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Transcriber's Office

Floor Debate
January 28, 2008

[LB140 LB204A LB205 LB210 LB269 LB312 LB474 LB500 LB575 LB706 LB707 LB722
LB724 LB725 LB726 LB744 LB747 LB920 LB939 LB983 LB1099 LB1148 LB1166]

SENATOR LANGEMEIER PRESIDING

SENATOR LANGEMEIER: Good morning, ladies and gentlemen, and welcome to the George W. Norris Legislative Chamber for this, the thirteenth day of the One Hundredth Legislature, Second Session. Our chaplain for today is Father Damien Zuerlein, from Papillion, and originally from Columbus, I was told, Senator Tim Gay's district. Please rise.

FATHER DAMIEN ZUERLEIN: (Prayer offered.)

SENATOR LANGEMEIER: Thank you. I call to order the thirteenth day of the One Hundredth Legislature, Second Session. Senators, please record your presence. Mr. Clerk, please record.

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

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any corrections to the Journal?

CLERK: I have no corrections, Mr. President.

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements?

CLERK: Your Committee on Enrollment and Review reports LB269, LB575, LB706, LB707, all those reported correctly engrossed. A series of hearing notices from Banking Committee, chaired by Senator Pahls; from the Education Committee, chaired by Senator Raikes; and from the Transportation Committee, chaired by Senator Fischer. I have a Reference report referring gubernatorial appointees, and your Committee on Government, chaired by Senator Aguilar, reports LB744 and LB747 to General File. And Revenue Committee, chaired by Senator Janssen, reports LB722 to General File. That's all that I have, Mr. President. (Legislative Journal pages 397-400.) [LB269 LB575 LB706 LB707 LB744 LB747 LB722]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. (Doctor of the day and visitors introduced.) And with that, I'd like to recognize Senator Harms and welcome him back to the Legislature proceedings. Mr. Clerk, we'll now proceed to the first item on this morning's agenda.

CLERK: Mr. President, Senator Hudkins would move to withdraw LB1099. [LB1099]

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. Senator Hudkins, you are recognized to open on your motion to withdraw. [LB1099]

SENATOR HUDKINS: Thank you, Mr. President and members of the body. LB1099, upon discussions with various people, various entities, it was brought to my attention that perhaps this is not the best time to go forward with this bill. So I would ask your permission and your vote to withdraw it. Thank you, Mr. President. [LB1099]

SENATOR LANGEMEIER: Thank you, Senator Hudkins. You have heard the opening on the motion to withdraw LB1099. The floor is now open for discussion. I see no lights on. Senator Hudkins, you're recognized to close. Senator Hudkins waives closing. The question before the body is, shall LB1099 be withdrawn? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB1099]

CLERK: 33 ayes, 0 nays, Mr. President, on the motion to withdraw LB1099. [LB1099]

SENATOR LANGEMEIER: LB1099 is withdrawn. Mr. Clerk. [LB1099]

CLERK: Mr. President, Senator Schimek would move with withdraw LB1148. [LB1148]

SENATOR LANGEMEIER: Senator Schimek, you are recognized to open on your motion to withdraw LB1148. [LB1148]

SENATOR SCHIMEK: Thank you, Mr. President and members. I would appreciate a vote to withdraw this bill. It was a bill that was brought to me at the very last minute, and I upon further reflection decided it was a huge issue and one which I'm not equipped to handle this year, with all the other bills out there. So with that, I would simply ask for you to vote to withdraw the bill. Thank you. [LB1148]

SENATOR LANGEMEIER: Thank you, Senator Schimek. You have heard the opening on the motion to withdraw LB1148. The floor is now open for discussion. Seeing no lights on, Senator Schimek, you're recognized to close. Senator Schimek waives closing. The question before the body is, shall LB1148 be withdrawn? All those in favor vote yea; all those opposed vote nay. Record, Mr. Clerk. [LB1148]

CLERK: 31 ayes, 0 nays, Mr. President, to withdraw LB1148. [LB1148]

SENATOR LANGEMEIER: LB1148 is withdrawn. Mr. Clerk. [LB1148]

CLERK: Mr. President, first bill on General File this morning, LB474, offered by Senator Chambers. (Read title.) The bill was introduced on January 17 of last year, at that time referred to the Judiciary Committee. The bill was advanced to General File. There are

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Judiciary Committee amendments pending. (AM641, Legislative Journal page 845, First Session, 2007.) [LB474]

SENATOR LANGEMEIER: Thank you. Senator Chambers, you are recognized to open on LB474. [LB474]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, I will say right at the outstart, I'm going to ask that the committee amendments be defeated. If you look at LB474...is that Senator Harms over there? Welcome back. I was going to say it might be a mirage, but what I would be thinking of is an oasis, a place to rest in the middle of a barren desert. It's good to have you back. This bill in the green form is very lengthy, it cross-refers a lot of sections of statute. When it was presented to the Judiciary Committee, there was a lot of opposition to the way the bill was drawn, that it was too broad. So I had asked that the representatives of the teachers and their interests work on it, and that those who represent the police. Well, the teachers' group did. Mr. Maguire and Herb Schimek are out in the lobby, if anybody needs to talk to them to confirm that what is contained in an amendment which I'm offering does, in fact, reflect our agreement. As a matter of fact, the language was drafted by them. I had the opportunity to review it, and I am in accord with it. The purpose of the bill is to put these people who are public employees on the same level as healthcare workers and others who, when disciplinary action has been imposed, that is a matter of public record. Periodically, on a regular basis, if you read the newspaper you will see listings of healthcare professionals--doctors, nurses, pharmacists, pharmacist assistants, and right down the line--who have had disciplinary action imposed. Because teachers deal with our children and we have a right as taxpayers and patrons of those schools to be aware when a teacher has committed a violation, those disciplinary actions will be a matter of public record. They won't be hidden. The same with police officers. Since they have the discretionary right to kill, to take away people's liberty and freedom, when they have committed a violation for which disciplinary action is imposed, it ought to be made known to the public. What this amendment, that may be on your gadget by the time we reach a juncture where it is appropriate to offer it, will limit, when it comes to the teachers, if you look at the amendment when you get it, Section 2 on page 1, the only matters which will be subject to public disclosure will be an event where disciplinary action is taken by the district's administration and it relates to a specific event, occurrence, or act which was deemed to be in violation of or contrary to school district policy, rule, or state law. This gets away from the notion that if a teacher is written up for not having lesson plans done on time, or some other violation, if you want to call it that, and I'd put it in quotes, or inadequacy in the classroom, those kinds of things are of no interest to me. I am not trying to create a situation where anybody can go to a teacher's file and just riffle through it and see any and every thing which is there. It was felt by the representatives of the teachers that by limiting this disclosure to a specific event, rather than performance, the vast majority of terrain is going to be excluded from disclosure, pursuant to this amendment. The police and their representatives were not able, as of

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yet, to come up with narrowing language. So what I did was to adopt or offer language which says the following: Any disciplinary action which involves any specific act which was deemed to be in violation of or contrary to an official policy, rule, or state law governing...then it lists out all these different entities or persons who are connected with law enforcement, and it says such disciplinary actions shall be considered a public record. So it parallels what is being said with reference to the teachers. Chief Casady from the Lincoln Police Department informed the committee that a point occurred during his career as chief when he did not do something in the way he should have, so he wrote a disciplinary note and put it in his own file. They were talking at the committee about failure to shine shoes, belts, or some other things--maybe not those specific items, but trifling matters that are of an internal nature, which are of no interest to me. I am concerned about and interested in those actions which pertain to the public for which disciplinary action is imposed. Right now, those things are hidden. There are some officers with a history of misconduct, actual impositions of disciplinary action. Nobody is aware of this that protectiveness goes too far, and it ought to be breached. The representatives for the schools, for the teachers, that is, made is clear that they have no interest in shielding teachers who have violated rules, policies, or state law, and were disciplined for it. They do not feel such a person is entitled to a shield of secrecy. This is a bill which will bring openness to government. It will involve those who have very direct, ongoing, continual--if not continuous--contact with the public at all levels. I believe that this amendment that I'm offering is sufficiently narrow so that no interest of police or teachers which ought to be exempted...none of those that ought to be exempted will be included. We're not dealing with children playing in a sandbox, whose little feelings may be hurt. We're dealing with people who know what the standards are that they are to meet. They have operational procedures, and when they violate those, they're on the public payroll. The public has a right to know. There is a state-chartered cemetery. After the auditor did very appropriately an audit, his office...he recommended that the head man be fired, resign, be gotten out of there, and that person resigned pursuant to the action of the board. So if all of these other entities have employees or those representing them who, when they violate policies, rules, or state law are not shielded from public scrutiny, neither should police or teachers. We certainly are not. As a matter of fact, we can be accused of things we have not even done. We're talking here only about those instances where disciplinary action has been imposed. So I will say again: When Senator Ashford, as the Chair of the Judiciary Committee, offers the committee amendments, I hope that we won't spend much time on them, and we will vote no... [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR CHAMBERS: ...when he makes the motion to adopt the committee amendments. Thank you, Mr. President. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Chambers. As the Clerk has stated,

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there are committee amendments offered by the Judiciary Committee. Senator Ashford, as Chair of that committee, you're recognized to open on the committee amendments. [LB474]

SENATOR ASHFORD: Thank you, Mr. President. Senator Chambers, would you yield to a question,... [LB474]

SENATOR CHAMBERS: Yes. [LB474]

SENATOR ASHFORD: ...just so I have some...little bit of more understanding? I have your amendments, and essentially the amendments that you've offered amend Section 1 of the bill, relating to the types of disciplinary action...or the types of individuals or groups that would be covered. Is that correct? [LB474]

SENATOR CHAMBERS: Well, what my amendment will do is strike all of the green bill. [LB474]

SENATOR ASHFORD: Correct. [LB474]

SENATOR CHAMBERS: My amendment will then become the bill, and it includes the police and the teachers. [LB474]

SENATOR ASHFORD: And the standard that you're applying to the teachers would also apply to the police. [LB474]

SENATOR CHAMBERS: Yes. [LB474]

SENATOR ASHFORD: And your explanation is that you had worked out some language with representatives of the teachers,... [LB474]

SENATOR CHAMBERS: Yes. [LB474]

SENATOR ASHFORD: ...and that that is the language which is in your amendment,... [LB474]

