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Floor Debate  
April 14, 2015

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[LB12 LB15 LB67 LB72 LB80 LB89 LB89A LB137 LB173 LB243 LB265A LB265 LB276  
LB306 LB320A LB320 LB347A LB347 LB413A LB413 LB482 LB483 LB494 LB500A  
LB500 LB512 LB538A LB538 LB592 LB598 LB599 LB605 LB606 LB623 LB641 LR154  
LR160 LR161 LR162 LR163 LR164 LR165 LR166 LR167 LR168 LR169 LR170 LR181  
LR182 LR183 LR184]

SPEAKER HADLEY PRESIDING

SPEAKER HADLEY: GOOD MORNING, LADIES AND GENTLEMEN. WELCOME TO THE GEORGE W. NORRIS LEGISLATURE FOR THE SIXTY-THIRD DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, FIRST SESSION. OUR CHAPLAIN FOR TODAY IS SENATOR SULLIVAN. PLEASE RISE.

SENATOR SULLIVAN: (PRAYER OFFERED.)

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

CLERK: I HAVE A QUORUM PRESENT, MR. PRESIDENT.

SPEAKER HADLEY: CORRECTIONS FOR THE JOURNAL?

CLERK: I HAVE NONE.

SPEAKER HADLEY: MESSAGES, REPORTS, ANNOUNCEMENTS?

CLERK: YOUR COMMITTEE ON ENROLLMENT AND REVIEW REPORTS LB89, LB89A, LB413, LB413A, LB641 AS CORRECTLY ENGROSSED. SENATOR KOLTERMAN OFFERS LR181 AND LR182, BOTH CALLING FOR INTERIM STUDIES. BOTH WILL BE REFERRED TO THE EXECUTIVE BOARD. AMENDMENTS: SENATOR BOLZ, LB243; SENATOR HILKEMANN TO LB641. THAT'S ALL THAT I HAVE, MR. PRESIDENT. (LEGISLATIVE JOURNAL PAGES 1159-1162.) [LB89 LB89A LB413 LB413A LB641 LR181 LR182 LB243]

SPEAKER HADLEY: WHILE THE LEGISLATURE'S IN SESSION AND CAPABLE OF TRANSACTING BUSINESS, I PROPOSE TO SIGN AND DO HEREBY SIGN LR160,

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LR161, LR162, LR163, LR164, LR165, LR166, LR167, LR168, LR169, LR170. MR. CLERK, WE WILL PROCEED TO CONFIRMATION REPORTS. [LR160 LR161 LR162 LR163 LR164 LR165 LR166 LR167 LR168 LR169 LR170]

CLERK: MR. PRESIDENT, NATURAL RESOURCES HAS A SERIES OF REPORTS. THE FIRST INVOLVES THE APPOINTMENT OF MR. RODNEY CHRISTEN OF THE ENVIRONMENTAL TRUST BOARD. (LEGISLATIVE JOURNAL PAGE 1091.)

SPEAKER HADLEY: SENATOR SCHILZ, YOU'RE RECOGNIZED TO OPEN ON THE CONFIRMATION REPORT.

SENATOR SCHILZ: THANK YOU, MR. PRESIDENT, MEMBERS OF THE BODY. GOOD MORNING. AND TODAY I BRING A GUBERNATORIAL APPOINTMENT OF RODNEY CHRISTEN TO THE NEBRASKA ENVIRONMENTAL TRUST BOARD. THIS IS A REAPPOINTMENT. HE REPRESENTS DISTRICT 3 FOR THE TRUST. THE HEARING WAS APRIL 8, AND THE COMMITTEE VOTE WAS UNANIMOUS TO APPROVE HIM TO THE FLOOR. AND WITH THAT, I WOULD APPRECIATE YOUR GREEN VOTE. THANK YOU.

SPEAKER HADLEY: IS THERE ANY DISCUSSION ON THE REPORT? SENATOR SCHILZ, YOU'RE RECOGNIZED TO CLOSE ON THE REPORT. SENATOR SCHILZ WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE REPORT OFFERED BY THE NATURAL RESOURCES COMMITTEE. ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. HAVE ALL THOSE VOTED? RECORD, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGE 1163.) 27 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE REPORT.

SPEAKER HADLEY: THE REPORT IS ADOPTED. MR. CLERK, THE NEXT CONFIRMATION REPORT.

