

Transcript Prepared By the Clerk of the Legislature
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Special Committee on the Election Challenge to the Qualifications of Senator Ernie Chambers of
District 11
March 30, 2017

[QUALIFICATIONS CHALLENGE]

The Special Committee on the Election Challenge to the Qualifications of Senator Ernie Chambers of District 11 met at 12:00 p.m. on Thursday, March 30, 2017, in Room 1524 of the State Capitol, Lincoln, Nebraska. Senators present: Dan Watermeier, Chairman; Kate Bolz; Sue Crawford; Dan Hughes; John Kuehn; John McCollister; Jim Scheer. Senators absent: None.

SENATOR WATERMEIER: Okay. I would like to call this meeting to order. We do have all seven members of the Special Investigative Committee here. I'll pass with introductions today. We are here today to discuss and rule on the challenger's objection to this committee's determination of which party has the burden of proof. I'm sorry, Clerk, are you ready for us? Okay. Thank you, Laura. Sorry about that, Laura. As you know, the hearing procedures adopted by this committee on March 22 place the burden of proof on the challenger, Mr. Sciara. The challenger contends, however, that this proceeding is a quo warranto action and, as such, the burden of proof should instead rest upon the incumbent, Senator Chambers. You have all received a memorandum prepared by our legal counsel, Mr. Connolly, regarding the issue of burden of proof. Mr. Connolly would like to give you, Committee, a brief summary and then we'll have a chance to ask questions at that point in time. So, Mr. Connolly, if you're still there.
[QUALIFICATIONS CHALLENGE]

WILLIAM CONNOLLY: Okay. Well, just summarizing, if you recall, oh, about ten days ago, maybe two weeks, we prepared a memo on procedure of the hearing and in that proceeding or in that memo we established or concluded that the burden of proof was on the challenger. And now he's taken exception and objected to that and you have before you our memo of March 27 setting out the reasons why he is incorrect. First, this is an election contest. He has labeled it and all through the assertions and allegations he's referred to it as a election contest, and it is an election contest. It's not a quo warranto. So the case that he relies on, Krajicek, is not persuasive in any manner because this is, in effect, election contest. And second of all, even if it were a quo warranto, which it is not, he has not brought it on behalf of the state. Under the quo warranto statutes, a private person, if the Attorney General and the county attorney refuses to bring it, they can bring it. But he didn't do it on behalf of the state. This is not a quo warranto. If it were a quo warranto, then it might be a different case and maybe the burden would be on the incumbent. But in this case, it isn't. We still believe that our initial conclusion is correct and that the burden of proof is on the challenger. [QUALIFICATIONS CHALLENGE]

SENATOR WATERMEIER: All right. Thank you, Mr. Connolly. Questions from the committee? Seeing none, we will need a motion in order to proceed one way or another on this matter.
[QUALIFICATIONS CHALLENGE]

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SENATOR BOLZ: I move to affirm that the burden of proof is on the challenger, as set forth in the hearing. [QUALIFICATIONS CHALLENGE]

SENATOR WATERMEIER: All right. We have a motion on the floor from Senator Bolz. Seconded by Senator McCollister. Is there further discussion? Seeing none, can you call the roll. [QUALIFICATIONS CHALLENGE]

LAURA OLSON: Senator Kuehn. [QUALIFICATIONS CHALLENGE]

SENATOR KUEHN: Yes. [QUALIFICATIONS CHALLENGE]

LAURA OLSON: Senator Bolz. [QUALIFICATIONS CHALLENGE]

SENATOR BOLZ: Yes. [QUALIFICATIONS CHALLENGE]

LAURA OLSON: Senator Crawford. [QUALIFICATIONS CHALLENGE]

SENATOR CRAWFORD: Yes. [QUALIFICATIONS CHALLENGE]

LAURA OLSON: Senator Hughes. [QUALIFICATIONS CHALLENGE]

SENATOR HUGHES: Yes. [QUALIFICATIONS CHALLENGE]

LAURA OLSON: Senator McCollister. [QUALIFICATIONS CHALLENGE]

SENATOR McCOLLISTER: Yes. [QUALIFICATIONS CHALLENGE]

LAURA OLSON: Senator Scheer. [QUALIFICATIONS CHALLENGE]

SENATOR SCHEER: Yes. [QUALIFICATIONS CHALLENGE]

LAURA OLSON: Senator Watermeier. [QUALIFICATIONS CHALLENGE]

SENATOR WATERMEIER: Yes. All right. Motion passes. So I will have the legal counsel prepare an order to send to the parties explaining today's decision. And that will end today's meeting. Thank you. [QUALIFICATIONS CHALLENGE]

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SENATOR CRAWFORD: Thank you. [QUALIFICATIONS CHALLENGE]

JANICE SATRA: Thank you, Judge. [QUALIFICATIONS CHALLENGE]

WILLIAM CONNOLLY: Any other questions or...? [QUALIFICATIONS CHALLENGE]

SENATOR WATERMEIER: No, we're still on-line here on the phone, so not today.
[QUALIFICATIONS CHALLENGE]

WILLIAM CONNOLLY: Okay. [QUALIFICATIONS CHALLENGE]

SENATOR CRAWFORD: Thank you. [QUALIFICATIONS CHALLENGE]

SENATOR WATERMEIER: Thank you. [QUALIFICATIONS CHALLENGE]

WILLIAM CONNOLLY: All right. Thank you. [QUALIFICATIONS CHALLENGE]

JANICE SATRA: Bye. [QUALIFICATIONS CHALLENGE]

WILLIAM CONNOLLY: Bye bye. [QUALIFICATIONS CHALLENGE]