SENATOR CHAMBERS: Yes. [LB474]

SENATOR ASHFORD: ...and that the other groups, the police officers specifically, the language has not been worked out, but you include them within your amendments. [LB474]

SENATOR CHAMBERS: Yes, because they were included in the green bill. [LB474]

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SENATOR ASHFORD: Correct. Okay. And one other: In the committee amendments, we did deal with school nurses. Is that...are they included in your amendments, or is that just an outlier? Is that something that is material to your amendments? [LB474]

SENATOR CHAMBERS: That wouldn't really be material, but... [LB474]

SENATOR ASHFORD: We can think about that, but... [LB474]

SENATOR CHAMBERS: Yes. [LB474]

SENATOR ASHFORD: Okay. Well, members, the committee amendments which Senator Chambers is recommending that we not adopt essentially provided for a list of records which public agencies may withhold from the public, to clarify that the personnel records addressed by the act may not be withheld from disclosure. It removes school nurses from the bill and also removes private school teachers from the bill. I haven't read the amendment--Senator Chambers' amendment--sufficiently thoroughly, I guess, to determine how those particular groups are covered under the amendments, but that's not so critical to Senator Chambers' request at this point. I understand what Senator Chambers is doing. He's more specifically defining what records may be disclosed, and those records are records from a disciplinary action that have risen to level of a decision by an administrator, a high-level decision, not simply an infraction or a lower-level type of infraction. And that certainly is a tightening of the committee amendments and the green copy, and I would support what Senator Chambers is doing. I think he's on the right track. Again, I'm not absolutely sure where we are with school nurses on the one hand, and private school teachers on the other hand. But I'll take a look at that after we move on further. I don't have a problem. I can't for myself, as Chair, that we defeat the committee amendments, because what Senator Chambers has done is make the bill clearer, it adopts language which relates to the more serious types of administrative actions, and it seems to clarify and to narrow the scope of the bill, and to address some of the concerns that were, in fact, raised at the hearing in opposition to the bill itself. So Mr. President, I would...at this point, I would agree with Senator Chambers. We ought to defeat the committee amendments and move to his amendments, and any concerns that we might have--I might have or other committee members or anybody else might have--regarding the scope of the amendments, we can address as we go on. But again, I think this is a tightening. It addresses some of the concerns of the employees, the teachers, and potentially police officers, in a positive way. So I would concur with Senator Chambers that we not adopt the committee amendments and move on to the amendments. Thank you, Mr. President. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have now heard the opening on LB474 and the committee amendments, AM641. The floor is now open for discussion. Senator Adams, you are recognized. [LB474]

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SENATOR ADAMS: Thank you, Mr. President. Would Senator Chambers yield to a question, please? [LB474]

SENATOR LANGEMEIER: Senator Chambers, would you yield? [LB474]

SENATOR CHAMBERS: Yes, I will. [LB474]

SENATOR ADAMS: Senator Chambers, just as a matter of clarification, hypothetical. So in your amendment, what you're saying is that if a teacher is being disciplined by the school principal or superintendent for having been late to school too many days, or failure to implement assessments the way the school district has said, that's of no concern of yours. [LB474]

SENATOR CHAMBERS: None whatsoever. [LB474]

SENATOR ADAMS: But if I have in my file a record of disciplinary action because I have physically or verbally abused a child, that you want to be transparent. [LB474]

SENATOR CHAMBERS: Yes. [LB474]

SENATOR ADAMS: All right. That clarifies it for me. Thank you, Senator Chambers. Thank you, Mr. President. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Adams. Mr. Clerk, for a motion. [LB474]

CLERK: Mr. President, priority motion: Senator Friend would move to recommit LB474 to the Judiciary Committee. [LB474]

SENATOR LANGEMEIER: Thank you. Senator Friend, you're recognized to open on your motion to recommit. [LB474]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. A couple of years ago my daughter came home, and she wanted to play a game. She was four at the time. It was called Duck, Duck, Goose. Sometimes you draw a line in the sand; sometimes you say, boy, this bill is not too good, I think I'll let it go; sometimes you say, well, you know, I'll throw a bracket up on this, I just don't want to deal with it right now and take ten minutes to talk about it. This is a little like a game of Duck, Duck, Goose. Eventually this recommit is going to come to the Judiciary Committee. Duck, duck, duck, duck, duck, goose! AM641, the Judiciary Committee amendments and LB474 underlying, it's the goose. Why is this bill out here? Senator Chambers was working last week on fixing this bill. Why wasn't the Judiciary Committee working on it to fix it? All right, look. We may be able to take this to a vote; maybe we won't. I haven't really decided yet. I haven't talked to Senator Chambers about it. But all games aside, the

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Chairman of the Judiciary Committee stands up and says, this is probably a little bit better; that's fine, it's a little more defined; it's a little more absolute; it's a little more specific. Take it back to the Judiciary Committee and let them figure it out. Look, one of the concerns that I have is, this was a fairly all-encompassing bill at one point--school nurses. Heck, at the very beginning, before the Judiciary Committee amendments, we had private schools associated with it, the teachers associated with the private school. We had school teachers associated with it, very specifically, very matter of "factly." And now, because we're not sure that about a year ago the Judiciary Committee made the right call, or that there's just enough anti-LB474 out in the lobby to make it difficult to move, that it should move a heck of a lot more quickly because the wise and all-knowing Senator Chambers changed the amendment. He is wise, he is almost all-knowing, but this is a bad idea. You've got 30-some Judiciary Committee bills out here. They were checking bills out last year like there was no tomorrow, and maybe for some folks out here that there is no tomorrow. That's possible. People are term-limited. Not now, not here. Let's talk about this for a little while. We can take this to a vote; I haven't really decided yet. But I think this deserves a heck of a lot of scrutiny, and there's a reason that it deserves a lot of scrutiny. Right now, the way I understand AM641, and I'm sure we'll get into it, or excuse me, the amendment that Senator Chambers is proposing in the future, will be one that narrows it sufficiently to deal with the cops. So I don't think he's that surprised that I'm standing here right now saying, well, hold--time out--I've got a few questions about this. And it's not because somebody in the lobby grabbed me by the lapel and said, you know what? This is bad for cops. There are a lot of reasons, and I'll go into them as we go on, but I think a recommit, a discussion of this, will send a certain type of message to all of us, not only as chairs of committees, but also as committee members, to quit voting for things you don't want out here! Sorry, that was a little loud, but I meant it. [LB474]

_____: (Inaudible.) [LB474]

SENATOR FRIEND: Exactly. Thank you. Like the natural gas bills. You want to know the only bill that got recommitted to a committee? Came out of my committee. The one that I was supposed to be managing. You know what? Let's have a party. Let's start recommitting things that don't deserve to be out here. Evidently, one of those or both of those didn't. I'm not sure this should be, either. You want to have fun at my expense? Let's have fun at my expense. But the bottom line is, Judiciary Committee might not have done its job here. That's my point. And I appreciate Senator Chambers' work as much as anybody out here and as much as anybody else in this state, but here is the fact. The fact is that this thing has fundamentally changed, and Senator Ashford, as Chair of the Judiciary Committee, stood up and said, it's okay if it's fundamentally changed. Let's just go ahead and move straight forward with it, because it's a lot narrower now, and it's better than what the committee did, more or less? I'm not sure I buy it. And maybe we do need to take four or five hours on it. I'll guarantee we at least need to take till noon. One of the things that has always concerned me, since my

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flawed, you know, leadership effort in the natural gas cause two years ago was, how does a committee round itself up, and how does it look at some of these things with as critical eye as possible? And I'm going to call this like I see it. I've sat in that Judiciary Committee with Senator Chambers. I know what he is, I know what he does, and I know how good he is at what he does. This bill came out 6 to 1, and now we're saying, aah? No. No, no, no. A little bit of a change here. We need a change, because there's a little bit of backlash from the lobby. If this bill was good enough with AM641 to move through, just because there are some people standing out in the lobby saying it's not a very good idea, that's not the discussion we should be having. We should be having the discussion about either LB474 in its original form, or AM641, the Judiciary Committee amendments, not necessarily what we think the NSEA might go for now. This sends a bad message. That's my only point, and I think we need to be really, really careful about what kind of message we're going to end up with at the end of this discussion. I'm anxious to hear this, because I really want to know why my Urban Affairs Committee shouldn't just amend something and then kick it out to the floor, just for the heck of it, to see what the body will do, and maybe give Senator Chambers a chance to get his hands into it and change what we'd like to try to accomplish. I'm very anxious to see what happens here, because if this flies through unfettered, we might as well just go in tomorrow's Judiciary hearing...hey, by the way. Urban Affairs this year? We're going to go ahead and let Omaha annex in Sarpy County; we're going to let them annex out in...we're going to let them annex Blair. Let's go up to Washington County, too. Why don't we kick that bill out? That's...hey, it might be good. Why don't I amend it a little bit to make it a little more, you know, a little more affordable. What are we? Out of our minds? Let's do our homework here, let's do the footwork, and let's try to figure out if this is good public policy. Thank you, Mr. President. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Friend. You have heard the opening on the motion to recommit. The floor is now open for discussion. Wishing to speak we have Chambers, Fulton, Wallman, and Friend. Senator Chambers, you're recognized. [LB474]

SENATOR CHAMBERS: Mr. President, and I'm going to ask that Senator Ashford turn on his light so he can give me some time, he is the Chair of the Judiciary Committee, and after a comment or two I'm going to give him my time, what remains. Senator Friend has just spoken, as has been said about another person, most learnedly and well on the wrong side of a question about which he is profoundly ignorant. How many times have chairpersons and others asked us on the floor, defeat the committee amendments. When the green bill came out, that's what I was going to run with. That was my intent. I was requested by others to give them the opportunity to draft amendments that would take care of their concerns without hurting the bill, and being collegial and intelligent, I said, certainly. And if you have your amendments ready when the bill comes up, I will entertain them. That is what brought us to where we are, and I will give the rest of my time to Senator Ashford. [LB474]

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SENATOR LANGEMEIER: Senator Ashford, 3:50. [LB474]

