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COMMITTEE ON GOVERNMENT, MILITARY AND VETERANS AFFAIRS
January 18, 2006
LB 787, 817, 920

The Committee on Government, Military and Veterans Affairs met at 2:30 p.m. on Wednesday, January 18, 2006, in Room 1507 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 787, LB 817, and LB 920. Senators present: DiAnna Schimek, Chairperson; Pam Brown, Vice Chairperson; Carroll Burling; Deb Fischer; Chris Langemeier; Mick Mines; Rich Pahls; and Roger Wehrbein. Senators absent: none.

SENATOR SCHIMEK: That concludes the briefings today and we will go to legislation and we will take the legislation in the order in which it was listed at the door; LB 787, Senator Mines, then LB 817, and then LB 920. And while everybody is getting rearranged here, I will introduce the committee to the people who are with us today. And I'll begin on my far right...well, I guess I won't quite do that because Senator Pahls is no longer sitting in his chair. (Laughter) But Senator Pahls from Millard is with us. To his left is Senator Carroll Burling from Kenesaw and to his left is Senator Pam Brown of Omaha. And to my right is the committee legal counsel, Christy Abraham. I'm DiAnna Schimek, I am from Lincoln and I chair the committee. To my left is Sherry Shaffer who is the committee clerk. To her left is Senator Roger Wehrbein of Plattsmouth. Senator Mick Mines is going to be opening on the next bill, he is from Blair. Senator Chris Langemeier from Schuyler and Senator Deb Fischer from Valentine. With that, I will mention that if you are going to testify on bills, there are sign-in sheets over by the door, I believe, Sherry. And you can just fill those out before speaking and put it in the box up here on the table. When you introduce the bill or have testimony, please introduce yourself and spell your name for the record. That's very helpful to our transcribers. We will first take pros and then we will take cons and then we will take neutral testimony on all the bills. If you have a cell phone, now is the time to turn it off. If you have any kind of testimony that you would like to have duplicated, we can see that the page does that. And speaking of pages, I should mention Kate Wolford from McCook who is with us today. I don't know that she's going to be with us all the time but she's at least filling in.

KATE WOLFORD: Wednesdays.

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SENATOR SCHIMEK: Just Wednesdays, okay. So, with that,
Senator Mines, I don't know if I've forgotten anything but
why don't we proceed?

LB 787

SENATOR MINES: (Exhibit 1) Thank you so much. Madam
Chair, members of the committee, my name is Mick Mines,
M-i-n-e-s, and I represent the 18th Legislative District.
Thank you for the opportunity to be first.

SENATOR SCHIMEK: You're welcome.

SENATOR MINES: Thank you. LB 787 provides for calibration
of radiological instruments by the Military Department. The
Nebraska Emergency Management Agency, or NEMA, has long
maintained a Radiological Emergency Preparedness Division in
support of the state's nuclear power plants and radiological
transportation corridor. As the public's awareness
increases toward preparedness, homeland security, including
radiological emergency response, equipment capability and
availability has expanded across the state. In the past,
NEMA has been able to maintain and calibrate old-style
equipment currently in use. However, there are new emerging
technologies and they're limiting NEMA's ability to provide
cost-efficient and cost-effective support to state agencies
and local first responder organizations that have the newer
equipment. LB 787 enables a system to develop and maintain
proficiency within NEMA to calibrate radiological emergency
response equipment in a cost-efficient manner. I've also
asked the page to hand out an amendment that would clean up
a couple of things in the bill. First of all, in Section 3,
paren 2, it removes some duplication and makes the new
language more clear. And the second change in Section 3,
paren 3, changes the name of the cash fund to match the fund
created in the paragraph that follows that paragraph.
Following me today, General Lempke, the Adjutant General of
Nebraska National Guard, and he can provide additional
information on the bill and answer any questions you might
have. Also on hand if you want technical answers to your
questions, Al Berndt, assistant director of NEMA and Jon
Schwarz, radiological program manager. Thank you for the

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consideration of the bill and I would entertain any questions.

SENATOR SCHIMEK: Thank you, Senator Mines. Are there questions? I might mention I, as an observation, I wondered when I first saw this bill why it didn't go to Health and Human Services Committee. I wasn't thinking of the right kind of radiological...

SENATOR MINES: Radiological.

SENATOR SCHIMEK: ...instruments, yes. (Laughter) So thank you, Senator Mines.

SENATOR MINES: Thank you.

SENATOR SCHIMEK: All right. General, would you like to go ahead?

ROGER LEMPKE: Yeah, thank you.

SENATOR SCHIMEK: Okay, thank you.

ROGER LEMPKE: (Exhibit 2) I'm General Roger Lempke and that's L-e-m-p-k-e, Adjutant General of the Nebraska Military Department and director of the Nebraska Emergency Management Agency. And I do have with me today, Al Berndt had some other things he had to do but I do have Jon Schwarz who's in charge our radiological efforts within the state here today. I'm here to offer testimony in support of LB 787 that will provide us a cost-effective method for the calibration of radiological monitoring equipment. The bill basically will initiate the ability to assess fees to cover the actual cost of a program and create a cash fund to help manage those fees. In NEMA, we have maintained a calibration lab with some limited capabilities for a number of years. I think most of you are probably familiar with those old yellow civil defense monitoring boxes that are out there. Those boxes are actually owned by the state, administered by NEMA, and given out. And we, in turn, would go out and bring those boxes in and calibrate them ourselves. These kits themselves are limited in their use and technology. Obviously, they've been superseded in recent years. Two years ago, the U.S. Department of Energy

