week. That was less time than I spent working on a job. But anyway, they had the crucifixes; Jesus, Mary, and Joseph would be put on papers when people turned them in, JMJ, and I knew what all that was. And they always said a prayer when the classroom started, and when I found out that's what they were going to do, even a class I was going to attend, I never showed up until they got through with their whatever you call it. I called it rigamarole because it didn't have any impact on the conduct of the students. They did things I wouldn't think of doing. [LB62]

SENATOR KRIST: One minute. [LB62]

SENATOR CHAMBERS: But at any rate, I knew what the rules were when I went to Creighton and I complied with them. I wasn't required to sit in the classroom when they did their praying, so I was always absent or outside the classroom until that was over. Then I came into the classroom and I was such a good participant that they wouldn't even call on me because I knew the answer to questions that the other students didn't, and the teacher wanted some kind of discussion. And when I was called on there was no discussion because I knew the answer, not by osmosis. I read a lot. I read a lot. But anyway, I've told you what that amendment would result in if it were adopted, but I definitely want the opportunity to discuss it when it's before us as a proposal. And when I craft that amendment and offer it, you will see precisely what it is I'm suggesting and how... [LB62]

SENATOR KRIST: Time, Senator. [LB62]

SENATOR CHAMBERS: ...reasonable it is. Thank you, Mr. President. [LB62]

SENATOR KRIST: Thank you, Senator Chambers and Senator Walz. Senator Schumacher, you're recognized. [LB62]

Floor Debate
February 21, 2017

SENATOR SCHUMACHER: Thank you, Mr. President. I yield my time to Senator Chambers. [LB62]

SENATOR KRIST: Senator Chambers, 4:50. [LB62]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator, well, this time "Professor" Schumacher. Members of the Legislature, I graduated from Creighton, undergraduate school. I eventually graduated from their law school. I was out of Creighton's law school for a number of years because I wouldn't attend classes, and they had a rule which allowed you to miss 20 percent of the classes and it wouldn't be held against you. But don't give a black man an inch or he'll take a mile, so I didn't go to any classes except the ones I needed to go to get information I couldn't get out of the textbook. Well, they were sure, the students and others, that I'd flunk out; I couldn't pass the test not attending classes. But I was reading, and I got more through my reading than they got in the classroom. Because they learned what the teacher talked about and they took notes on, but I would read all of the cases. So in the process of reading all of the cases, I obviously would cover the bits and pieces that they would take out of it so I could, as Alexander Pope said, I could expatiate free over all these things that were asked, never flunked a class, never flunked an exam. But a point was reached where they refused to let me register. They couldn't flunk me out because if they had a class...a test that would flunk me out every student in that school would have flunked out. So the only way they could stop me was refusing to let me register. And I said that's wrong. I passed every exam, I passed every course, I didn't violate any rules of the school. Well, you knew you...if you missed 20 percent of the classes, such and such. I said, let me teach you something. This is a law school. We talk about justice. We talk about equity. One of the most important elements of the law is notice. You have to be made aware in advance of what the consequences are if something is done. The consequences should have been imposed while the session was going on. If I reached a point where I missed enough classes, where the rules say I should not be allowed to continue, when I did decide to come back to class you should have told me, you can't come to class anymore, you eliminated yourself; or if they wanted to really play dirty, wait until I came to take the exam and tell me I couldn't take the exam. But they didn't want to do it that way. They thought they could head me off at the pass, which they did. They thought, because I did so well in law, that I would go to another law school because the important thing to me would be finishing law school, which is what would have been important to them. But they were white. They had a different standard than I did. So I told the dean, I started at Creighton and I'll finish at Creighton or I'll never get a degree in law. And he told me how he'd give me a recommendation to any law school in the country and he thought that I could make it. I said, so you think I'm unfit to go here but you'd dump me on your colleagues? That shows you have no principles whatsoever. So they kept me out of Creighton Law School for several years. There were judges, there were lawyers, there were ministers, there were even priests who tried to petition Creighton Law School to let me back in. They refused. Then finally they wanted a fund drive to build a new law school, and a

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

Floor Debate
February 21, 2017

guy came from Yale. His name was Stephen Frankino and he read my file. Everybody knew it. He sent these white kids down to tell me if I'd come back to Creighton I didn't have to attend the class, I wouldn't have to purchase the textbook. I could get any books out of the book store I wanted and it wouldn't cost me anything because if I wanted to I had a good lawsuit against Creighton. I said I'm not interested in law school. I want to get out of there. That's where I started. So he let me back in. I didn't attend classes. I didn't flunk a class. [LB62]

SENATOR KRIST: One minute. [LB62]

SENATOR CHAMBERS: I didn't flunk exams and I graduated, finally. And I don't practice law because I will not join a bar association where they're going to make me pay dues to be around people I don't even respect. When I say I have a principle, I mean it. Money is not going to take me away from it. Prestige is not going to take me away from it. Success, as other people reckon success, won't matter. It's what I think about me that's important. And the thing in law school is me...for me to finish where I started no matter how they tried to stop me. My aim here is to try to get us to function in the way a Legislature should, which I'll never be able to do. That's why it's so challenging. So I'll be challenged for the two and some odd part of a year that I have left in this Legislature. Then I'll be rid of it, and it will be rid of me, and there will be joy throughout this state except on the part of those people who were aware of what I tried to do, all 40-some-odd years that I was here. Thank you, Mr. President. [LB62]