SENATOR ASHFORD: You know, I'm a nice guy, Senator Friend. I am. I'm a nice guy. I think most people think I'm a nice guy, but I think you crossed the line. I think you crossed the line. I've been here for...this is my tenth year. I don't think I have ever heard that particular kind of attack ever, in the ten years I've been here. I think the line has been crossed. The Judiciary Committee has a number of bills, and most of them are controversial, most of them are controversial. The rec liability law...the rec liability bill of last year, some of the sexual predator bills, the Internet bill of last year that you introduced that we spent a great deal of time on in this body--both out here and in committee--these are not easy bills. They're not easy areas of the law to deal with. What Senator Chambers has done is a very simple concept. The concept is, does the public have the right to know when there is disciplinary action taken against a public official who is a police officer or a public school teacher? Those are legitimate issues. It is not hard for this body to understand that issue. It is not difficult for that body to understand that issue. Senator Chambers has been here 38 years, and yes, a number of bills that Senator...actually, quite frankly, the number of bills Senator Chambers has introduced in the Judiciary Committee I think probably are less than five. I don't think there are very many of them. But from time to time, they are controversial. The death penalty bill, God knows, is controversial. But because it's controversial or because we do something on the floor to make the bill better hardly, hardly, is evidence of the Judiciary Committee--and I'm not speaking of myself here, but I'm speaking of the other members of this committee who have worked very hard on very, very difficult issues to accommodate you, Senator Friend, on some very difficult matters. You're my friend, you're a good guy. But I think we should limit as we go forward and we debate these tough issues, we should remember who we are and why we're here. We're here to discuss tough issues in a way that is appropriate and mature, not in a way that personalizes an action taken as innocent as filing an amendment to replace committee amendments. That is not...and just because it involves the police or some other group that we don't want to interfere with, all of a sudden it's a personal attack on the Judiciary Committee. That is inappropriate, it has never happened since I've been here,... [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR ASHFORD: ...and needs to stop now, because we're going to have some tough issues going forward down the line. Thank you. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Ashford and Senator Chambers. Senator Fulton, you're recognized. [LB474]

SENATOR FULTON: Thank you, Mr. President. Would Senator Ashford yield to a question? [LB474]

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SENATOR LANGEMEIER: Senator Ashford, would you yield? [LB474]

SENATOR ASHFORD: Yep. [LB474]

SENATOR FULTON: Thank you, Senator Ashford. The...so I'm new to this process somewhat, a year into it. It's the sophomore year, I guess. I was...I reviewed some of these bills--well, as many as I could last night. This amendment that is out here right now, or that Senator Chambers is putting forward, is not something that I reviewed. I did look at the committee amendments that you had, or that the Judiciary Committee had out, so I haven't had the opportunity to review what is before us today. So could I ask the question of you: What...explain briefly the difference between your committee amendment and why you're willing to pull that, in light of the new amendment that Senator Chambers has put out. What's the main difference? [LB474]

SENATOR ASHFORD: The main difference, Senator Fulton, is Senator Chambers has more narrowly defined the type of disciplinary action that can be made public, and the concern in the hearing that was raised...one of the concerns that was raised in the hearing, which we attempted to address in the committee amendments, was that issue, is what particular disciplinary actions should be made public, should...the sense of the...or my sense is that we should make records available to the public. Then the next question we go through or the next evaluation is, are there records which are just unfair to be made public, for whatever reason. We went through that evaluation, and we came up with the committee amendments. Senator Chambers, in discussing this matter with others outside of this body, has come back with some additional amendments, which in my opinion do improve the bill, because it limits to more serious disciplinary actions those matters which would be open to the...the records of which would be...could be disclosed. [LB474]

SENATOR FULTON: Okay. Thank you, Senator Ashford. Would Senator Chambers yield to a question? [LB474]

SPEAKER FLOOD PRESIDING [LB474]

SPEAKER FLOOD: Senator Chambers, will you yield to a question from Senator Fulton? [LB474]

SENATOR CHAMBERS: Yes, I will. [LB474]

SENATOR FULTON: Thank you, Senator Chambers. The committee statement that accompanies this bill, in the public forum anyway, which I looked at last night, I noted the number of opponents, and from what I'm hearing here, your amendment would assuage the concerns of which of the opponents? [LB474]

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SENATOR CHAMBERS: The teachers. [LB474]

SENATOR FULTON: Okay, so the NSEA. Can you explain the thought process by which you assuaged the teachers and not the other opponents? [LB474]

SENATOR CHAMBERS: Yes, I certainly can. The green bill with the committee amendments came out here. I was told by people who represented the teachers that they still had concerns. I said, now I and the committee have done what we could do. If there are additional concerns, I'm looking to you to give me the language, because you're familiar with various types of disciplinary actions taken against teachers and administrators. So if you give me that language and it covers what I'm interested in, I will accept that language. They did it. The police were told the same thing. They did not present anything. This bill came before us last week. I told the Speaker, because he wanted us to work our way through bills before they were coming to the floor for debate, that I was working on amendments, so I would pass over the bill that day, and when it came up again, I would have the amendments. I did have the amendments, as promised by the representatives of the teachers--nothing from the police. Their lobbyist did talk to me. He said he hadn't been able to come up with anything in talking to his clients, so I'm bringing the bill with the amendment that I'm offering. I have narrowed the part... [LB474]

SPEAKER FLOOD: One minute. [LB474]

SENATOR CHAMBERS: ...that relates to the police, even though they didn't bring it, and there are or will be an additional narrowing amendment, not drafted by me. But that's how we got where we are now. [LB474]

SENATOR FULTON: Okay. Senator, I'm going to read through the...both of these amendments, comparatively this time, and I may have some more questions. I'll yield the rest of my time to you, if you'd take it. [LB474]

SPEAKER FLOOD: Senator Chambers, you have 34 seconds. [LB474]

SENATOR CHAMBERS: Okay. There were a lot of cross-references to other statutes related to teachers. Some of them touched on contracts and things in which I had no interest whatsoever. So we eliminated all of that. It does not apply to nurses, because they have a different licensing agency that will deal with them. We didn't specify by name and title employees, other than to say full-time school employees, and I was assured by those who represent the educational interests that this language would cover those that I was interested in covering. [LB474]

SPEAKER FLOOD: Time. [LB474]

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SENATOR CHAMBERS: Thank you, Mr. President. [LB474]

SPEAKER FLOOD: Thank you, Senator Chambers. Senator Wallman, you're next, followed by Senators Friend, Ashford, Chambers, and Wightman. Senator Wallman. [LB474]

SENATOR WALLMAN: Morning, Mr. President, members of the body. And I guess I'll ask Senator Chambers later or Brad Ashford--Senator Ashford the question, but I have tremendous trouble with all this paperwork floating around, and a good friend of mine is a police officer. And he was going to apply for a job in a different city, and they spelled his name wrong in the computer, so he was out there as a sex offender. And they didn't get that off the computer, so he didn't get that job. So we're putting records upon records upon records, and that concerns me. I don't want a crooked police officer out there. I don't want an abusive police officer out there any more than anybody else, but if we...you know, more and more records, we're putting a dangerous precedent for abuse or somebody doesn't like you, put something out on the Internet. And so that concerns me, and I'd yield the rest of my time to Senator Ashford, if he'd like. [LB474]

SPEAKER FLOOD: Senator Ashford, you have 4 minutes of Senator Wallman's time. [LB474]

SENATOR ASHFORD: Thank you, Mr. Speaker. I don't have anything further to add at this point. Thanks. [LB474]

SPEAKER FLOOD: Thank you, Senator Ashford. Senator Friend, you're recognized. [LB474]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. Senator Ashford was very pointed, very matter of fact, and that's understanding. Senator Chambers is concerned about this recommit motion. Senator Ashford pointed out that I crossed the line. He's never seen that since he's been here. Well, guess what? When he wasn't here, it did happen. Somebody else crossed the line--it happened to my bill, and it probably should have happened, because I screwed up! Make no mistake about something here--this isn't personal with me or anybody else down there. Senator Chambers had mentioned to me off the record, and I think I'll say this. If I'm paraphrasing incorrectly, he will correct me on it. You have a whole family of cops; I know what you're doing--blah, blah, something. He can correct me if he'd like. You know what that...to be on the record with it, yeah, I do. I have two uncles that raised my father; they were both on the police force. They walked beats in northwest Omaha--north Omaha, south Omaha, and northwest Omaha. I don't think that's any surprise. I've told people that before. My cousin Dave was a police captain. My cousin John was a police captain. My cousin Tony is on the force right now. Full disclosure? It's

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all right there. This isn't personal, guys, except for the fact that this bill has made it personal. I don't think I'm the one that did that. This really boils down to--correct me if I'm wrong--Senator Chambers asked me if I had read the bill. Yeah, I read the bill. Right now, the way I see it, the way I see this amendment AM1673, is that we're just going after the cops for that type of disclosure. Then I'm missing something, Senator. I mean, the Senator is shaking his head. Then I'm missing something here, because to me, not anybody out here or me, the bill actually made it personal. I would love to hear answers, because to...here's the bottom line. There's two issues here, one of them as to whether this bill should have been out of committee. Senator Ashford took umbrage with that, that I actually brought that up. Well, I've seen recommit motions before, and I didn't see anybody get that concerned about the person and personal attack that I made. I don't think I've crossed any line in the sand. I've made mistakes on this floor in the last six years, and I have had that happen to me, and I didn't stand up and complain that people were crossing the line, and quite frankly, scream to this body that that was flat-out unfair. I think it's legitimate discussion to talk about AM641, the Judiciary Committee amendments, and how significantly Senator Chambers' amendment would change that. I haven't worked with Senator Ashford, actually, as long as I've worked with Senator Chambers. And you know what? I'm not going to apologize for a thing that I said. But I'll tell you this: Senator Chambers shouldn't be surprised by my attitude on this floor. Senator Ashford, with all due respect, should not be surprised by my attitude on this floor and the things that I do. I told Senator Chambers before I came up, I have some concerns. The interesting part to me or the unique part is that other people can throw recommit motions up, other people can point out things that might happen in the Judiciary Committee or other committees. But when somebody either like me or with my attitude or talks as loud as I do brings it up, then it's out of line. Is that right? I don't think it is out of line, folks. I was thinking about not taking this recommit to a vote. I've changed my mind. This is going to a vote, because I want to see how this breaks, and I'm very, very, very serious about this. [LB474]

SPEAKER FLOOD: One minute. [LB474]