CLERK: THE SECOND REPORT FROM NATURAL RESOURCES INVOLVES THE APPOINTMENT OF JAMES REED MACY AS DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY. (LEGISLATIVE JOURNAL PAGE 1091.)

SPEAKER HADLEY: SENATOR SCHILZ, YOU ARE RECOGNIZED TO OPEN ON THE CONFIRMATION REPORT.

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SENATOR SCHILZ: THANK YOU, MR. PRESIDENT, MEMBERS OF THE BODY. AGAIN, I BRING MR. JAMES MACY WHO WILL BECOME THE NEW DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY. HIS HEARING WAS ON APRIL 7, AND WE HAD A VERY GOOD DISCUSSION WITH HIM. I THINK THE DEPARTMENT WILL BE IN GOOD HANDS UNDER MR. MACY'S LEADERSHIP. AND WITH THAT, I WOULD ASK FOR AN AFFIRMATIVE VOTE FOR MR. MACY FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY. THANK YOU.

SPEAKER HADLEY: IS THERE ANY DISCUSSION ON THE REPORT? SENATOR SCHILZ, YOU ARE RECOGNIZED TO CLOSE ON THE REPORT. SENATOR SCHILZ WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF THE REPORT BY THE NATURAL RESOURCES COMMITTEE. ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. HAVE ALL VOTED THAT WISH TO? RECORD, MR. CLERK.

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGES 1163-1164.) 34 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE REPORT.

SPEAKER HADLEY: THE REPORT IS ADOPTED. MR. CLERK, WE WILL PROCEED TO THE NEXT CONFIRMATION REPORT.

CLERK: THIRD REPORT INVOLVES THE APPOINTMENT OF JOHN ARLEY RUNDEL TO THE NEBRASKA OIL AND GAS AND CONSERVATION COMMISSION. (LEGISLATIVE JOURNAL PAGE 1091.)

SPEAKER HADLEY: SENATOR SCHILZ, YOU'RE RECOGNIZED TO OPEN ON THE CONFIRMATION REPORT.

SENATOR SCHILZ: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE BODY. GOOD MORNING, ONCE AGAIN. JOHN RUNDEL WAS APPOINTED BY THE GOVERNOR TO THE NEBRASKA OIL AND GAS CONSERVATION COMMISSION. THIS WOULD BE A NEW APPOINTMENT. HE WOULD BE COMING ON BOARD HERE WITH THIS VOTE THAT WE HAVE. HIS HEARING WAS APRIL 8 VIA TELECONFERENCE FROM TRENTON, NEBRASKA. AND THE COMMITTEE VOTED UNANIMOUS TO APPROVE HIS NOMINATION AND TO BRING IT TO THE FLOOR. AND WITH THAT, I WOULD APPRECIATE YOUR SUPPORT FOR MR. RUNDEL.

SPEAKER HADLEY: SENATOR KEN HAAR, YOU'RE RECOGNIZED.