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provided funding to the state to purchase newer technology equipment in support of Department of Energy radiological shipments through Nebraska. As you're well aware, the I-80 corridor and Union Pacific Railroad running east and west. Along with this then, this equipment was to be provided to first responders throughout the state of Nebraska along that corridor. And in accepting this equipment, though, they also accepted the responsibility to maintain repair and to accomplish annual calibrations of these kits. These kits are new, they're state of the art and they have have a much wider range of capabilities, usability than the old yellow boxes, if you will. Now, initially, obviously most of your local communities do not have the capability to do any of the maintenance functions. So it's something that must be sent out. Initially, NEMA facilitated the repair and calibration of these boxes free of charge through a program with Iowa. We had a special agreement whereby Iowa was actually doing the work free of charge. Iowa changed their policy recently and basically told us that they would be unable to continue support of our state's calibration needs. So we've had to turn elsewhere. If we turn to the contractors, the people that provide the boxes, they currently are quoting us nearly \$700 a kit. The number in my testimony is \$695. I was told the number today is \$705. So to accomplish these annual calibrations which is, by the way, double the cost that they were quoting a year ago. So you can see clearly that we aren't able to control the cost of this calibration because there's just a lack of competition out there. So basically then...and this cost is a burden that our local first responders must bear. So, in response to this situation and also due to the fact that we can find no facility in Nebraska that's really capable of accomplishing this calibration, so we're not out to compete with private industry here. We have, to fill the gap, if you will, develop the capability to maintain, repair, and to calibrate these new kits. And the cost to us for doing this is about \$240 per year, assuming we get about 30 kits in per year. That includes the cost of the hours paid to do it. It includes equipment and includes the training and upkeep of equipment amortized into that cost to calibrate these kits. With the passage of LB 787, NEMA will be allowed to charge nominal fees for the calibration of radiological monitoring equipment for emergency first responders as well as, I might add, other agencies and organizations in

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Nebraska that have procured similar type of modern radiological equipment. The funds will allow us to maintain the laboratory equipment and the radiological resources necessary for calibration of modern radiological equipment, as well as proficiency training for the lab technician. It will provide for cost savings to both the state and the local level. Currently, we have 39 of these kits at the local level. As an agency, I can see us being responsible for calibrating about 40 other kits that are in various state agencies and locations in the state of Nebraska. If this, if we were to go out and procure this kind of service, it would cost the local agencies out there with this capability about \$27,000 and our state, for the agencies that have the equipment, about \$28,000 per year. So this will offer the opportunity here to accomplish a service that we are accomplishing right now and it will allow us then to cover the cost of that service and save the uncontrollable expenses that we face in trying to do this through the contractor or other means. So I appreciate the opportunity to testify today. I'm open to any questions that you might have.

SENATOR SCHIMEK: Senator Wehrbein.

SENATOR WEHRBEIN: Two questions, where will this be done, here in Lincoln?

ROGER LEMPKE: Yeah, right here in Lincoln. We have the facility right in the basement there in NEMA.

SENATOR WEHRBEIN: Do you hire the people or are they hired...?

ROGER LEMPKE: It's an employee we have that came from the sector of business where he is well certified and trained to do this work.

SENATOR WEHRBEIN: And will this have any impact on Brownville and Fort Calhoun nuclear plants?

ROGER LEMPKE: Well, that's a good question, Senator. Actually, this is all wrapped up in part of that program. Part of his work is dealing with and supporting both Brownville and the one north of Omaha.

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SENATOR WEHRBEIN: In how? In this kind of thing, testing
(inaudible)?

ROGER LEMPKE: This kind of thing and, of course, Jon here
is in charge of our radiological effort in the state. So we
support them in many different ways including reviewing the
plans, response plans, making sure they're in compliance
with federal issues and things like that.

SENATOR WEHRBEIN: But this bill itself doesn't affect them
directly, this just adds to what you do?

ROGER LEMPKE: Yeah, that's correct. It gives us then the
capability to charge now, at least at cost level, for
something that we're kind of doing anyway.

SENATOR WEHRBEIN: Okay, so that's the essence of the bill
is the...

ROGER LEMPKE: Yes.

SENATOR WEHRBEIN: ...setting up a separate fund and...

ROGER LEMPKE: That's correct, yes.

SENATOR WEHRBEIN: Thanks.

SENATOR SCHIMEK: Senator Burling.

SENATOR BURLING: General Lempke, there will be both public
and private entities want your service.

ROGER LEMPKE: It will be local officials. So this would be
fire or police and then state agencies. Jon, do we have any
private that we're aware of that (inaudible)?

JONATHAN SCHWARZ: No private at this time, there...

SENATOR SCHIMEK: Could, I don't know how to do this, but
maybe you should come up to the table...

ROGER LEMPKE: Oh, yeah, I'm sorry.

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SENATOR SCHIMEK: ...if you would, so we can be sure that...

ROGER LEMPKE: Jon, introduce yourself to everybody here.

SENATOR SCHIMEK: ...we get you recorded.

JONATHAN SCHWARZ: I'm Jonathan Schwarz, Nebraska Emergency Management Agency. Last name is spelled S-c-h-w-a-r-z. There are no private entities at this time. When our technician was going around to make sure that there were no laboratories in the state that could do calibrations, he ran into interest from private industry. For instance, you mentioned Fort Calhoun and Cooper. They even came back because they use instruments and so they wanted to check out the lab once we got it fully up and operational, they might send some instruments our way.

SENATOR BURLING: Thank you.

SENATOR SCHIMEK: Who regulates the calibration standards? Is that government or is that...?