SENATOR FRIEND: Once we do take this to a vote and we see that the body has gone a certain way on a cloudy subject matter at best, is that...I'd really like to see how that affects other committees and the things that they do. I've said this before and I'm almost echoing what Senator Chambers has said: You know what? We don't have to pass another bill. You mark my words, folks. I don't care if another bill passes. We'll work through the appropriations budget adjustments if we can. I don't care if another bill passes. I don't care if it's mine, I don't care if it's Senator Lathrop's, I don't care if it's Senator Chambers', I don't care if it's Senator Ashford's, I don't care if it's Speaker Flood's. [LB474]

SPEAKER FLOOD: Time. [LB474]

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SENATOR FRIEND: Thank you, Mr. President. [LB474]

SPEAKER FLOOD: Mr. Clerk, items for the record? [LB474]

CLERK: I do, Mr. President, thank you. Your Committee on Banking, Commerce and Insurance, chaired by Senator Pahls, provides notice of hearing for Tuesday, February 5; Monday, February 11; Tuesday, February 12; Tuesday, February 19. Agriculture Committee, chaired by Senator Erdman, has notice of hearing for Tuesday, February 5. I have a confirmation hearing report from the Health and Human Services Committee regarding certain gubernatorial appointees. Motions to be printed: A motion with respect to LB1166 by Senator Cornett; Senator Synowiecki, an amendment to LB204A. And finally, Mr. President, I have a priority bill designation. Senator Pankonin has selected LB983 has his priority bill for this session. And I also have, Mr. President, a hearing notice from the Appropriations Committee for Wednesday, February 6, and for February 7, those signed by Senator Heidemann. That's all that I have, Mr. President. (Legislative Journal pages 401-403.) [LB474 LB1166 LB204A LB983]

SPEAKER FLOOD: Thank you, Mr. Clerk. Continuing discussion, Senator Ashford. [LB474]

SENATOR ASHFORD: Thank you, Mr. Speaker. I'm going to give most of my time to Senator Chambers to talk a little bit more about his amendment. The issue, though, just so we get it on the record here, the issue is not the motion to recommit. Senator Friend has every right to do that motion. He has every right to get up and talk about how police officers are treated in this bill. The problem is that when it morphs into a discussion about the Judiciary Committee not doing its job, and I believe that's what was said, I think that is a line we don't want to cross in here, because there are many bills that come out where there's a tremendous amount of discussion. Amendments, motions to recommit, motions to bracket--we do it all the time, every week. We'll do it more and more as we go along. The only thing that really bugs me is when we personalize those things to a committee or to individuals involved in that committee, because that's not how we work here. We can make mistakes, we can make misjudgments. We got a lot of bills in our committee. That's not an excuse. But the bill that came out here with the committee amendments was considered, and it came out here in an appropriate manner. Senator Chambers has, in dealing with the Speaker, has come up with other amendments. I can find nothing irregular in that, and certainly nothing that would indicate any lack of interest by the Judiciary Committee or, in effect, putting bad bills on the floor just to accommodate Senator Chambers, or whatever we were supposed to have done. Again, let me just conclude by saying, Senator Friend is a good senator. He's an excellent senator, and I'm not accusing him of anything. I just want to say that as we go forward, the less personalization...the less we personalize these things, to committees and to individuals, and stick with the issues, I think the better we're going to be. And that is the spirit in which I made my comments. I'd give the rest of my time to

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Senator Friend. Thank you. [LB474]

SPEAKER FLOOD: Senator Friend or Senator Chambers? [LB474]

SENATOR ASHFORD: Senator Chambers. Thanks. [LB474]

SPEAKER FLOOD: Senator Chambers, you have 2 minutes and 50 seconds. [LB474]

SENATOR CHAMBERS: Mr. President, members of the Legislature, I may embarrass myself. I'm not a juggler, but I have two balls here, just like I said. Actually, I can juggle, but if I had done it correctly, it would not have caught your attention, and sometimes I have to humanize myself. Senator Friend made a glaring blunder. He said this is a bill that requires disclosures only of the police. I spent my entire opening telling you about the language in the bill that relates to the teachers, the disclosures that must be made with reference to teacher misconduct for which disciplinary action has been imposed. I stated that similar narrowing language, which was adopted for the teachers, was put into the part of the amendment that relates to the police. I said when I started before that Senator Friend spoke on the wrong side of an issue about which he was profoundly ignorant. He said he read the amendment. He didn't see the part that relates to the teachers. He said it is a police disclosure bill. That's not accurate. Attack me, attack anything I've done, but at least attack what I've actually done. Don't build a straw person, knock down the straw person, and feel that you've addressed me. As far as an atrocious bill, Senator Friend had one like that that came out of the Judiciary Committee on this electronic predator activity. I took days, and I rewrote his bill. We were on it day after day after day. The Attorney General was pleading with me and said, Ernie, if you write the bill, we'll take whatever you say, because you'll get it right. Ask him--I'm saying it on the mike. His bill, which I did not like, I rewrote it. He didn't tell me, Ernie, this is a bad bill, send it back to the Judiciary Committee. He was very grateful. When the bill was in a form that the body would accept, he acknowledged the work that I had done. I've done that ever since I've been in the Legislature. My job, when a bill is under my control, is to put it in the form that I think is best. I will work with any entity, interest, or group who will be affected by that bill, if they're willing to work with me. If they have particularized knowledge and information which I don't and they present it to me, and I overlooked it, I will accept that. I can learn from anybody. I can be taught by anybody. And when I told the teachers' representatives to bring me language... [LB474]

SPEAKER FLOOD: Time. [LB474]

SENATOR CHAMBERS: Thank you, Mr. President. [LB474]

SPEAKER FLOOD: But you may continue. You're on your own time now. [LB474]

SENATOR CHAMBERS: Thank you. Mr. President, members of the Legislature, they

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spent time hammering out the language. I approved of it, so I bring it. This bill has not altered as far as the thrust of it. Its original intent, which remains the same, is to make public certain disciplinary actions that are taken against police and teachers. At the hearing, when police representatives and teacher representatives objected to the bill because they said it was too broad, neither group had any language at that time to offer. I said, we're going to do what we can, during the committee deliberations, and adopt narrowing amendments as we see them. And if you two groups will have changes, bring them, and those changes will be considered. If they make sense and do not sabotage the bill, I will incorporate them into an amendment which will be substituted for the green copy and the Judiciary Committee amendments. I think that is very efficient, I think that is very intelligent, and I think it is the way a legislative body ought to work, or at least a legislator. If those who are to be affected by legislation want to work to reach an accord, that should be done. I've done that with prosecutors, I've done it with the State Patrol, judges, teachers. As a matter of fact, the only reason teachers are allowed to view what is in their personnel folders is because of legislation I got. That seems to be so fundamental and basic that it's hard for people in these modern times to believe that days were so primitive that teachers themselves had no access to their personnel folders. When I became aware that that was the case, I got a law that changed it. So even some teachers, before they start seeing me as the enemy, they need to find out the activity I've engaged in that gave them benefits that put them on a firmer footing and protected rights which were not considered rights before I acted. There is nothing secretive about this bill. Do you know why it's simplified? So that it is as straightforward as possible in saying what it does, in saying what the intent is. And I will repeat again, this amendment which will replace the bill is far less extensive than the green copy, because there were cross references in the green copy which I had put in there, because I was trying to make sure that I gave notice to those affected of what I was doing. When they became aware of these things, they were able to point out to me that most of those sections had nothing to do with the type of activity I had said I was concerned about. Being convinced by them, I had an amendment drafted that struck all of those references. Would you rather I come out here with the green copy and ask for an amendment to remove each one of those? Certainly not! And even if you wanted it, I wouldn't do it that way. If somebody looks at this amendment which is before you and has any question, I will answer it. I will even answer questions from Senator Friend, as misinformed as he is. My job is to do away with misinformation, and the only way I can address that is to have it presented to me. If there is opposition, it's my job to try to overcome it, and that's what I'm prepared to do. Senator Friend said he'll discuss this bill till noon. [LB474]

SENATOR LANGEMEIER PRESIDING [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR CHAMBERS: That is his privilege, that is his prerogative, and even from

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him, as I've stated, I will answer questions that are put to me. But as the discussion proceeds, I believe those who are sitting here who may not participate will understand what this bill does. There is no need for it to go back to the committee, because the bill which will be my amendment, does not alter the intent, purpose, or focus of the bill. It improves the focus and it becomes a laser instead of a scatter gun. Thank you, Mr. President. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Chambers. Mr. Clerk, for an announcement. [LB474]

ASSISTANT CLERK: Mr. President, thank you. The Health Committee will meet in Executive Session under the north balcony right now. That's the Health Committee under the north balcony. [LB474]

SENATOR LANGEMEIER: Thank you. Those wishing to speak: We have Senators Wightman, Friend, Harms, Pahls, Fulton, and others. Senator Wightman, you're recognized. [LB474]

SENATOR WIGHTMAN: Thank you, Mr. President, members of the Legislature. Right now my thought is that I probably can support this bill with the amendments. I'm going to take Senator Ashford at his word, that he believes that probably the bill has been improved with Senator Chambers' proposed amendment. I do have some questions that I would ask, but we have situations and have had situations in my district where teachers have been not convicted but been charged with sexual harassment, even sexual abuse in some instances. I think we do, absolutely, need to address these issues and have that made a part of the record of that teacher. We've had situations where, with these matters having been investigated, some of these teachers have gone to other states. We've made it possible, I think, by not taking action...not having some legislation on this issue, that they've been allowed to do that, and go and do the same thing perhaps, in some other states or in another district within the state of Nebraska. So I think that it is important that we take some action. It seems to me that certainly the consideration of Senator Chambers' amendment on the floor at this time is normal, normal procedure, and again, the Judiciary Committee is indicating that they think it improves the bill and narrows the bill to what it should be. I, like Senator Chambers, would think that there ought to be a narrowing in the manner this was presented before the committee and probably even the narrowing of the committee amendment, and that's what he indicates it has done, and I will have some questions for him. But I don't think we're trying to get into those things that, perhaps a school teacher did not function in such a way that he's been questioned or written up in the records. That shouldn't be public. But there are certainly a lot of situations that would arise to the level that that should become a part of the permanent record and should be made available to someone else who finds themselves in the same circumstance, someone...another school district that's looking at hiring the same teacher. With that, I would ask if Senator