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SENATOR HAAR: MR. PRESIDENT, MEMBERS OF THE BODY, I'M GOING TO TAKE THREE TIMES AT THE MIKE TO TALK ABOUT THIS. I TOOK TIME...A LITTLE BACKGROUND FIRST. SEVERAL...TWO OR THREE WEEKS AGO, THERE WAS A HEARING IN SIDNEY, NEBRASKA, FROM A COMPANY CALLED T-REX THAT WANTS TO BRING SOMEWHERE BETWEEN 40 AND 80 SEMI LOADS A DAY OF FRACKING WASTEWATER AND INJECT IT INTO AN ABANDONED OIL WELL IN WESTERN NEBRASKA. AND SEVERAL WEEKS AGO THERE WAS A HEARING IN SIDNEY, NEBRASKA, OVER THAT PERMIT. I TOOK THE TIME TO GO TO SIDNEY FOR THAT HEARING, AND I ALSO DELIVERED A LETTER FROM SENATOR STINNER. AND I'M GOING TO TAKE THREE TIMES AT THE MIKE TO TALK ABOUT THIS, AND I'M GOING TO START AND END WITH SORT OF MY CONCLUSION. I SUPPORT SENATOR STINNER'S POSITION IN ASKING THE NEBRASKA OIL AND GAS COMMISSION FOR A DELAY IN ISSUING A PERMIT FOR DUMPING THIS FRACKING WASTEWATER. THAT'S WHERE I'M STARTING AND I'M GOING TO END WITH THAT. WATER--AS WAS SAID LAST YEAR A LOT OF TIMES BECAUSE WE WERE DEALING WITH FUNDING FOR WATER RESEARCH AND WATER PROJECTS--IN NEBRASKA WATER IS LIFE. MY GOOD FRIEND SENATOR CARLSON SAID THAT OFTEN. I WOULD GO BEYOND THAT SAYING, IN NEBRASKA WATER IS NEBRASKA GOLD, AND FOR THAT WE WANT TO A GOLD STANDARD FOR ANYTHING THAT AFFECTS NEBRASKA WATER. SO I'M GOING TO TALK ABOUT THAT HEARING AND THE NEBRASKA OIL AND GAS COMMISSION AND I'M GOING TO TALK ABOUT THREE THINGS. THE FIRST ONE IS THE MEETING ITSELF. THE SECOND ONE, AND THEN THE SECOND AND THE THIRD WILL BE THE ISSUES. THE NEBRASKA OIL AND GAS COMMISSION DOESN'T SEEM TO KNOW ITS RULES OR IT SEEMS TO MAKE UP ITS RULES ON THE GO. WHEN THIS BECAME AN ISSUE FOR THE PEOPLE LIVING IN THE AREA IT WAS ANNOUNCED THAT THE ONLY HEARING WOULD BE FOR PEOPLE WITH PROPERTY INTERESTS WITHIN A HALF A MILE OF THAT ABANDONED OIL WELL. WELL, THERE WAS QUITE AN OUTCRY, AND THERE WERE EDITORIALS AND ARTICLES IN THE NORTH PLATTE NEWSPAPER AND THE SCOTTSBLUFF NEWSPAPER, IN THE LINCOLN JOURNAL STAR, IN THE OMAHA WORLD-HERALD, AND I, MYSELF, WROTE AN OP-ED IN THE JOURNAL STAR SAYING, WAIT A MINUTE. THIS IS SOMETHING THAT AFFECTS NEBRASKA WATER AND ONLY THE PEOPLE WITH INTERESTS, WITH PROPERTY INTERESTS, WITHIN A HALF MILE OF THAT ABANDONED WELL ARE GOING TO HAVE A CHANCE TO TALK. WELL, AFTER ALL THE PUBLICITY AND ALL THE PUSH BACK, THEN THE NEBRASKA OIL AND GAS COMMISSION ANNOUNCED THAT, YEAH, PEOPLE WOULD BE ALLOWED TO COME AND TESTIFY, BUT IT WOULDN'T BE PART OF THE PUBLIC RECORD. SO I WENT UP TO THE HEARING AND I TESTIFIED AND I DELIVERED SENATOR STINNER'S LETTER, AND NONE OF THAT WAS PART OF THE RECORD OF THAT MEETING. IN FACT, THE PLACE THAT THEY HELD THE MEETING WAS CALLED UNSAFE FOR

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TOO MANY PEOPLE. SO ONLY 25 PEOPLE AT A TIME WERE ALLOWED TO COME INTO THIS SPACE AND TALK, AND THEN THEY HAD TO LEAVE.

SPEAKER HADLEY: ONE MINUTE.

SENATOR HAAR: AND THAT INCLUDED 25...I THINK THERE WERE 25 STUDENTS FROM SCOTTSBLUFF HIGH SCHOOL WHO CAME, AND THEY COULDN'T EVEN COME IN AND WATCH THE HEARINGS BECAUSE THEY HAD TO STAND OUTSIDE. SO I TOOK A LOT OF NOTES DURING THAT HEARING, AND I'D LIKE TO READ TO YOU FROM THE TRANSCRIPTS. BUT THERE ARE NO TRANSCRIPTS OF THAT QUOTE, UNQUOTE, PUBLIC MEETING BEFORE THE OFFICIAL MEETING THAT THE NEBRASKA OIL AND GAS COMMISSION HAD ON THIS WELL PERMIT. THERE WERE NO MINUTES TAKEN. THERE WERE NO MINUTES RECORDED. AT LEAST THERE ARE NO TRANSCRIPTS AT THIS POINT. PERHAPS THEY LOST THE TAPE. I'M NOT SURE. AS A RESPONSE TO THIS, THERE HAS BEEN A FILING WITH THE ATTORNEY GENERAL'S OFFICE CLAIMING TEN DIFFERENT VIOLATIONS OF THE OPEN MEETINGS LAW.