JONATHAN SCHWARZ: That's...I can't remember what it stands for. We call it ANSI standards. I can't remember what the...

SENATOR SCHIMEK: ANSI standards?

JONATHAN SCHWARZ: ANSI, A-N-S-I.

SENATOR SCHIMEK: Okay.

JONATHAN SCHWARZ: It's a national standard. But, overall, we have a license through Health and Human Services Regulation and Licensure. They monitor the license we have for the radiological sources that we have to do the calibrations and they review the procedures we use for calibration.

SENATOR SCHIMEK: And there would probably be no need of putting any of these standards in statute, would there? I mean, I'm guessing they change from time to time.

JONATHAN SCHWARZ: They do, there's no need for that, ma'am.

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ROGER LEMPKE: Yeah.

SENATOR SCHIMEK: Okay, and one other question, give me an example of state agencies that would be using these services. I mean, other than...

JONATHAN SCHWARZ: The state Department of Agriculture lab has one of the kits that they agreed to take the kit based upon the fact that they would maintain the calibration, repair, and maintenance of it. HHS also took a couple of the kits for their response people, for their response teams.

SENATOR SCHIMEK: Is that what Ag Department would have them for, too, is some kind of a response?

JONATHAN SCHWARZ: Well, Department of Agriculture wanted them in case samples came in. They would check the samples to make sure that they weren't radiologically contaminated before they started doing their work and contaminate the rest of their lab.

SENATOR SCHIMEK: Okay, thank you.

JONATHAN SCHWARZ: Yes, ma'am.

SENATOR SCHIMEK: Any others? Seeing none, General Lempke, we thank you very much for being with us today. Thank you.

ROGER LEMPKE: You bet. Thank you, Jon, appreciate it.

JONATHAN SCHWARZ: (Inaudible)

SENATOR SCHIMEK: And did you want to testify separately?

JONATHAN SCHWARZ: No, ma'am.

SENATOR SCHIMEK: Jon, you were just here to answer...

JONATHAN SCHWARZ: I was just here to support the general.

SENATOR SCHIMEK: Okay, thank you for being with us, we appreciate it.

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JONATHAN SCHWARZ: Senator.

ROGER LEMPKE: Thanks, Jon.

JONATHAN SCHWARZ: No problem, General.

SENATOR SCHIMEK: Are there others who wish to testify in favor of the bill? Any others? Are there any who would testify in opposition to the bill? In a neutral capacity? Senator Mines waives closing and I think...thank you, Senator Mines. We will be at ease just a minute or two until Senator Chambers gets here because the bill really finished fast.

RECESS

LB 817

SENATOR SCHIMEK: This bill finished rather quickly and we didn't expect it to, so we didn't call you in time for...

SENATOR WEHRBEIN: We're anticipating this one.

SENATOR CHAMBERS: This doesn't look like murderer's row here, most of them are gone. But I will...

SENATOR PAHLS: Well, they're behind you. (Laughter)

SENATOR LANGEMEIER: We got rid of them.

SENATOR SCHIMEK: Well, yeah. (Laughter) They'll be back. We took a little at ease kind of break. But I think we can go ahead and get started if you would like.

SENATOR CHAMBERS: Okay.

SENATOR SCHIMEK: The committee has heard the bill. I mean, a bill like it before, so it's not like it's...

SENATOR CHAMBERS: Okay.

SENATOR SCHIMEK: ...rocket science that we're talking about

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today.

SENATOR CHAMBERS: For the record, I'm Ernie Chambers. I represent the 11th Legislative District in Omaha and I consider myself to be the defender of the downtrodden even if, on occasion, they happen to hold constitutional offices within the government of the state of Nebraska. As I look at the offices involved, I can honestly say that not one of them, except perhaps the Public Service Commission, not one of them can I look at and say I've not had serious differences with the holder of that office. So I'm not here because I'm friends with any of these people. I'm not their enemy, as far as I know. But I'm here because I think that these offices ought to have a better salary attached to them than is the case right now. Down through the years, I have offered bills of this kind to bring salary increases for the people in these offices. And for the sake of the record, instead of going on and on because you have the figures in front of you, both in my Statement of Intent and in the fiscal note, I'm going to go ahead and read my relatively brief Statement of Intent, then answer any questions you may have so that I can set your minds at ease. You won't feel that this is going to break the bank. And then I will give a brief rationale as to why the increases may seem substantial but nevertheless I think they are justified and reasonable. Legislative Bill 817 raises the salaries of seven constitutional offices: Governor, Attorney General, Secretary of State, Auditor of Public Accounts, Treasurer, Lieutenant Governor, and Public Service Commission. You notice I say salaries of offices, not officers. This is designed to put the compensation with the office that ought to be there to try to get people not to think of a specific holder of one of these offices whom you may have found objectionable or even abhorrent and for that reason may vote against putting a decent salary to the office. We should not punish those who have not done as we think they should by weakening the office or making that position unattractive because it does not pay a decent salary based on what is expected of the holder. That introduces this second sentence which may cause people to catch their breath and fall off their chair if they're not holding on to the table. In addition, LB 817 provides an automatic 2.5 percent annual increase beginning in 2011. Because of the entrenched unwillingness to establish a reasonable base salary and