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Chambers would yield to some questions. [LB474]

SENATOR LANGEMEIER: Senator Chambers, would you yield? [LB474]

SENATOR CHAMBERS: Yes, I will. [LB474]

SENATOR WIGHTMAN: Senator, there's been some discussion here about the fact that only the NSEA or the school teachers have signed off on your amendments, and the police department and the others affected by the bill have not; is that correct? [LB474]

SENATOR CHAMBERS: Yes, that's what I've said. [LB474]

SENATOR WIGHTMAN: But you've said you've narrowed it with regard to all of the groups, so that you would not get into those internal matters that really, the public should perhaps have no interest in; is that correct? [LB474]

SENATOR CHAMBERS: Yes. So the narrowing language adopted for the teachers was also adopted...would be, in this amendment, related to the police, also. [LB474]

SENATOR WIGHTMAN: It would be the same language that would narrow the application of the bill to the other group? [LB474]

SENATOR CHAMBERS: Yes. [LB474]

SENATOR WIGHTMAN: Same language? [LB474]

SENATOR CHAMBERS: Yes, and with the police, it even says an official policy, rule, and so forth, to make it clear that we're not talking about just anything that might be put in a police officer's file. I wouldn't even want it done in that way, and that's why I'm willing to answer all questions because we can get a legislative history. The teacher group brought what they felt was narrowing language that would do what I'm interested in, while keeping exempt from disclosure those other relatively petty things, as I view them. [LB474]

SENATOR WIGHTMAN: Senator,... [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR WIGHTMAN: ...I know there was some suggestion by Senator Wallman that these records might be available on the Internet. Do you see that as being a situation that could exist? Are these type of records something that would be published on the Internet or just in the internal documents? [LB474]

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SENATOR CHAMBERS: They're in internal documents, but if a person affected wanted to get access to that information, they could. For example, if I had a complaint because my child's head had been busted open, and the cop was disciplined, right now I wouldn't know what was done about it. I could then see what kind of discipline had been taken. But people can put anything on the Internet they want. This doesn't relate to the mere filing of a complaint or a complaint that was filed. There has to have been formal disciplinary action imposed by the police department before it would have effect. [LB474]

SENATOR WIGHTMAN: Thank you, Senator Chambers. Thank you, Mr. President. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Wightman. Senator Harms, you're recognized. [LB474]

SENATOR HARMS: Thank you, Mr. President and colleagues. Senator Pirsch, would you yield to a question for me, please? [LB474]

SENATOR LANGEMEIER: Senator Pirsch, would you yield? [LB474]

SENATOR PIRSCH: I would. [LB474]

SENATOR HARMS: I noticed in the revised committee statement on LB474, you actually voted no on this bill. Could you share with us why...what concern did you have in regard to this piece of legislation, in the original form? [LB474]

SENATOR PIRSCH: Oh, I guess based upon the testimony of the opponents, I had some questions and concerns about the proposal at the time the vote was conducted. [LB474]

SENATOR HARMS: Okay, thank you. Senator Schimek, would you yield to a question? [LB474]

SENATOR LANGEMEIER: Senator Schimek, would you yield to a question? [LB474]

SENATOR SCHIMEK: Yes. [LB474]

SENATOR HARMS: Senator Schimek, I did read the testimony in regard to this hearing, and you had some really good questions that you asked in regard to this particular piece of legislation. The question I have to you is, I notice that you did not vote, and why was that? Because from looking at your testimony, you had some great thoughts and ideas? What caused you not to vote for this? [LB474]

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SENATOR SCHIMEK: Senator Harms, I was not comfortable. I didn't feel that maybe the bill in its form should be advanced. I mean, it's as simple as that. [LB474]

SENATOR HARMS: Thank you. Senator Chambers, would you yield, please? [LB474]

SENATOR LANGEMEIER: Senator Chambers, would you yield? [LB474]

SENATOR CHAMBERS: Yes, I will. [LB474]

SENATOR HARMS: Senator Chambers, what criteria did you use to determine that you would pick education and you'd pick law enforcement? Why did you choose those two? [LB474]

SENATOR CHAMBERS: Because they're the two about which I receive the most complaints in my office and every place else. I've even filed complaints on behalf of people with the school system, where a child in one instance had been hit in the head with a book by a librarian. Another teacher had written a very scurrilous and vulgar so-called parody defaming and degrading me and Dr. Martin Luther King, and presented it to the teachers. Action supposedly was taken, but we were told nothing, so as far as we knew in the community, no action was taken. So what I did when I went to the committee was to take several clippings from the newspaper--actually articles--where healthcare professionals had their names put in the paper when disciplinary action was imposed. And I said, if these people can have their names put in the paper--I'm not saying put it in the paper, I'm saying make available to the patrons of the school system the disciplinary action actually imposed--not a complaint that was filed, not an allegation that may not have been supported, but only when disciplinary action was imposed, and with this narrowing language, it makes it clear that we're not talking about school assignments and the other things not having been completed on time, and so forth. [LB474]

SENATOR HARMS: Thank you. I have one more question I'd like to ask. In the introductory statement of the intent of this bill, you talk about, or they talk about it in here about having government transparent. When you use that term, define that for me, please, because I want to go further with the transparency here. [LB474]

SENATOR CHAMBERS: The activities of people who constitute the government, whether elected officials or employees, should be knowable to the public and by the public. [LB474]

SENATOR HARMS: Okay, thank you. And we compare those to an example of the Nebraska Health and Human Services System, the judges, the attorneys. My point here is, Senator, is that quite frankly, as I look at this, what about the rest of government? Why is it that we have chosen the public school teachers, administrators? Why is it that

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we chose law enforcement, when in fact, the intent of this is to single...not to single out, but I think we have... [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR HARMS: ...singled out. The intent here is to make it transparent. If we're really, truly interested in doing this in government, then what about city, what about county, what about state? They all have an impact on our people. They all have a way to hurt us. Why is it that we are not addressing this totally? If you want to go further, what about higher education? Huge impact on people. Why are we not addressing that issue? I'd like to go a little bit further with this, if I may, Senator Chambers. As we look at this in regard to public school law, I'm not an attorney. But I will tell you that a number of years ago there was a lawsuit in North Platte where a superintendent had fired a teacher, and the courts turned that over and said, you do not have the right to do that. The only people that can hire, the only people that can fire, is your board. The only people who can alter a contract is the board. In the case of education here, if we bring disciplinary action against a teacher, the teacher has the opportunity and the right to have a public and a private, or a closed session or hearing. [LB474]

SENATOR LANGEMEIER: Time. [LB474]

SENATOR HARMS: Thank you, Mr. President. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Harms. Senator Pahls, you're recognized. [LB474]

SENATOR PAHLS: Mr. President, members of the body, could I have Senator Chambers yield for a point of clarification? [LB474]

SENATOR LANGEMEIER: Senator Chambers, would you yield? [LB474]

SENATOR CHAMBERS: Yes, I will. [LB474]

SENATOR PAHLS: Thank you, Senator. What I'm trying to find out is if there's a level of accountability for both the educators and the police, especially after hearing from Senator Harms. As I read on page 1, Section 1, line 3, any disciplinary action which involves any specific act, etcetera. I'm not going to read the whole thing. Is that comparable to the language on page 2, line 8, this subsection shall not apply to specific documents in the personnel file? Is that where you see the similarities? [LB474]

SENATOR CHAMBERS: Yes, and so that that language is clear, the new language does not exempt those things from disclosure. It states that they will be disclosed. The subsection of which it is a part is one that prevents information from being disclosed,

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and this is a carved out exception. It means this is "disclosable." [LB474]

SENATOR PAHLS: Yes. But basically, this is parallel, right here. One gives the other...I mean, it's the same thing. [LB474]

SENATOR CHAMBERS: Yes, yes. [LB474]

SENATOR PAHLS: Okay. So you're saying the level of accountability for both groups is the same. [LB474]

SENATOR CHAMBERS: Yes, and so that you'll know why I selected these two, county boards and the ones that Senator Harms was talking about, I think most people in the real world know that they don't have direct contact with our children or with the public in the way that police officers and teachers do. [LB474]

SENATOR PAHLS: Okay, and you do have the support of the education system, or NSEA? [LB474]

SENATOR CHAMBERS: I've supported things that they do which I think are right, and as I've stated in the past, I've brought legislation which they were not even aware was needed. [LB474]

SENATOR PAHLS: Okay, thank you. I'd like to give the rest of my time to Senator Friend. [LB474]

SENATOR LANGEMEIER: Senator Friend, 3 minutes. [LB474]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. You know what? I've changed my mind. I'm convinced. I've been chastised. I don't understand. Look, at the end of this discussion, I'll pull the recommit motion, okay? It doesn't mean I'm walking away. I just filed an IPP motion, because here's the thing: Maybe the...you know what? Maybe these gentlemen are right. Maybe Senator Chambers and maybe Senator Ashford are correct. I don't have all the answers. I'm loud, I'm obnoxious. I don't have all the answers. Maybe they're correct. Maybe this should have come out; maybe the work should be done out here. Let's assume for a second, even though I don't believe I am wrong about sending this back to Judiciary Committee for work, okay? Does that mean there's nothing wrong with the bill? No. Does that mean that there's nothing wrong with the committee amendments? In my view, no. So we're going to keep on talking about it. So if anything, they can go ahead and cloud the issue with the idea that Friend is being a meanie for trying to recommit it to a committee, and the Judiciary Committee really did do a good job and they got it out there, and everything is great. Okay. I'm still not going to apologize to Senator Ashford, because I don't think I jumped over any line in the sand. I'm not going to apologize to Senator Chambers. Heck, this

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didn't even need to be referenced to the Judiciary Committee. It probably should have been referenced to Government. I'm not sure we'd even be having this discussion out on the floor right now, had it been. I could have thrown a recommit up back to the Government Committee. Public records is usually sent to that committee, isn't it? We can cloud the issue all we want about the recommit. I think... [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR FRIEND: I think that the discussion can and probably turn--and this is where I've changed my mind--I think the discussion probably can and should turn to public policy, instead of me standing up and getting borderline angry and having Senator Ashford angry at me. Thank you, Mr. President. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Friend. Did you still wish to withdraw this motion at this time, or not? [LB474]