SPEAKER HADLEY: TIME, SENATOR.

SENATOR HAAR: THANK YOU.

SPEAKER HADLEY: (VISITORS INTRODUCED.) SENATOR SCHILZ, YOU'RE RECOGNIZED, AND THEN SENATOR STINNER, AND THEN KEN HAAR.

SENATOR SCHILZ: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE BODY. ONCE AGAIN, I JUST STAND TO MAKE SURE EVERYBODY UNDERSTANDS THAT WHILE WE HAVE THIS CONVERSATION TODAY THE ACTUAL VOTE OF THE MOTION THAT WE ARE WORKING ON HERE IS TO THE QUALIFICATIONS OF MR. RUNDEL AND HIS ABILITY TO SERVE ON THIS COMMISSION, NOT--NOT--HOW THE COMMISSION OPERATES NECESSARILY. I THINK IT'S IMPORTANT TO UNDERSTAND THAT. AND, HONESTLY, MR. RUNDEL IS VERY QUALIFIED. HE IS A GEOLOGIST. HE'S BEEN A REGISTERED GEOLOGIST NOW FOR 30 YEARS. HE'S BEEN IN THE OIL AND GAS INDUSTRY FOR AT LEAST THAT LONG THAT I KNOW OF, AND HE'S WORKED ALL OVER THE COUNTRY AND ALL OVER THE WORLD ON THESE TYPES OF THINGS. SO WE HAVE A GOOD PERSON THAT UNDERSTANDS THE INDUSTRY, THAT UNDERSTANDS OIL AND GAS, THAT WE NEED TO MAKE SURE THAT WE DON'T GET SIDETRACKED ON WHAT WE'RE VOTING ON HERE. AND THAT'S WHAT I WANTED TO STAND UP AND SAY. SO ONCE AGAIN MR.

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RUNDEL IS VERY WELL QUALIFIED. HE WILL MAKE A GOOD ADDITION TO THAT COMMISSION, AND I WOULD APPRECIATE YOUR POSITIVE VOTE. THANK YOU.

SPEAKER HADLEY: SENATOR STINNER, YOU ARE RECOGNIZED.

SENATOR STINNER: THANK YOU, MR. PRESIDENT. MEMBERS OF THE LEGISLATURE, I GUESS I'M GOING TO WEIGH IN ON THE WASTEWATER--AND ACTUALLY ITS "PRODUCED WATER"--SITUATION HERE. FIRST OF ALL I WANT TO SAY AND ECHO WHAT SENATOR SCHILZ HAS SAID. I'M SURE THIS IS A QUALIFIED CANDIDATE, AND I SUPPORT HIS CANDIDACY, BUT THOUGHT THAT I MIGHT EDUCATE YOU A LITTLE BIT ON MAYBE THE ORIGINS OF THIS WASTEWATER WELL. IT WAS ABOUT THE THIRD OR FOURTH DAY THAT WE WERE IN SESSION I GOT A CALL FROM TWO INDIVIDUALS. ONE FROM MITCHELL, A WOMAN FROM MITCHELL AND A WOMAN FROM SIOUX COUNTY THAT SAID THAT THERE WAS AN APPLICATION FOR A WASTEWATER WELL THAT INCLUDED 80 TRUCKLOADS A DAY GOING UP TO THIS WASTEWATER SITE AND DUMPING WASTEWATER AND THEY WANTED TO MAKE SURE THAT, FIRST OF ALL, THAT THE WATER WAS SAFE. SECONDARILY, IT WAS COMING FROM WYOMING AND COLORADO. AND SO WE STARTED TO CHECK IT OUT. MY LA DID SOME CALLING AROUND. CERTAINLY THERE WAS AN APPLICATION ON FILE. WE WERE TOLD BY THE OIL AND GAS COMMISSION THAT, YOU KNOW, THE WASTEWATER HAD TO COMPLY WITH EPA STANDARDS, CLEAN WATER STANDARDS, WHICH ARE FAIRLY RIGOROUS, BUT THEY DID NOT HAVE THE ABILITY TO TAX OR TO ASSESS THIS WATER COMING IN FROM OUT OF STATE. AND OBVIOUSLY THEN WITH 80 TRUCKLOADS GOING UP AND DOWN THE HIGHWAY, THAT'S 160...OUR ROADS AREN'T ENGINEERED TO ACCOMMODATE THAT. SO WE DID SOME RESEARCH AND WE WENT TO NORTH DAKOTA AND WE WENT TO PENNSYLVANIA, OHIO. OHIO HAD THE TYPE OF LEGISLATION THAT WE WERE LOOKING FOR WE THOUGHT WOULD BE THE BEST FIT. SO I INTRODUCED LB512...I THINK IT'S LB512, IT'D BE LB512 OR LB513, I CAN'T RECALL THE NUMBER. BUT IN ANY EVENT, WHAT THE LEGISLATION DOES IS IT ASSESS A 10-CENT FEE FOR MONITORING THE WELL FOR EACH GALLON THAT'S DISPOSED AT A 10-CENT FEE TO FIX ROADS FOR CITY AND COUNTY ROADS. NOW, THE STATE DOES GET SOME FUNDING FROM THE HIGHWAY FUNDS FROM THE, I THINK IT'S CALL THE APPORTIONMENT TAX OR PRORATION OR HOWEVER THAT WORKS. SO WE PROCEEDED IN SUBMITTING THIS, BUT SINCE THAT TIME THIS HAS OBVIOUSLY MORPHED INTO MORE THAN JUST A SIMPLE ASSESSMENT SITUATION. AS WE STARTED TO RESEARCH THIS, WE DID FIND OUT THAT THERE IS CONCERNS ABOUT THE TYPE OF WATER, THE TESTING OF THE WATER, WHO'S DOING THE TESTING, SAFETY CONSIDERATIONS, ROAD CONSIDERATIONS. THERE WAS A WHOLE LOT OF THINGS THAT REALLY CAME OUT IN THE TESTIMONY.