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grant reasonable periodic increases, the state has fallen far behind most of the nation. And reasonable compensation, therefore, does not attach to the respective constitutional offices. Any raises granted would take effect beginning in 2007. Commencing in 2011 and every four years thereafter, the annual salaries would be increased by 2.5 percent per year. It starts in 2011 because to do so when this bill takes effect would be to give the base increase plus the 2.5 percent, which is not my intent. It would be to give the increase then, four years down the road, you'd have the 2.5 percent which would bring these periodic increases automatically and maybe we wouldn't have to have bills like this coming before us as they do. If the same urge to be number one in football were brought to bear on LB 817, its passage, along with the overriding of the ritualized gubernatorial veto, would be assured. The proposed increases would place each office slightly below the national average, far from number one. And I make note that other states have no constitutional Public Service Commission so I couldn't draw a comparison there to show what a national average would be. Then I give the current salaries, the proposals, and then the ranking. And to make clear what this Nebraska ranking means, the number to the left of the slash as you're looking at it gives the ranking based on the position among the 50 states that Nebraska holds with the current salaries. And to the right of the slash would be the numerical position with the increase. So the Governor would move from being the 50th worst paid to the 49th worst paid. The Attorney General would move from the 50th worst paid to the 49th worst paid. And it goes on like that. And remember you're looking at averages. And I'm not trying to do a fast shuffle. Obviously, some make less than what I'm proposing, others make considerably more. I tried to find a way to give an increase with some kind of rationale that wouldn't seem that I just pulled a number out of the air. But no matter what methodology is used, a person could say that that number was pulled out of the air, statistics were manipulated, or what difference does it make what the salary is in another state? All of those arguments can be made. They cannot be countered. I could offer an argument but it would not be persuasive if a person is opposed to these increases. I know that Senator Schimek is interested in some legislation along this line because she also has pushed for this kind of legislation. We combined

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forces last time and got an overwhelming vote from the Legislature in passing the bill itself and the A bill. When the Governor cast his veto, all of the air went out of the Legislature's balloon and we only got 25 votes and you know it takes more than that to overcome a veto. So being practical and realistic, I'm aware that these increases may seem rich for some of the senators. But if you do send out a bill which offers a lower salary than what I'm proposing here, I hope it will be large enough so that we don't have to come back every four years. The amount that you look at may seem exorbitant. To go from \$85,000 to \$110,000 will shock some people. But I don't think a \$25,000 increase for the Governor is rich or the Secretary of State or \$35,000 for the Auditor, none of these. The reason the Lieutenant Governor gets probably a lower amount because of the nature of the office. There are not any real duties attached to the office and it's not having to do things every single day as these other offices. And when it comes to the Public Service Commission, they do more than the Lieutenant Governor but it's not like having to be at the office every day carrying out duties and responsibilities. But there still ought to be a salary that provides some incentive for people to take, seek that job and to know that there are serious, important responsibilities attached to it. I've tried to cover everything I could think of that you might have a question about. And now any that you do have, even if it's on something that I've covered, I'm prepared to answer them to your satisfaction. And I would expect a unanimous vote from those who are seated here in advancing this bill to the floor and you will have my thanks for doing so.

SENATOR SCHIMEK: Thank you, Senator Chambers. Are there questions? Senator Wehrbein and then Senator Pahls.

SENATOR WEHRBEIN: The automatic increase, Ernie, so I understand.

SENATOR CHAMBERS: Um-hum.

SENATOR WEHRBEIN: \$100,000, let's just use \$100,000...

SENATOR CHAMBERS: Yes.

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SENATOR WEHRBEIN: ...2.5 percent would be \$102,500...

SENATOR CHAMBERS: Um-hum.

SENATOR WEHRBEIN: ...the second year you're in office. Now the 2.5 percent for the next year...

SENATOR CHAMBERS: Um-hum.

SENATOR WEHRBEIN: ...would be the third year you're in office, would that be 2.5 percent of \$102,500 or another \$2,500? Was it compounded?

SENATOR CHAMBERS: They could make that clear but it might be compounded but it might be better if we put some language to make it clear that it's not based on the original salary but the amount of the salary with the 2 percent having been added. And if you think 2.5 percent is too much, that percentage could be dealt with also.

SENATOR WEHRBEIN: I just wanted, I think it is unclear at this point and I just, if we were to do it that way.

SENATOR CHAMBERS: My intent would be...

SENATOR WEHRBEIN: I want to be sure what your thinking is.

SENATOR CHAMBERS: ...to make it 2.5 percent of what the salary is at the time the 2.5 percent is to be added. So it would be \$102,500 then 2.5 percent of that \$102,500.

SENATOR WEHRBEIN: That's, okay...

SENATOR CHAMBERS: Yeah.

SENATOR WEHRBEIN: ...so it's compounded.

SENATOR CHAMBERS: That would be my intent.

SENATOR WEHRBEIN: All right.

SENATOR CHAMBERS: See I don't understand this compounding because I don't, I'm not in that investing and that realm that...

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SENATOR WEHRBEIN: Oh, I see.

SENATOR CHAMBERS: ...the knowledgeable people are.

SENATOR WEHRBEIN: I see.

SENATOR SCHIMEK: I can't believe this totally escaped your attention, Senator Chambers. (Laugh) I think Senator Pahls was next and then Senator Mines.

SENATOR PAHLS: Yeah, Senator Chambers, I have a question on the Public Service Commission.

SENATOR CHAMBERS: Um-hum.

SENATOR PAHLS: What would be a good argument or discussion point when somebody says, well, I know a number of state senators will be running for those positions? You know, what would be...

SENATOR CHAMBERS: Oh, I don't think that has anything to do with anything because Senator Schimek and I and maybe others in the past have tried to get increases for these offices when no senator was thinking about running for it. But even if they were, that would not be an argument against raising the salary. And I doubt that people would say, if there's the offer of this salary increase, that will make me run for that position now and I wasn't going to run for it before. So I hope that wouldn't be a deterrent.