SENATOR FRIEND: Yes, I do. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Friend. The motion to recommit is withdrawn. Mr. Clerk. We're back to AM641 discussion. The floor is open. There were a number of lights on. We'll continue through those. Senator Fulton, you're recognized, followed by Friend. [LB474]

SENATOR FULTON: Thank you, Mr. President. Would Senator Chambers yield to a question? [LB474]

SENATOR LANGEMEIER: Senator Chambers, would you yield? [LB474]

SENATOR CHAMBERS: Of course. [LB474]

SENATOR FULTON: Thank you, Senator Chambers. I'm going to start addressing parts of the bill by way of policy here, so I may be...so it's probably more appropriate that we're doing this on AM641, then. Section 2 subsection (2) on your amendment--so this is AM1673,... [LB474]

SENATOR CHAMBERS: Yes. [LB474]

SENATOR FULTON: ...which I understand would be substituted for AM641,... [LB474]

SENATOR CHAMBERS: Yes. [LB474]

SENATOR FULTON: ...page 2, line 8. We'll start... [LB474]

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SENATOR CHAMBERS: I'm with you. [LB474]

SENATOR FULTON: Okay. This subsection shall not apply to specific documents in the personnel file which record disciplinary action taken by the employing district's administration involving a teacher, administrator, or full-time employee, and then it goes on. Explain to me why this exemption...why should this exemption exist? By way of policy, why is it appropriate that this be the policy decision we make forward, to allow this exemption to exist? [LB474]

SENATOR CHAMBERS: Because under the existing law, no matter what a teacher has done to a student, to a parent, when disciplinary action is imposed, it is not a matter of public record. The public does not know. So I brought this bill to carve out those areas of serious misconduct which would be a matter of public record, when disciplinary action was imposed. And Senator Fulton and everybody else, I know that what the representatives of the teachers may say is not what drives our decisions. But we do talk to those who have more knowledge about the nature of the actions for which discipline will be imposed in this setting. I dealt with those representatives for that purpose, they crafted language which I think reaches my purpose, so I'm carving out this exemption, as you call it, which will make available to the public disciplinary action which is imposed in the areas mentioned in my amendment. [LB474]

SENATOR FULTON: But you do feel that...the reason you feel that it's appropriate that this--that the teacher, administrator, or full-time employee--the reason why that is appropriate for exemption is because...well, let me start...let me address this by way of posing. Any disciplinary action which occurs under the public purview ought to be available to that public; is that...would that be a correct assessment to make? [LB474]

SENATOR CHAMBERS: In general, but there are some activities, when you're dealing with teachers, that relate to their performance, that have no direct bearing on the public. So some of those things I don't think should be open to the public, meaning that that information in a teacher's file the public should not have access to. [LB474]

SENATOR FULTON: Would there be...is there anything within the purview of an officer of the State Patrol, the deputy state sheriff, any of these that are in Section 1 that have been listed, is there anything under that purview which would also allow for exemption, in your opinion? [LB474]

SENATOR CHAMBERS: You mean in terms of not being disclosed? [LB474]

SENATOR FULTON: Yes. [LB474]

SENATOR CHAMBERS: Yeah, the kind of things that Chief Casady and others mentioned, where an officer might misspell a name on a ticket, might miss a date

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showing up to testify on a ticket, or have the uniform not worn correctly. I made it clear even at the hearing, I'm not interested in that. But their feeling was that with the language in the original bill, those things could be considered. [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR CHAMBERS: So that's why we narrowed the language. But there are numerous things which I think ought not be open to the public, because they're petty, they're trifling, and misuse can be made of them beyond what the particular act that resulted in that merited. [LB474]

SENATOR FULTON: Senator, if this amendment were to move forward and get incorporated into LB474 and that goes forward, then wouldn't those items that you say could be deemed trivial or trifling, wouldn't they still be in the public record? Or am I...maybe I'm... [LB474]

SENATOR CHAMBERS: No, they're not a matter of public record now. They will not be made a matter of public record. Nothing is in the public record right now--nothing. [LB474]

SENATOR FULTON: If this were to go forward, though, some of those trivial items that you have expressed as concern, if this goes forward, they would be in the public record. [LB474]

SENATOR CHAMBERS: No, they wouldn't, and if somebody tried to request that, because you have to make a request for a record,... [LB474]

SENATOR LANGEMEIER: Time. [LB474]

SENATOR CHAMBERS: Thank you, Mr. President. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Friend, you're recognized, followed by Pirsch, Chambers, Harms, and Ashford. [LB474]

SENATOR FRIEND: I was going to turn my light off, because I wanted...actually, procedurally to get, I guess, to Senator Chambers. I suppose we have to vote down this amendment first and then get to Senator Chambers' amendment, so I guess it's almost irrelevant. I wanted to make a couple points. I already stated why I more or less changed my mind, and maybe the recommit motion in hindsight, probably not the right thing to do at that particular moment. Maybe it was. Maybe I should still be dealing with it. But that being said, let's talk about this for just a second. Let's talk about this public policy idea for a second. How do I know based on this language, the new language that Senator Chambers would be proposing, or the committee amendments, how do I know

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that an officer's previous disciplinary record wouldn't be used against him or her to attack them or question them and try to make subject, I guess, of discussion their credibility in a court of law? I mean, California, it's interesting. In California, the Supreme Court more or less came down and said, police officers' discipline is not a public record. That's what the judiciary had to surmise; that's what they interpreted, because the state of California is saying that an officer's credibility is always under attack, the law enforcement community, and also citizens of the state of California, that a law enforcement officer's credibility is always under attack, especially by those criminal defendants who are arrested by them. Now again, now we've gone back--and maybe I'm part of the problem, not part of the solution--now we've gone back to the public policy piece of the discussion, okay? Is this good public policy in the end? Senator Chambers would have you believe that defeating the committee amendments--which are broad, far-ranging, sweeping, and of course the underlying bill--defeating the committee amendments and applying his amendment is a heck of a lot better public policy, and a heck of a lot more streamlined. I guess the only thing I would argue is, how? How is it? Whether teachers are dealt...see, I...he...we keep going back to this amendment and saying that it's not just about the cops any more. The way I read the...subsection (2) is that we're offering exception language to teachers and public employees in that arena that the police officers aren't going to get. So there's a...the esoteric argument or the philosophical argument is that this is about the cops now, about what the judges in California said--an officer's credibility is always under attack. Maybe it should be, but do we need to put another quiver or another arrow in that quiver? I think there's plenty of them right now. That's the public policy argument, isn't it? So with that, look, I still don't believe it's good public policy in the end. I guess we'll get to that point. I'd like to continue hearing exactly why now it's been narrowed. I'd like to...beat it into my head. [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR FRIEND: Humor me. I'd like to know why narrowing it down and making sure that the cops now, more or less, or esoterically, are the only ones that are really going to be held to that particular standard? Because no matter what is said and how the issue is trying to be clouded on the record, under subsection (2), we automatically cloud it for teachers. And that was my point from the very outset. There is a difference between the way the police are being treated. It's clear to me the way the police are doing to be treated under those disciplinary actions and the way other public employees would be treated. I guess my point is, if this amendment is the one, why was AM641 that much worse? I brought it up earlier. Because there were more people against it? I guess I'm a little bit confused on that issue. [LB474]

SENATOR LANGEMEIER: Time. [LB474]

SENATOR FRIEND: Thank you, Mr. President. [LB474]

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SENATOR LANGEMEIER: Thank you, Senator Friend. (Visitors introduced.) Returning to discussion on AM641, those wishing to speak, we have Senators Pirsch, Chambers, Harms, Ashford, Avery, and others. Senator Pirsch, you're recognized. [LB474]

SENATOR PIRSCH: Thank you, Mr. President and members of the body. I guess at the outset I'll just make a comment with respect to the...I understand the Omaha Police Department's policy is, with regards to complaints versus an officer, I wanted to check on that and clarify that. And I don't know if this is...involves any other police department within the state, but in checking with one of the command supervisors there, he tells me that any time that there is a complaint versus an officer that internal affairs investigates and that the originator of the complaint is informed of one of four outcomes, one of which is that the complaint was sustained, in which case there would be discipline, though the specific nature of the discipline against the officer would not be necessarily revealed to the originator of the complaint. Secondly, the originator may be informed that the internal affairs has investigated and that the...essentially exoneration, that the incident happened, but that in so happening, no policy violations occurred. The third possible outcome to the complaint might be that the complainer is informed that the allegations are unfounded, that no...essentially, that no facts existed that would form the basis of establishing a policy violation. Finally, there's yet a fourth outcome that deals with incidents which may or may not have occurred, but the policy is so unclear that it can't be used as a basis to discipline the officer. And so it's my understanding, based upon speaking with this officer with the Omaha Police...command supervisor with the Omaha Police Department, that whichever of the four outcomes comes about, that the complaint or the complainant would be so informed of that. And so there should be a response in every...for every complaint. I was wondering, and I see that he's engaged right now, but I was wondering if Senator Chambers may yield to a brief question? [LB474]

SENATOR LANGEMEIER: Senator Chambers, would you yield to a question? [LB474]

SENATOR CHAMBERS: Yes, I will. [LB474]

SENATOR PIRSCH: And I'm sorry to distract you from that, Senator Chambers. Is it...with respect to your amendment to LB474, encompassed in AM1673,... [LB474]

SENATOR CHAMBERS: Um-hum. [LB474]

SENATOR PIRSCH: ...you had indicated that in bringing forward this amendment, that it would capture...it was designed to capture only meaty issues, but not the trivial type of disciplinary matters; is that correct? [LB474]

SENATOR CHAMBERS: It's like eating fish. We want the flesh and we throw the bones

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away. And to ensure that, Senator...well, I won't mention the senator by name, a senator who has been a police officer is working with me, and we are going to have three narrow categories--sexual abuse, physical or verbal abuse. Now if we put those three examples, those three items for which disciplinary action has imposed which shall be a matter of public record, people don't have to ask me about unshined shoes or not washing a patrol car,... [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR CHAMBERS: ...because the ones testifying knew that wasn't what I was talking about anyway. But by specifying, we remove all of that even from discussion. [LB474]