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NOW, I WILL TELL YOU THAT THE OIL AND GAS COMMISSION IN THE COMMITTEE MEETING INDICATED THAT THEY WERE FOR THIS LEGISLATION. THEY MAY HAVE TESTIFIED IN A NEUTRAL CAPACITY TO BE MORE ACCURATE, BUT THEY WANTED TO WORK WITH THE LEGISLATURE BECAUSE THIS WAS A HIGH-VOLUME WELL. AND A HIGH-VOLUME WELL IN A FAIRLY ENVIRONMENTALLY SENSITIVE AREA WE NEEDED TO PROBABLY LOOK AT SOME OF THE THINGS THAT THEY DO. SO I DID REQUEST A STUDY OVER THE SUMMERTIME TO BRING ALL THE FOLKS TOGETHER. AND WHAT I ALSO FOUND OUT IN MY RESEARCH IS THE RIGOR THAT COLORADO AND WYOMING HAVE. I MEAN, THEIR PROCESS TAKES TWO YEARS IN COLORADO; OURS TAKES SOMETHING LIKE ABOUT A SIX-MONTH PERIOD OF TIME. BUT THE RIGOR AS IT RELATES TO REGULATIONS IS ABOUT...OH, IF YOU HAD TO MEASURE IT IT'S ABOUT AN INCH, INCH AND A HALF THICK IN COLORADO, AND OURS IS MUCH LESS. SO THAT'S THE THINGS THAT WE NEED TO LOOK AT. I THINK THE OIL AND GAS COMMISSION WANTS TO WORK WITH US, BUT WE NEED TO HAVE ALL OF THESE FOLKS COME TOGETHER. SO I'VE ASKED THEM TO DELAY THIS APPLICATION UNTIL WE HAVE THE OPPORTUNITY TO REALLY TAKE A LOOK AT HOW WE DO THINGS, BECAUSE I THINK WATER IS THE KEY ISSUE HERE. CLEAN WATER IS THE KEY ISSUE. [LB512]

SPEAKER HADLEY: ONE MINUTE.