SENATOR KRIST: Thank you, Senator Chambers. Senator Howard, you're recognized. [LB62]

SENATOR HOWARD: Thank you, Mr. President. I yield my time to Senator Chambers. [LB62]

SENATOR KRIST: Senator Chambers, 4:50. [LB62]

SENATOR CHAMBERS: Thank you, Mr. President. Thank you, Senator Howard. This provision that we are discussing gives us a chance to talk about all of the important issues that confront a democracy: personal rights, personal freedom when they clash with what is considered the greatest good for the greatest number. How are you going to reconcile different and even warring beliefs? Well, out in society, people do it the way they want to. In politics, they do it the way they want to. But when you have an environment like a classroom and children are compelled to be there and their parents are compelled to send them there, there should not be anything injected in that classroom that's going to favor one or some over all the others. It should be neutral. And the thing that goes on in that classroom should be the presentation objectively of information, which will never happen, but do it as closely as you can. Don't build discriminatory practices into the structure itself. The system itself, if viewed abstractly, should be free of any bias, which means inappropriate favoring, any prejudice, which means judging somebody

Floor Debate
February 21, 2017

negatively. That shouldn't be apparent on the face of the curriculum and in the material that's taught and in the way teachers comport themselves. There is nobody, I don't think, on this floor who would say under the U.S. Constitution, which guarantees freedom of speech and freedom of religion, would say that a school must allow teachers in the public schools to advocate their religion, advocate for their religion, proselytize in the classroom under the rubric of freedom of speech. None of those freedoms is absolute. All of them can be circumscribed depending on the circumstances. And that's why there is so much difficulty in a setting like a legislative assembly when people can come there who have no education, no understanding, can be there for a totally inappropriate reason. Motives are not a part of the qualification to be in the Legislature: be a certain age; meet the residency requirement, which somebody is saying that I didn't and don't do; be outside the penitentiary; don't have been convicted of a felony; and some other minor requirements that are easily met by the ordinary person. There is no literacy requirement. You don't have to be able to read. You don't have to be able to write. If you read and write, you don't have to be able to spell. That reminds me of something that white people ought to have taught to them. It was in a movie. Ossie Davis was a black guy. He had been a slave and he had gotten away, but some other white guy captured him, threatened to send him back down South if he didn't do what Ossie Davis wanted. Ossie Davis was cultured because he had come from Nawlins (phonetically), New Orlines (phonetically), New Orleans, and the people who purportedly owned him exposed him to concerts, to lyceums, discussions. So his mind, which was good, imprisoned in the body of a black slave, developed. So he had a little argument with this white guy. He said...Ossie Davis got mad at him. He said, you know what? You say you own me. You can't even read your name and you can't spell your name and you can't write your name. And the white guy said, gritting his teeth, you could hear him grinding on the soundtrack. He said, don't you know that I can take a bullwhip and lacerate all the flesh off your back and pour salt into it if I want to? Ossie Davis said, yes, sir, that's exactly what you can do. And that I can take a knife and I can cut your genitals off--he called it something else--if I want to? Yes, sir, that's exactly what you can do. And so the white man felt superior and Ossie Davis said, and after you've done all that you still don't know how to read, you still don't know how to write, and you can't spell your name. See, they can do things to us, but it's not going to make them better, and it doesn't take away from us what we are inside. They can debase us, they can degrade us, they can dehumanize us, they can ridicule us, they can mock us,... [LB62]

SENATOR KRIST: Time, Senator. [LB62]

SENATOR CHAMBERS: Thank you, Mr. President. [LB62]

SENATOR KRIST: Thank you, Senator Chambers. Senator Baker, you're recognized. [LB62]

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

Floor Debate
February 21, 2017

SENATOR BAKER: Thank you. Senator Chambers, I am listening and, you know, I guess I've opened my mind on this a little bit. I've thought a lot about what schools and communities do and don't want in front of students. I think that view has probably changed over time. Like Senator Hilkemann, my mother was a teacher. Back in the 1930s, when a woman got married she had to give up her job in this particular community. And my parents couldn't afford, during the '30s, during the Depression, they couldn't get...afford to be married for several years during the '30s because they couldn't give up that income. So that has certainly changed now. Back in the '70s I was a young superintendent. I had a social studies teacher, a high school social studies teacher come to me; just moved back to Nebraska from Orange County, California. He came to me one day and told me he was a member of the John Birch Society and he would like to use some of those materials in his classrooms. Jeez, what do I do now? I end up telling him, I did not want him to use those John Birch materials in his classroom. I think we finally agreed on the compromise that he could lay his magazines in the back of the classroom, if somebody chose to go read those. I'm thinking, too, about staff making a political statement like we would want...not allow teachers to, say, wear a T-shirt that said Dump Trump or Hillary for Jail or something like that. So I guess I've at least opened my mind to consider what's being talked about here, whether or not religious garb would fall in a somewhat similar category to wearing something with a political message. So I'm listening. And, Senator Chambers, the reason that I sometimes yield you time and probably why others do is because you're astonishingly articulate. Thank you. [LB62]