SENATOR PAHLS: Thank you.

SENATOR SCHIMEK: Senator Mines.

SENATOR MINES: Thank you, Madam Chair. Senator, nice to have you in the committee.

SENATOR CHAMBERS: Nice to be here.

SENATOR MINES: Nice to have you on the hot seat. (Laughter)

SENATOR CHAMBERS: Oh, it doesn't feel hot at all. You all are so kind and generous.

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SENATOR MINES: I have a comment and a question. My comment has to do with the Public Service Commission.

SENATOR CHAMBERS: Um-hum.

SENATOR MINES: There are presupposed ideas about how Public Service Commissioners serve their constituents. Now whether they're in the office one or two days a week and then, you know, you might believe that they're not working the rest of the time. It's simply a comment. I believe \$60,000 probably is not enough. I think last year we proposed \$75,000. And the reason I bring that up because we got five districts. Omaha and Lincoln obviously are right here but you've got chairman of the commission, Jerry Vap, he drives in from McCook every week.

SENATOR CHAMBERS: Um-hum.

SENATOR MINES: And they do live this process. So I'm putting a plug in for the commissioners and I just think \$60,000 probably is low from my opinion. Secondly, the question is, why will it be a different outcome this year than it was last year?

SENATOR CHAMBERS: Well, because...

SENATOR MINES: The Governor will veto again, how do we get this over the top, because I'm with you?

SENATOR CHAMBERS: You know that I believe in being very direct and forthright.

SENATOR MINES: Yes.

SENATOR CHAMBERS: Some people who could've talked to some of those who fell away from the veto were so sure that it would be overridden, they did not say anything to their cohorts and their colleagues. I don't mean senators. This time, they know that it's not going to automatically go. And that doesn't guarantee it but there will be some muscle provide...I shouldn't say that...some support for overriding the veto which was not there the last time.

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SENATOR MINES: We'll pay attention this time.

SENATOR CHAMBERS: And Senator Mines, I can't tell you how pleased I am that you look at the Public Service Commission and feel that the amount I'm offering is low. I do, too.

SENATOR MINES: Um-hum.

SENATOR CHAMBERS: I was the one who, last time, wanted to push it up to where I thought it should be. But I would rather come to the committee and have them tell me, Ernie, that salary you're offering is too low. We need to do better. Then it shows that I can be corrected and put in my place and I'm humble and modest enough to accept correction with a song in my heart.

SENATOR SCHIMEK: Is this some kind of reverse psychology, Senator?

SENATOR MINES: Here he goes. (Laughter)

SENATOR CHAMBERS: I don't even know what that means. But I think Senator Mines is absolutely correct.

SENATOR SCHIMEK: Were you finished?

SENATOR MINES: I'm finished, thank you.

SENATOR SCHIMEK: I didn't mean to interrupt. Did anybody else over here have a question? Senator Langemeier does.

SENATOR LANGEMEIER: Thank you, Madam Chair and Senator Chambers. I was one of those that you talked about, fell away from the veto on that decision. And if you look back and they've provided it to us is where those numbers danced around last year...

SENATOR CHAMBERS: Um-hum.

SENATOR LANGEMEIER: ...to what the original bill was and what the committee bill was and then the final. And I think in the committee we had a lot of discussion on where to place these numbers...

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SENATOR CHAMBERS: Um-hum.

SENATOR LANGEMEIER: ...with some kind of rationale other than just pulling them out of the air, per se. And I guess I would ask you if you could expand a little bit on how you came up with your numbers. I mean, you've talked a little bit about the ranking as far as where we sit within the 50 states. And a lot of these, in your own description here, have gone from 50th to 50th, 50th to 49th, 50th to 49th. Give me just some rationale to where you set that number and why.

SENATOR CHAMBERS: There was a chart that listed, and I don't remember where it came from. It's one of those groups. I don't know if it's legislative or, you know, deals with state, the salaries that are given in states. But I could get a copy of it. And these figures that I arrived at would've been the average which, you know, taking, putting them so that they would not be above the average nationally. And I did it that way instead of talking just about the region of which Nebraska could be considered a part because, in some cases, the amount would've been higher than what I arrived at here. If I were to just attach an amount that I thought should go with the office, these would be higher. But if I couldn't get what we offered last session, the higher wouldn't work and I'm trying to get an increase for these offices before I'm bounced out of the Legislature. So it doesn't do me any good to make cogent arguments that could persuade the Legislature to agree to them, then the Governor is automatically going to veto them. But there wouldn't be enough votes to override the veto. So instead of waiting until a bill comes out onto the floor and after the committee has wrangled and gone through whatever they do to arrive at a figure, then I'd be able to persuade the legislators on the floor to raise it. Some of the committee members may take offense at that. And for that reason, say, well, even though the senators are willing to up it, I'm not going to support it. They're disregarding the committee. So I'm starting at the committee level and saying what I have to say. And I would hope that some of these salaries might be increased and certainly the Public Service. And any of them could be increased and I wouldn't care. That wouldn't bother me. But I'd hate to see them diminished,

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the proposed increase.

SENATOR LANGEMEIER: Thank you, very much.

SENATOR SCHIMEK: (Exhibit 1) Senator Chambers, I was going to pass this out when I introduced my bill but I went ahead and just had distributed to the committee the chart that Senator Langemeier was asking about. It is from the Council of State Governments.

SENATOR CHAMBERS: Okay.

SENATOR SCHIMEK: And it's not only nationally, but by region. So it gives you the opportunity to look at the national average for a governor's salary, national average for lieutenant governor, and so on. And also the regional averages.