SENATOR STINNER: THANK YOU. YOU KNOW, AND THAT'S THE RESOURCE THAT WE HAVE TO PROTECT. WE TALK ABOUT SUSTAINABILITY AND QUALITY OF WATER AND AGRICULTURE BEING OUR BIG BUSINESS. WE JUST NEED TO MAKE SURE THAT WE'RE NOT DOING SOMETHING THAT CAN'T BE REVERSED AND HARMS THAT SITUATION. SO THAT'S REALLY MY INPUT INTO THIS SITUATION. AND, AGAIN, I WOULD ENDORSE THIS PERSON, A GEOLOGIST, OBVIOUSLY HE HAS QUALIFICATIONS FOR THIS. WE'VE GOT A WAYS TO GO ON THIS PRODUCED WATER ISSUE AND HOPEFULLY WE CAN GET TOGETHER THIS SUMMER AND PRODUCE SOME VERY GOOD RESULTS. THE GOLD STANDARD IS REALLY WHAT WE'RE TRYING TO GET TO AND I THINK SENATOR HAAR WILL SPEAK TO THAT. THANK YOU.

SPEAKER HADLEY: SENATOR KEN HAAR, YOU'RE RECOGNIZED.

SENATOR HAAR: MR. PRESIDENT AND MEMBERS OF THE BODY, FOR NEBRASKA, WATER IS NEBRASKA GOLD, AND WE DO WANT THE GOLD STANDARD. I DO WANT TO TELL YOU THAT THIS IS BEING TRUCKED IN FROM ANOTHER STATE, FROM COLORADO, FOR EXAMPLE. AND I WANT TO...I PRINTED OUT THE REGULATIONS

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FOR COLORADO AND FOR NEBRASKA. THE REGULATIONS IN COLORADO ARE AT LEAST FIVE TO EIGHT TIMES HEAVIER THAN THE REGULATIONS...WE DIDN'T COUNT PAGES, BUT AT LEAST NEBRASKA'S IS 50 PAGES. I'D ESTIMATE THAT COLORADO'S ARE 300 TO 400 PAGES LONG. AND I'M GOING TO TELL YOU SOME OF THE CONTRASTS. FOR EXAMPLE, IN COLORADO...AND THEN YOU HAVE TO ASK THE QUESTION WHY ARE THEY BRINGING THE WASTEWATER TO COLORADO...FROM COLORADO INSTEAD OF DISPOSING OF IT THERE? COLORADO REQUIRES A \$1 MILLION BOND REQUIREMENT; NEBRASKA REQUIRES \$10,000. THAT'S LESS THAN THE INSURANCE YOU NEED TO HAVE ON YOUR CAR. COLORADO REQUIRES FINANCIAL ASSURANCE OF THE COMPANY, WILDLIFE PROTECTION, DUST AND NOISE PREVENTION, TRAFFIC PLANS TO MAKE SURE THE ACCESS ROADS ARE GOOD, AND CLEAR PUBLIC HEARING REQUIREMENTS. NEBRASKA HAS NONE OF THESE. COLORADO AGAIN HAS A \$1 MILLION BOND REQUIREMENT; WE HAVE \$10,000. HOW ABOUT THIS ONE? NEBRASKA'S REQUIREMENT IF A LEAK IS DETECTED IN ONE OF THESE WELLS WHERE THEY'VE INJECTED WASTEWATER, THEY HAVE 90 DAYS TO BEGIN CAPPING A WELL WHEN THE LEAK IS DETECTED. SO ONCE THE LEAK IS DETECTED, THEY HAVE 90 DAYS, AND THE 90 DAYS CAN BE EXTENDED BY THE DIRECTOR. THAT'S NOT THE CASE WITH COLORADO. IN NEBRASKA, YOU HAVE 90 DAYS AFTER THE LEAK IS DETECTED TO BEGIN CAPPING THAT WELL, AND WE'RE TALKING ABOUT NEBRASKA WATER HERE. AND THE ONLY REQUIREMENT IN NEBRASKA LAW IS TO PREVENT POLLUTION AND THERE ARE NO DETAILS ON HOW TO DO THIS. SO WHY WOULD THEY WANT TO DUMP THEIR FRACKING WASTEWATER IN NEBRASKA INSTEAD OF COLORADO? GEE. NEBRASKA WATER IS NEBRASKA GOLD AND WE NEED A GOLD STANDARD. AND SO THERE ARE ISSUES THAT PEOPLE TALKED ABOUT, BUT THEY'RE NOT A PART OF THE PUBLIC RECORD BECAUSE IT WAS DETERMINED THAT ONLY PEOPLE WITHIN A HALF MILE...PROPERTY INTERESTS WITHIN A HALF MILE OF THE INJECTION WELL WOULD BE ON THE OFFICIAL PUBLIC RECORD. THERE ARE NO STANDARDS FOR SAFETY, NO STANDARDS TO PROTECT WILDLIFE, NO STANDARDS TO PROTECT THE ROAD. ONE LITTLE OLD LADY AND, AGAIN, I'D LOVE TO QUOTE HER BUT THERE ARE NO TRANSCRIPTS FROM THAT, QUOTE, PUBLIC HEARING THAT BEGAN THE MEETING, SHE WAS CONCERNED ABOUT, YOU KNOW, WHAT IF A TRUCKER RUNS BEHIND AND THEY JUST DUMP THEIR WASTEWATER IN A DITCH. WHO'S RESPONSIBLE? WELL, WE WERE TOLD LATER, THAT WOULD BE UP TO THE TRUCKING COMPANY. T-REX WOULD NOT BE HELD RESPONSIBLE FOR THAT. WE NEED MORE REGULATION. WE NEED MORE TIME TO LOOK AT...AND SO I'VE GOT TO SAY, TOO, THAT I SUPPORT MR. RUNDEL, BUT HE'S GOING TO BE A PART OF THIS COMMISSION, AND SO I THINK WE NEED TO TALK ABOUT WHAT THIS