SENATOR KRIST: Thank you, Senator Baker. Seeing no one else in the queue, Senator Chambers, you're recognized to close on your reconsideration motion. [LB62]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, when we come back tomorrow I will have my amendment drafted and I will try the best that I can to persuade you that it is reasonable, rational, and wise legislative policy. Senator Baker touched on something, but he put it in the political realm. Can the schools prohibit a person from wearing a badge pointing out whom he or she supports for President? Can that be done? Suppose it's a school where people don't like Donald Trump. Could the teacher wear a Donald Trump sweatshirt on the same basis as you want to let these things happen here and say, well, this is America and people have to be allowed to express themselves? And the children are not going to be hurt by it. It's all how the parents feel. The children don't even know who Donald Trump is, and on and on and on. Those artificial rationalizations are what can be defined as hypocrisy. People are afraid in a Catholic-dominated state to go against what Catholics want. I'm going to bring some material and show you all where people were talking about me being censured, and it even came from some guy who's a Catholic, Anti-Defamation League in New York who said, how dare a senator talk like that, when I was talking about the influence that Catholic lobbyists have on this Legislature. I should not have said it, but they were the only ones with three lobbyists out there, and I made it clear when they lobby and come over here they're going to be

Floor Debate
February 21, 2017

treated like any other lobbyist. And I said that Catholic Church strides through here in their seven-league boots. And no Catholic said anything while I was saying it. Then when an agreement was reached between me and the Chairperson of the Appropriations Committee on an issue they didn't like, they suddenly brought up what I had said about the Catholics and the Catholic Church. And some reporters and maybe an editorial writer pointed out they didn't have anything to say until the agreement was reached between Senator Chambers and the Chairperson of the Appropriations Committee. They were saying the Appropriations Committee folded and all these other things. I'm accustomed to that. I'm accustomed to the religious hypocrisy. What other church does have lobbyists out there, visits your offices? They can do that. Anybody can. But be prepared for what happens when you are lobbying in a political environment. Don't hold up the fact that you're a religious person when you're facing incoming fire. But you want to be a religious person to get certain privileges that others wouldn't have. I believe this is one of the most important discussions that we will have, partly because you're not going to have a division of the house in terms of people talking. There are people who agree with some of what I'm saying but they dare not say it. They dare not say it. When we come to the budget there will be people on both sides. I may not have to say much or anything. These tax bills, there will be people on both sides. I have to stand when there are issues like this, and I'll try to use the arguments based on you-all's constitution, what you all say you believe, and keeping religion out of the state's business,... [LB62]

SENATOR KRIST: One minute. [LB62]

SENATOR CHAMBERS: ...keeping religion out of the classroom. When people want their children exposed to certain religious persuasion, let them go to a private school. They can home school. There are alternatives. But people who don't have the money to go to a private...send their kids to a private school, they don't have the ability to home school, they have to be in the public school, then they have to be exposed to a Catholic teaching the child, wearing Catholic clothes. Children see a lot in symbols. We can say whatever we want to say, but they look at what is done, and that's why they come a lot of times closer to the truth than we do because it is unvarnished, not trying to make a point over here or refute a point over here. They look at what they see and they call it what it is. And that's why they'll tell children, you're disobedient, you're insolent, don't say that to adults, not because the child didn't tell the truth, but because the child did tell the truth, but is not smart enough and savvy enough to know that in these situations you are supposed to lie. That's what children are taught. I've watched this when I was growing up. That's one of the things that drove me out of the church. [LB62]

SENATOR KRIST: Time, Senator. [LB62]

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

Floor Debate
February 21, 2017

SENATOR CHAMBERS: Thank you, Mr. President, and I will withdraw that pending motion. [LB62]

SENATOR KRIST: Without objection, so ordered. Mr. Clerk. [LB62]

CLERK: Mr. President, some items: Transportation Committee reports LB346 to General File, LB355 to General File with amendments. New resolutions: Senator Clements offers LR43 and LR44; Senator Krist, LR45; all three of those will be laid over. A corrected hearing notice from the Health and Human Services Committee. Priority bill designations: Senator Larson, as Chair of General Affairs, they've selected LB470 as one of their committee priorities. An amendment to be printed: Senator Krist to LB11. And name adds: Senator Linehan to LB88 and LB342, Senator Hilkemann to LB289. (Legislative Journal pages 506-509.) [LB346 LB355 LR43 LR44 LR45 LB470 LB11 LB88 LB342 LB289]

Mr. President, Senator Riepe would move to adjourn the body until Wednesday morning, February 22, at 9:00 a.m.

SENATOR KRIST: You've heard the motion. All those in favor, aye. Opposed, nay. The ayes have it. We are adjourned until tomorrow morning at 9:00.