SENATOR CHAMBERS: Okay.

SENATOR SCHIMEK: And I think we were working off of the regional averages last year, yeah.

SENATOR CHAMBERS: That's what we were last time, um-hum. Well, on the regional, because I didn't even want to be influenced. Would some of the salaries be higher than what I have here in my bill?

SENATOR SCHIMEK: Yes.

SENATOR CHAMBERS: Okay.

SENATOR SCHIMEK: I believe so.

SENATOR CHAMBERS: I like that better.

SENATOR SCHIMEK: Yeah.

SENATOR CHAMBERS: So I'm glad that you suggest that and I'll support you in it.

SENATOR SCHIMEK: Well, I'm going to add a little caveat there. I'm not certain that that's the best way to go because these offices vary from state to state. In some

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cases, they're appointed officials. In some cases, they're elected officials. In some cases, they have humongous responsibilities. In other cases, they don't. So we can use that kind of as a measure but I don't think it should be the only one that we look at.

SENATOR CHAMBERS: I would agree.

SENATOR SCHIMEK: Yeah.

SENATOR CHAMBERS: And there are far more positions on this one than what I was working from.

SENATOR SCHIMEK: I'd like to follow up on what you and Senator Langemeier were just talking about, though.

SENATOR CHAMBERS: Um-hum.

SENATOR SCHIMEK: I don't think there was any feeling, I'm not sure, but I don't think there was any feeling by this committee that whatever happened on the floor was, you know, in opposition to what the committee had sent out. I think that everybody realizes, with a subject like this, you do get a lot of discussion on it.

SENATOR CHAMBERS: Okay.

SENATOR SCHIMEK: And so I don't think that was a reason and I'm guessing that maybe some of it might have been that some of us, like me, as you suggested, didn't go around and really talk to people because, traditionally, this is what the Legislature does.

SENATOR CHAMBERS: Um-hum.

SENATOR SCHIMEK: And so maybe we needed to be a little bit more convincing in our conversations with people. And I think that that would be true this year. However, last year we also realized we had one more year to do this.

SENATOR CHAMBERS: Um-hum.

SENATOR SCHIMEK: And this year, we don't have any more years to do this...

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SENATOR CHAMBERS: Right.

SENATOR SCHIMEK: ...for it to take effect for the next four years.

SENATOR CHAMBERS: Right.

SENATOR SCHIMEK: So that's an added incentive. I guess I don't have any more thoughts or questions unless anybody on the committee does. I really would hope that we can hit the target pretty well when it comes out this year so that, if we need to, we could even possibly get this on a consent calendar. At least put it somewhere where it's going to get acted on this year. Maybe it would have to be a committee priority bill.

SENATOR CHAMBERS: So if you could act with dispatch, that would help, too.

SENATOR SCHIMEK: Yes, and hopefully we can do that, so...

SENATOR CHAMBERS: And by the way, I'm not going to run for...

SENATOR SCHIMEK: ...I don't know though. Senator Pahls is looking like he's not going to be cooperative.

SENATOR PAHLS: No, no, I like the word dispatch. (Laughter)

SENATOR CHAMBERS: Oh, I'm not going to run for any office.

SENATOR SCHIMEK: Okay.

SENATOR CHAMBERS: So, and I wouldn't know what to do with this much money if it came into my hands in one year. If you total all that I've made in all the years I've been in the Legislature, including those years when we were making \$4,800 a year, I have not made, in my entire 35 years, what some people make in one year. And I don't get stock options or anything like that either. And I don't know what those are but I read about them. (Laughter) They must be good because I've never gotten one but the people who get them are very happy. (Laughter)

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SENATOR SCHIMEK: Thank you, Senator Chambers.

SENATOR CHAMBERS: Thank you.

SENATOR SCHIMEK: We appreciate you being with us today.

SENATOR CHAMBERS: I appreciate your time.

SENATOR SCHIMEK: (Exhibit 2) Are there any others who wish to testify in favor of LB 817? And while you're coming up here, I should mention also that we did get a letter from the Public Service Commission in supporting LB 817 and so that will be read into the record, Senator Chambers.

SENATOR CHAMBERS: Just before I go and not to be rude, could you see if there is any opposition so I'll know whether I need to stay?

SENATOR SCHIMEK: Yes, I'd be happy to do that. Will there be opponents to the bill? Are there any who wish to testify in opposition?

SENATOR CHAMBERS: Then I'm going to leave if you'll excuse me.

SENATOR SCHIMEK: Okay, thank you very much.

SENATOR CHAMBERS: Thank you.

SENATOR SCHIMEK: Hello.

JERRY VAP: Madam Chairman, members of the committee, my name is Jerry Vap and I'm the commissioner that Senator Mines referred to that drives in from McCook every week. I do not have any prepared testimony. The commissioners are in support as we have provided you with some information. There were a lot of questions asked about the Public Service Commission during Senator Chambers' testimony and I just thought, if there were further questions, that I would open myself up to any further questions about what we do and how many days a week I spend in Lincoln, things of that type. So, with that...

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SENATOR SCHIMEK: I appreciate your driving in. I hope that you had meetings today.

JERRY VAP: Oh, yes.

SENATOR SCHIMEK: Okay.

JERRY VAP: I'm here virtually every week.

SENATOR SCHIMEK: Okay, are there questions from the committee? Yes, Senator Burling.

SENATOR BURLING: Thank you, Mr. Vap, for coming. You're here probably more than the other commissioners because you're chair?