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COMMISSION HAS BEEN DOING. IT NEEDS SOME REFORM. IT NEEDS BETTER RULES. AGAIN, COLORADO IS...

SPEAKER HADLEY: ONE MINUTE.

SENATOR HAAR: ...IS NOT A LIBERAL STATE, BUT THEY HAVE RULES TO REGULATE THIS KIND OF THING THAT ARE MUCH MORE EXTENSIVE, COVER MUCH MORE OF THE ISSUES THAT CONCERN THE PEOPLE THAT SHOWED UP AT THE HEARING IN SIDNEY. AND WE NEED TO HAVE THE SUMMER TO LOOK AT NEBRASKA RULES. AND THAT'S WHAT SENATOR STINNER ASKED FOR IN HIS LETTER. BUT NEITHER MY TESTIMONY OR SENATOR STINNER'S LETTER IS PART OF THE PUBLIC RECORD OF THAT MEETING IN SIDNEY. SO, AGAIN, THERE ARE MANY ISSUES THAT THE NEBRASKA GAS AND...RULES DON'T COVER, SUCH AS PAYING FOR DAMAGE TO INFRASTRUCTURE LIKE ROADS, PROTECTING SCHOOL CHILDREN FROM TRUCKERS WHO GET PAID BY THE NUMBER OF LOADS THEY HAUL, PROVIDING FOR MEANINGFUL PUBLIC...

SPEAKER HADLEY: TIME, SENATOR.

SENATOR HAAR: THANK YOU.

SPEAKER HADLEY: SENATOR DAVIS, YOU ARE RECOGNIZED.

SENATOR DAVIS: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. I JUST WANTED TO MAKE A FEW COMMENTS AND I APPRECIATE SENATOR HAAR BRINGING THIS TO OUR ATTENTION THIS MORNING. AND THE WORK THAT SENATOR STINNER IS DOING I THINK IS VERY IMPORTANT. I JUST WANT TO TAKE YOU ALL BACK A FEW YEARS WHEN THERE WAS A COLORADO COMPANY THAT TALKED ABOUT PUTTING WELLS IN, IN GRANT COUNTY AND SHIPPING THAT WATER TO DENVER ON RAILCARS AND THE FEAR AND CONCERN THAT WAS OUT THERE AT THE TIME AND ACROSS THE STATE. YOU KNOW, I KNOW THAT ISSUE WAS DISCUSSED IN HERE. AND I AM NOT OPPOSED TO DEVELOPING OUR OIL AND GAS INDUSTRY, BUT I DON'T WANT IT TO BE THE WASTE HOLDER FOR OTHER STATES. I DON'T THINK THAT'S APPROPRIATE. I'M VERY MUCH IN FAVOR OF WHAT SENATOR STINNER IS TRYING DO, AND I WOULD URGE EVERYBODY IN THE BODY TO COSIGN THAT RESOLUTION OF HIS FOR AN INTERIM STUDY, AND THEN LET'S GET SOME SERIOUS LEGISLATION DONE NEXT YEAR TO MAKE SURE THAT WE HAVE STANDARDS THAT ARE THE SAME AS EVERYBODY ELSE IN THE NATION. SO

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WITH THAT, I'LL YIELD THE REST OF MY TIME TO SENATOR STINNER IF HE WOULD LIKE IT.