SENATOR PIRSCH: Well, good. And that was part of...and I'd be interested in hearing more about that. And part of the reason I bring this up is the language in the amendment, as it currently reads, says any official policy, and speaking with the command supervisor, also he indicated that it is a policy that dictates trivial matters like the size of your briefcase, the length and weight of a flashlight, the number of belts and pouches that you have, your general appearance as an officer, with respect to losing equipment during a chase such as your car keys. All those would be covered by official policy, and if you were to...and I would think are trivial in nature and not getting at what, you know, is being discussed here today. So I don't think we have much time here, but if you'd like to take the last seconds, I'd yield the balance of my time to Senator... [LB474]

SENATOR LANGEMEIER: Time. Thank you, Senator Pirsch. Senator Chambers, you're recognized. [LB474]

SENATOR CHAMBERS: Mr. President, members of the Legislature and Senator Harms. Senator Harms, no person in the Legislature ever made all of the Supreme Court judges sit down and talk to him or her. I did, because when they were giving...administering the bar exam, you couldn't get a copy of the exam itself, you couldn't get a copy of your results, and the exam would not be released to the public. Nobody would challenge them; I did. And they all met with me and all of that was changed. No senator on this floor other than me has ever gotten a judge put off the bench, even though senators knew these judges were misbehaving. And if you doubt me, I will show you a cabinet full of disciplinary action I've had imposed on judges. Last session or the one before I worked with the Chief Justice to make it a statutory requirement that disciplinary action taken against a judge--not just kicked off the bench--must be not only a matter of public record, but it must be published in the advance sheets in the same way that their decisions on cases must be done. You all have no idea what I'm doing. You have no idea what I've done. So you will look at one little point that a special interest group will tell you and say he's got a grudge against us. Then you say, well, why don't you do this, why don't you do that, and I've done more

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than everybody else in here put together on these matters. I have. I'm the only one who got the Supreme Court to reconsider carrying out a death sentence. I did that. I made it possible for them to do that by submitting a document which nobody else could. There was no way they could get to the issue other than the action that I took. I don't just stand up here and pull something out of thin air. I've talked to people with the mayor's office in the past. I've talked to chiefs of police, safety directors. I've talked to the superintendent of schools, principals. And for you-all's information, there are principals who will have teachers they can't get rid of and they can't say anything about what the teacher has done. Sometimes parents or others might have information and get it to me, and then when I say something, something may be done. It shouldn't have to be that way. Who in here says that somebody on the public payroll who commits a violation that hurts the public should be shielded from disclosure? And as for all of these things that Senator Pirsch is mentioning, couldn't the police have given that to him to present at the committee when we're having our hearings? They have all of the interim to bring those to me, if they wanted to talk to me, or to somebody else instead of waiting till now. I don't mind whenever they bring it, but they've had opportunities. I offered the invitation; they chose not to accept it. Senator Carlson has said on the floor if a public hearing is open and people who have an interest don't come, that's on them. I don't have to make people come to hearings, but I'm prepared to address any issue they bring, whether they raise the issue during the hearing, as they probably ought to. They have lobbyists. Lobbyists often are incompetent. They get the money from their clients and don't do the work, and all they have to do is say, well, you know Ernie Chambers has got a grudge against the police so I didn't even think it was worthwhile to go say anything. They get the money and the cops swallow it. Well, now we have the matter on the floor and nobody has been able to take issue with the public policy issue. And since people were raising all of these trivial issues that I've stated are not of concern to me, and an amendment is being drafted where we limit the issues to verbal abuse, you think if a cop who's been verbally abusive and disciplined should be shielded from the public knowing it? [LB474]

SENATOR FISCHER PRESIDING [LB474]

SENATOR FISCHER: One minute. [LB474]

SENATOR CHAMBERS: If he has been, or she, physically abusive should be shielded, has been disciplined for committing sexual abuse should be shielded? I want to see the opposition that the police have when we put these three categories in it. I want to see them oppose that. And they're not above opposing it because they think all they have to do is tell you all, well, Ernie is for; you ought to be against it. They think that's enough, and maybe it is. But we're going to put this to the test. I think it is sound public policy. And the reason I don't spend a lot of time on the teacher issue, because those affected by it are not concerned--people on the floor raising questions that the ones who would be affected don't even see as issues. They are protected in the areas where they feel

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they should be. They don't want misbehaviors and malefactors protected, especially when some members of the public knows the teacher has done wrong. [LB474]

SENATOR FISCHER: Time. [LB474]

SENATOR CHAMBERS: Thank you, Madam President. [LB474]

SENATOR FISCHER: Thank you, Senator Chambers. Senator Harms. [LB474]

SENATOR HARMS: Thank you, Madam President and colleagues. Senator Chambers, would you yield? I'd like to finish our conversation that I had earlier and we got stopped. What I'm really after, Senator Chambers, is some clarification... [LB474]

SENATOR CHAMBERS: Yes. [LB474]

SENATOR HARMS: ...of the present public school law. Let me... [LB474]

SENATOR FISCHER: Senator Chambers, would you yield? [LB474]

SENATOR CHAMBERS: Yes, ma'am. [LB474]

SENATOR HARMS: Thank you, Madam Chairman, for correcting me. In the North Platte case--that's been a number...many years ago--when the superintendent fired a teacher and the courts overturned it and said you cannot alter the contract, the only one who can alter a contract is a board of governors or the school board, so when you bring...when you bring a disciplinary action against a teacher, that's altering a contract. My question to you is, is that not already covered by the present laws that govern our educational system? [LB474]

SENATOR CHAMBERS: The law makes everything in the way of disciplinary action off limits to the public. We can pass any law we want to and a contract cannot abrogate the law unless you create an area and say that this is going to be governed strictly by a contract. [LB474]

SENATOR HARMS: Now let me go a step further then, Senator Chambers, that when that teacher says that I do not agree with this disciplinary action, they have a right to have a closed or an open hearing. The board is present. The public can come in a public hearing. But after the...if it's a closed hearing, the board then has to come forward and says, yes, we agree, we're going to offer this contract and we're going to bring this disciplinary action. Then it's all on the table. [LB474]

SENATOR CHAMBERS: I'm not talking about a contract action, Senator Harms. I'm talking about an inappropriate act. You're introducing something that has nothing

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whatsoever to do with what I'm talking about. [LB474]

SENATOR HARMS: Well, it sure does because you are wanting to disclose the fact that this person did something horrible and it should be transparent that everybody should have the opportunity to see this. The only way you can do that in the present law, as I understand it, is through disciplinary action. [LB474]

SENATOR CHAMBERS: Senator Harms,... [LB474]

SENATOR HARMS: You cannot, as I understand it, you cannot bring disciplinary action on an employee that has a contract. And so that's my question, is, does the present law do it or am I just not understanding this? [LB474]

SENATOR CHAMBERS: The current law makes any disciplinary action off limits to the public. The public cannot find out. That's why... [LB474]

SENATOR HARMS: Okay. All right. All right. [LB474]

SENATOR CHAMBERS: ...a change in the law is needed and that's why I'm offering it, if that answers your question. [LB474]

SENATOR HARMS: Yeah, that does. Thank you. [LB474]

SENATOR CHAMBERS: Okay. [LB474]

SENATOR HARMS: The other question I wanted to ask you in regard to your amendment that you have here, we talk only about full-time employees. If you really want government to be transparent and if we're really after the teacher question and administrator question, there are a lot of people that are part-time that can bring the same kind...have the same kind of issues. Do we want that to be transparent also, and why do we not include that? [LB474]

SENATOR CHAMBERS: Senator Harms, there are practicalities, and what they can do if somebody is part-time is just get them out. [LB474]

SENATOR HARMS: Okay. Thank you, Senator Chambers. [LB474]

SENATOR CHAMBERS: Okay. [LB474]

SENATOR HARMS: Thank you, Madam President. [LB474]

SENATOR FISCHER: Thank you, Senator Chambers, and thank you, Senator Harms. The Chair recognizes Senator Ashford. [LB474]

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SENATOR ASHFORD: Thank you, Madam President. I just spoke with Senator Avery and I'm going to give him most of my time so that maybe we can get a vote on the committee amendments prior to lunchtime. But it's great to have Senator Harms back because we can start talking about policy. I appreciate his questions. And let me just very briefly, and I'll handle this on the committee amendment side, but I know myself, why did I vote for this bill, why do I vote for other bills that may need work on the floor or not? In this case, it was the idea of public disclosure. That, to me, was the moving idea. The reason police and schools were primarily those are the...those are the governmental...individuals working for government who deal most directly with the people on a day-to-day basis. I mean it...there may be others, but I would surmise that police officers and school teachers are the individuals who are interacting with the public most often in a real way everyday. And so those are the public policy ideas behind LB474. The other quick point is that...and we do this. I mean, throughout our tradition we have opened up records, whether it's doctors or lawyers or judges, other individuals who deal with the public and whose actions are going to have a direct impact, and in some cases an injurious impact, on the public. The decisions they make, the authority that they have because of their status, whether it's a teacher or a police officer, a lawyer like myself, a judge, a doctor, other professionals that by some misstep or some even intentional act could have a very negative impact on an individual member of the public, so the public's right to know about those things is, to me, is the motivating idea. With that, Senator Avery, if you would wish to, I would give him the rest of my time. [LB474]

SENATOR LANGEMEIER PRESIDING [LB474]

SENATOR LANGEMEIER: Senator Avery, 2:50. [LB474]

SENATOR AVERY: Thank you, Mr. President, and thank you, Senator Ashford. Senator Ashford and I had a conversation a few minutes ago about the underlying principle of this legislation and I want to address that because it's an important principle. This bill is about transparency in government and about the public's right to know. Sure, it holds public officials to a high standard of conduct, but that's the way it ought to be. We all ought to support being held to a high standard. Transparency is a cardinal principle of open democratic government. It is necessary that we have transparency. There are two fundamental reasons why. Transparency builds trust, trust between people and their government, and trust contributes to the legitimacy of government. Now why is this important? Because distrust of government is a corrosive force and this corrosive force undermines confidence in our institutions and undermines confidence in the procedures of government. And when confidence is eroded, we threaten the very institutions of democracy. A democracy functions best when citizens render legitimacy to its institutions and its procedures. Legitimacy is a concept that cannot be overemphasized. The importance of legitimacy is that when it's absent, government can't function without