JERRY VAP: No, in fact, I just retired as chair. Former senator and now Commissioner Lowell Johnson, this is his last year to serve on the commission and he is the chair for this year, his last year. I served the last two years as the chairman. We hold a business meeting probably 50, close to 50 times a year, every Tuesday at 10 a.m. except when there is a conference more commissioners are going to than there would be in town, we do not hold. But virtually every Tuesday we hold a business meeting, act on orders, and then we hold hearings, quite often, three days a week. We will, our schedule this next couple of months is definitely very busy with the Legislature being in session but we've got several hearings that will start on Monday afternoon and continue on into Thursday. I generally travel in on either Sunday or Monday morning and go back home, quite often, Thursday afternoon, sometimes Friday morning. And all the other commissioners are there. Frank, the commissioner that represents Lincoln, is there every day. Commissioner Johnson is there probably every day and so is Anne Boyle and Commissioner Rod Johnson lives in Sutton. He spends quite a bit of time in the commission office but he also travels to the communities that he serves very well. I do not travel to as many communities as I'd like to. I serve 51 counties west of Grand Island, including Valentine and Brown and Keya Paha and counties up in there, all the way to the Wyoming and South Dakota and Kansas and Colorado borders. Try to do as best I can to stay in touch with all those communities. But it is classified as a full-time job and we

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do spend full time. Even if I'm back in McCook, the phone is ringing, either from constituents. I spent my morning, Tuesday morning, through the noonhour talking to a constituent in Grant, Nebraska, who has a railroad engine that seems to be parked next to his house, running for as many as three days in a row day and night. And we're trying to resolve that situation for him. But the duties of the commission include some railroad safety, yet, and other issues with railroads. We have manufactured housing. We have ground transportation and household goods movers also, limousine services, grain elevators come under our purview for inspection every year. And unfortunately we've had to close some down and there's been some losses, southeast Nebraska, just this last year. Out in my district, when I first became a commissioner, we had a over \$3 million loss out there and we're still working on that mess. But then we have, of course, telecommunications, natural gas, the E911 program and the Universal Service Fund. And I did mention manufactured housing. Any house that's built in Nebraska, whether it be a modular home or a trailer home or RV, has to pass inspection. Any one that comes into the state from another state has to also pass the inspection by the staff of the PSC that determines if they meet code, whether they're in the state or going out to another state. So we do have quite a few responsibilities that require our attention on a daily basis.

SENATOR SCHIMEK: Thank you very much for being with us. I would like to...I'll call on Senator Fischer and then Senator Pahls.

SENATOR FISCHER: Thank you, Madam Chair. Thank you for coming today and I would just like to thank you for your service because you cover more counties than I do. And this gentleman gives out his cell phone number to my constituents and I've told you before and I'd like to say publicly, my constituents are very happy with your representation that you're giving them and your service. And you put in a huge amount of time and there's no question about salary increases here. Thank you.

JERRY VAP: Thank you. My cell phone number is on my business card and I'll give it to anybody that wants it.

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SENATOR FISCHER: Yes, you do.

SENATOR SCHIMEK: Thank you. Senator Pahls.

SENATOR PAHLS: Right, and I also want to add to that because I've had a number of people who have thought about running for this position and they've looked at the salary. They were amazed how low it is. And, you know, to me it seems like we ought to take Senator Chambers' advice on it because I think of us weren't, last year we were not probably as attuned to what was going on.

JERRY VAP: The information we provided you has the salaries of commissions around the nation, highlighted would be the salaries of those in the surrounding states. And I believe Nebraska's commissioners are third from the bottom in pay. And so we appreciate your consideration for the bill and if there's any further questions we could provide answers to, we'd appreciate them.

SENATOR SCHIMEK: Senator Mines has a question.

SENATOR MINES: Thank you, Madam Chair. Commissioner, this body added to your responsibilities a couple of years ago by adding natural gas.

JERRY VAP: Um-hum.

SENATOR MINES: What has that done to your work load? Is it a tremendous amount of work or...?

JERRY VAP: It has added additional hearings. I spent a half an hour meeting with people from Kinder Morgan right before I came over here. They are in the process of applying to the Federal Energy Commission to build a 42-inch diameter pipeline across Nebraska that will carry natural gas into Nebraska and on further beyond Illinois from the newly developing fields in, on the public lands out in Utah and Wyoming and Colorado. And they propose to have that particular thing done in Nebraska by the spring of 2008. That's a huge undertaking and they came to us. We don't have jurisdiction over the pipelines. It's a federal jurisdiction, but they want us to know what they're doing and how it could serve the people of the state. And it

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could have a good effect of lowering some gas prices. But it has added additional responsibilities for rate cases that we do, have had a couple of those to do. And then we've had several instances where people would come to us with complaints and we'd deal with those through whatever company it happens to be that they're lodged against. Generally, that works out pretty well. But it's added some...if you put that on top of everything else we do, it has given us plenty to do.

SENATOR MINES: Thank you.

SENATOR SCHIMEK: Seeing no further questions, thank you very much for being with us today.

JERRY VAP: Thank you.

SENATOR SCHIMEK: We really appreciate it, thank you. Are there any others who wish to testify in favor of the bill? Any in opposition? Any in neutral capacity? Seeing none, that will close the hearing on LB 817 and we'll open the hearing on LB 920. And, Senator Wehrbein, would you be willing to take over?

SENATOR WEHRBEIN: Okay.

SENATOR SCHIMEK: Thank you.

LB 920

SENATOR WEHRBEIN: We will now open the hearing on LB 920.