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resorting to force. You need legitimacy in order for people to render acquiescence to obedience to the rules of government. Democracy requires citizens to support its institutions. [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR AVERY: Citizens must support the procedures of government because...and they do so because they believe these to be the most appropriate. Our institutions, like this body and our other institutions of government, are seen as most appropriate for us because they represent our basic values, and if that is undermined then our whole government is undermined. I don't want to go too far with this, but let me just say that distrust undermines legitimacy, transparency builds trust, this bill promotes trusting government and it deserves our support. Thank you. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Avery and Senator Ashford. Senator Avery, your light is on. You're recognized. He waives his opportunity. Senator Fulton, you're recognized. [LB474]

SENATOR FULTON: Thank you, Mr. President. I'll ask Senator Chambers this question on the mike eventually. The point that I want to make here is in the AM1673, which will be the amendment to substitute...Senator Chambers' intention is to substitute this amendment in lieu of AM641, which we're on now. There is a line in here which I'd like us to consider. On page 2, we begin in subsection (2) of Section 2, "Except as set forth in this subsection, no other person except school officials while engaged in their professional duties shall be granted access," then it goes on, that phrase, "while engaged in their professional duties," that jumped out at me and I'll tell you why. There's a difference between police officers and those in education, the difference being obvious but needs to be repeated nonetheless. Police officers more easily can make enemies because they're trying to put bad guys away. So I can think of a situation in which a bad guy, who still may even be in jail, would have a vendetta against a particular police officer who might be able to access disciplinary information and utilize that as a bludgeon against that particular police officer. It seems to me that that could also apply to teachers, except that the language, school...only...no other person except school officials while engaged in their professional duties shall be granted access, so we're limiting who could be granted access to these disciplinary records. Could we not or should we not afford that same language to the police officers for the reasons that I just elucidated? That's something I'll put for consideration and then I'll ask that, if I may, to Senator Chambers. [LB474]

SENATOR LANGEMEIER: Senator Chambers, would you yield? [LB474]

SENATOR CHAMBERS: Mr. President, members of the Legislature, with all due respect to Senator Fulton, what he's talking about makes no sense. Somebody in jail is

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not going to have a computer with which they can hack into disciplinary records of the police. If they're at home with a computer, they're not going to be able to do that. Senator Fulton always brings up these what-ifs which have never happened. Even the police are not saying that will happen. Some things are beyond the realm of rational discussion and what he's talking about now fits into that category. What is being said with reference to the language related to teachers is that only certain persons will have access to their personnel folder and those people who are named will have access only in connection with their official duties. That's what that says. And this language says is that when disciplinary action is imposed it's a matter of public record for everybody. [LB474]

SENATOR FULTON: Senator, is it...maybe I am wrong in saying that this is something to consider, but it is my understanding that if someone...if a criminal who is or isn't in jail makes a request to see a police officer's disciplinary file, wouldn't this bill give him that opportunity? [LB474]

SENATOR CHAMBERS: If it was a disciplinary action imposed, it certainly would and it should. Criminals can, through the Freedom of Information Act, Senator Fulton, get information. [LB474]

SENATOR FULTON: Then wouldn't it follow that the scenario that I described earlier, is that not a possibility? [LB474]

SENATOR CHAMBERS: Anything is possible. Yeah, that can happen. That can happen with an ordinary citizen, but it's stuff that people talk about on the street corner, not in the Legislature, making policy. Anything that's a matter of public record is available to anybody who's a part of the public. If Prime Minister Putin wants the information, he can get it, and he should if it's a public record. The atomic bomb information... [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR CHAMBERS: ...is now available to the public. [LB474]

SENATOR FULTON: Senator, the...whether or not this is a particular area that we should address or contemplate, I'll grant that, that maybe it's not, but it doesn't seem unreasonable to me that a bad guy who has a personal vendetta against a police officer couldn't misuse this law. And so my question is, is there a way that we can introduce language so that that won't occur? [LB474]

SENATOR CHAMBERS: No. Anybody would have...if a cop did wrong, Senator Fulton, the cop has to have done wrong and it has to apply, when we get the amendment, to sexual, verbal or physical abuse of a person. [LB474]

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SENATOR FULTON: Okay. [LB474]

SENATOR CHAMBERS: And nobody can misuse that. All they can do is say, he committed sexual assault and he was punished for it. And it's true. How can he be...how can that be misused? It makes no sense to me what you're saying, so you have to chew it finer. [LB474]

SENATOR FULTON: Okay. The... [LB474]

SENATOR LANGEMEIER: Time. [LB474]

SENATOR FULTON: Okay. Thank you, Mr. President. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Fulton. Senator Friend, you're recognized. [LB474]

SENATOR FRIEND: Thank you, Mr. President, members of the Legislature. I think the confusion comes in because the amendment that we're discussing actually isn't actually even up there yet. It's my understanding that there are some conversations in regard to not only the language but how the public policy would be perceived and used. I would just quickly continue on with the public policy discussion, okay? I asked the question earlier, is how do we know or I guess how do I know that an officer's previous disciplinary record won't be used to attack or question that officer's credibility? I think the answer is rhetorical--it will be used. And as I pointed out, our laws may not be exactly identical and express statutory authority. And as far as our criminal...or as far as our code is concerned compared to California's, but the Supreme Court just came down and said, look, this right to public access of this information is not absolute. It was actually in 2006 when that happened. I think what I'm struggling with or the thing that I'm having trouble getting my hands around is why. If we narrow this, right now we're saying this: "Any disciplinary action which involves any specific act which was deemed to be in violation of or contrary to an official policy, rule, or state law governing," and then it goes down through a town marshal, a chief of police, and all the people that would be affected by it, "shall be considered a public record." Now I, again, I did talk to somebody off the record here a little while ago that would narrow that scope. It wouldn't be any disciplinary action anymore which involves any specific act which was deemed to be in violation or contrary to an official policy, rule or state law, but, you know, I still have to be sold. There's a motivation. We talked earlier about how helpful and then also how grateful I was to Senator Chambers for working on all these bills with me, but I stand by what I said earlier. I've had other bills that didn't make it out of that committee. Nobody was willing to help me with it. They thought it was a bad idea and they stopped them. Let me give you an example. I brought a bill into the Judiciary Committee, I believe it was my second year here, where I said if a guy or a gal or somebody is trying to avoid a cop, flight to avoid arrest, that should be a felony. That bill didn't see the light of day.

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And you know what? (Laugh) Public policywise, maybe our state didn't want it to see the light of day. We have to talk about the public policy implication of what we're doing here. I can't help but get the feeling, I can't help but get the feeling, when we raise a legitimate public policy concern, though the white noise earlier about the recommit, how the bill wasn't ready, okay, maybe it was white noise, like I said, I'm not sure it was, but maybe it was, but when we raise legitimate public policy concerns that were slowing the process down. Friend is in the way. Everybody likes this. This is good public policy. It provides... [LB474]

SENATOR LANGEMEIER: One minute. [LB474]

SENATOR FRIEND: ...transparency. You know what? I just told you that the California Supreme Court came to a conclusion based on their laws that would be far, far different than the approach that we're looking to try to promote right here. I think now we're at the point where we have to talk about...and it sounds like, like I said, that there's some discussion going around about another amendment, it sounds like we're at the point now where we have to talk about it or can talk about what this would actually do eventually to a police officer out in the street. And we can use all the esoteric discussion and argument that we want about how, well, we're still affecting teachers and everything else. Yeah, we're affecting teachers, but I'm saying the high-level discussion here is we're affecting them a little bit differently than we are that law enforcement officer, are we not? And that's legitimate public policy discussion, especially since the underlying bill... [LB474]

SENATOR LANGEMEIER: Time [LB474]

SENATOR FRIEND: ...and the amendment... [LB474]

SENATOR LANGEMEIER: Time. [LB474]

SENATOR FRIEND: ...have changed so dramatically. Thank you, Mr. President. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Lautenbaugh, you're recognized. [LB474]

SENATOR LAUTENBAUGH: Thank you, Mr. President. I'll be brief because I think a lot of this has been said before. And briefly, I'm getting the feeling there's a lot of confusion in the room about what this does. I keep hearing the same thing, that there's an amendment going around, and I look forward to seeing that. We are then going to have to digest that and decide if criminal conduct is the same as sexual abuse, or do we really mean sexual assault? Are we talking about crimes? Are we talking about things that we have to otherwise define? I would just urge us to be very careful and not hurry

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into something here that we may or may not understand. I'm not casting aspersion on the committee process. I'm not blaming anyone for this. I'm just saying there seem to be a lot of issues here and there seems to be a lot of discomfort with what we're doing. Thank you. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. There are no other lights on. Senator Ashford, you're recognized to close on the committee amendments. [LB474]

SENATOR ASHFORD: Let's vote not to advance the committee amendments, and go to lunch. Thanks. [LB474]

SENATOR LANGEMEIER: Thank you, Senator Ashford. You have heard the closing on AM641, the committee amendments to LB474. The question before the body is, shall the committee amendments be adopted? All those in favor vote yea; and all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. [LB474]

CLERK: 0 ayes, 35 nays on the adoption of committee amendments, Mr. President. [LB474]

SENATOR LANGEMEIER: The committee amendments are not adopted. Mr. Clerk. [LB474]

CLERK: Mr. President, your Committee on Enrollment and Review reports LB205, LB210, LB312 as correctly engrossed; those were signed by Senator McGill. Your Committee on Natural Resources, chaired by Senator Loudon, reports LB140 to General File; LB724, General File; LB725, General File; LB726, General File; and LB939 to General File. An amendment by Senator Cornett to be printed to LB500; Senator Chambers, an amendment to LB474; and Senator Friend, a motion to LB474. Mr. President, a series of hearing notices from the Government, Military and Veterans Affairs Committee, from the Natural Resources Committee, from the Revenue Committee; those signed by their respective Chairpersons. Reminder: Reference will meet at noon, upon recess, I should say, in Room 2102; Reference in 2102 upon recess. Senator Carlson would like to add his name to LB920 as cointroducer. (Legislative Journal pages 404-410.) [LB205 LB210 LB312 LB140 LB724 LB725 LB726 LB939 LB500 LB474 LB920]

And a priority motion: Senator Aguilar would move to adjourn until Tuesday morning, January 29, at 9:00 a.m. []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. You have heard the motion to adjourn till Tuesday, January 29, at 9:00 a.m. All those in favor say aye. All those opposed, same sign. The ayes have it. We are adjourned. []

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