SENATOR SCHIMEK: LB 920, is...yes. Thank you, Mr. Chairman and members of the committee. For the record, my name is DiAnna Schimek. I represent the 27th Legislative District, the "Historic District." I chose a little bit different route this year on the pay increase bill and I'm just dealing with the salary of the Governor in this bill. And what it would call for is a salary of \$105,000 per year. The current salary, as you know, is \$85,000. With this bill, the Governor's salary would increase from 47th nationally to 31st nationally. And that is a little bit of variance, I think, with what Senator Chambers said so we're

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going to have to check on those figures, quite a bit of variance, actually. Maybe, and maybe this was regionally, I don't know. No, it couldn't have been. Well, anyway, the states which have lower salaries include Maine, New Hampshire, Indiana, Kansas, North Dakota, South Dakota, Alabama, Arkansas, Louisiana, Tennessee, West Virginia, Alaska, Arizona, Colorado, Hawaii, Idaho, Montana, Oregon, and Utah. And again, this is from the Council of State Governments. Surrounding states which have higher salaries are Iowa with \$107,482 and Minnesota with \$120,303. Wyoming's governor right next door is \$105,000. According to the Council of State Governments, with this pay increase, Nebraska would still be below the regional average in governors' salaries. In determining what this salary should be, I considered several factors, including that of other governors and including the amounts provided for in LB 683, which was the bill last year. And if you remember, the committee amendment provided for an annual salary increase of \$100,000. The Final Reading copy provided for \$114,000, which is more than we're talking about here in this bill. I also considered what the Governor's salary might be if he or she received annual pay increases based on the amount received by state employees, which runs somewhere, I believe, around 2.5 percent. Using that calculation through 2011, that would mean that the next time the Governor could receive a raise, the Governor's salary would be around \$103,000, which is about where the bill is. Based on this information, I think that \$105,000 is fair salary but I also think that it's open, very open for discussion and I'm willing to certainly go with what the committee wants on this one. I just think that we need to do something and we need very much to do it this year.

SENATOR WEHRBEIN: Thank you. Any questions? I have two.

SENATOR SCHIMEK: Okay.

SENATOR WEHRBEIN: What do you say to those that say we have pretty good candidates now? Why do we need to keep the rate so high?

SENATOR SCHIMEK: I don't think this is about...I don't think, for Governor, this is about whether we recruit good candidates or not. I think that we're going to have good

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candidates, hopefully we'll have good candidates run no matter what the salary is. Just because this is a very visible office, one that those with political ambition will seek, I think it is a matter of fairness that takes into consideration the big responsibilities of the office. And I don't think this does it justice. But, in a political setting, you're never really going to do it justice. I don't think most citizens have a clue about the kind of hours that somebody in a position such as Governor really contribute, really put into it. So can we pay them adequately? No, but we can perhaps make it a little bit fairer.

SENATOR WEHRBEIN: If you use it on the situation though of, it's eight to one, about seven to one over a legislator and that's what Nebraskans want at the present time, the legislator is sure out of whack. But that's historic, I'm saying.

SENATOR SCHIMEK: Yes, it is historic. And unfortunately it's only historic since we actually voted to establish the Unicameral. As you probably know from the discussions about Charlyne Berens' book, she traced that George Norris actually thought we should be very well paid, that that would induce people to stay and to become more professional in the job. And it's at such variance with the perception of what we think legislators should be, the perception in the state. But, yes, it is a variance and...I don't want to compare apples and oranges here because that won't do us any good. But you're certainly right.

SENATOR WEHRBEIN: What about the escalator cost that Senator Chambers has proposed? Do you have any comments on that?

SENATOR SCHIMEK: I told Senator Chambers that I wasn't quite sure about that. Senator Chambers and I talked about his bill for quite a while and I wasn't exactly sure whether his amounts were at the right place. So I didn't sign on to it. In addition to that, I thought it might be a good idea to even consider doing the Governor's salary in a separate bill from all the other salaries. And that's why I introduced a separate bill, so that if this committee chose to take that approach, we could. Now if the committee

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doesn't want to take that approach, that's fine with me. But it's just an option that's out there. Probably the ideal way to do it would be to have it all in one bill. But what I don't want to happen, I don't want it to fail this time because I think that some of these offices really do need better compensation. So what would be ideal is if this committee could send something out unanimously, feel pretty well united on what we decide, and then bring the rest of the floor along with us.

SENATOR WEHRBEIN: I should've asked him this question and this may not be fair to you. But can we raise a salary within, constitutionally, can we raise a salary each year of a salary?

SENATOR SCHIMEK: I don't believe so. I think it has...the only time you can have a salary increase is at the beginning of each term. So if we don't do it for 2007, then we've lost our opportunity until 2011, is the way I understand it.

SENATOR WEHRBEIN: Well, how about the escalator clause, then?

SENATOR SCHIMEK: Well, I don't know, that's a good question, I don't know.

SENATOR WEHRBEIN: Okay.

SENATOR SCHIMEK: Committee counsel...

SENATOR WEHRBEIN: I said I should have asked him, I didn't mean to put you on the spot.

SENATOR SCHIMEK: We can discuss that in executive session.

SENATOR WEHRBEIN: Yeah, I understand.

SENATOR SCHIMEK: Um-hum.

SENATOR WEHRBEIN: Any other questions?

SENATOR SCHIMEK: Thank you.

SENATOR WEHRBEIN: Thank you. Anyone else to testify as a

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proponent? Anyone opposed? Anyone neutral? Anyone want to
close? (Laughter) She waives closing. So this will
conclude the hearing on LB 920.

SENATOR SCHIMEK: Thank you, Senator Wehrbein. That will
conclude the hearings for the day. Thank you, we appreciate
you being here.