SPEAKER HADLEY: SENATOR STINNER WAIVES. SENATOR KRIST, YOU ARE RECOGNIZED.

SENATOR KRIST: MORNING, MR. PRESIDENT AND COLLEAGUES, AND GOOD MORNING THROUGHOUT NEBRASKA. I JUST...THIS IS NOT ABOUT THIS APPOINTMENT. THIS IS A CONVERSATION THAT WE NEED TO HAVE. I'LL TAKE YOU BACK A LITTLE BIT, COLLEAGUES, FOR THOSE OF YOU WHO WERE NOT HERE. WE CAME IN FOR A SPECIAL SESSION CALLED BY GOVERNOR HEINEMAN, ENCOURAGED BY SENATOR JOHANNIS AT THE TIME, TO TALK ABOUT A PIPELINE. AND WHAT HAPPENED IN THAT PIPELINE DISCUSSION OVER THE SPECIAL SESSION AND THE FOLLOWING SESSION LEFT ME UNCOMFORTABLE WITH THE REGULATORY REQUIREMENTS. WE, IN JUDICIARY, HAD THE UNIQUE OPPORTUNITY OF GOING THROUGH THAT EXPERIENCE ALL OVER AGAIN THIS YEAR WHEN SENATOR CHAMBERS BROUGHT A BILL TO US, AND THE DISCUSSION WAS ENLIGHTENING. DAVID DOMINA CAME IN AND TALKED ABOUT RESTORING LANDS IN PERPETUITY WHERE A PIPELINE MIGHT BE, WHERE DESTRUCTION OF GROUNDWATER OR PROPERTY MIGHT HAVE HAPPENED, AND THAT'S NOT AFFORDED FOR WITHIN THE PROCESS THAT WE PUT INTO PLACE LEGISLATIVELY AND BY THE GOVERNOR'S PEN SEVERAL YEARS AGO. PROBABLY A MISTAKE. PROBABLY SHOULD HAVE SLOWED DOWN JUST A LITTLE BIT AND MADE SURE THAT ALL THOSE CONSIDERATIONS WERE IN PLACE. THIS DISCUSSION FOR ME IS ALARMING ON A COUPLE OF LEVELS. MANY OF YOU KNOW THAT MY OTHER FULL-TIME JOB IS FLYING THE UNITED STATES ARMY CORPS OF ENGINEERS AROUND THIS COUNTRY. AND I'VE BEEN ABLE TO SEE FRACKING AT ITS WORST AND AT ITS BEST, WHAT IT HAS DONE FOR THE ECONOMY, AND WHAT IT IS DOING TO THE LANDSCAPE AND TO THE LAND. IT IS EXTREMELY ALARMING THAT THE STATE OF NEBRASKA HAS LESS RESTRICTIONS ON ACCEPTING SOMEBODY ELSE'S DIRTY WATER. LET'S BE REALISTIC ABOUT IT. COLORADO'S A BIG STATE. THEY SHOULD FIND SOME PLACE TO DUMP THEIR OWN DIRTY WATER OR AT LEAST WE SHOULD CONFORM TO THE SAME STANDARDS IN NEBRASKA WHERE WE CALL OUR WATER GOLD THAT OTHER STATES AROUND US WOULD SET STANDARDS FOR. I'M REMINDED OF THE LOW-LEVEL NUCLEAR LANDFILL THAT WE ALMOST HAD IN THIS STATE IN WESTERN NEBRASKA. I WONDER IF SENATOR STINNER WOULD YIELD TO A QUESTION OR TWO.

SPEAKER HADLEY: SENATOR STINNER, WILL YOU YIELD?

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SENATOR STINNER: YES.

SENATOR KRIST: SO YOU DESCRIBED IN SOME DETAIL ON THE MIKE, SENATOR, THE PROCESS OF FRACKING AND I BELIEVE I UNDERSTAND THE RUDIMENTARY FORMS, BUT ESSENTIALLY WHAT WE'RE SUGGESTING HERE IS THIS WELL IN NEBRASKA WHICH NO LONGER IS PRODUCTIVE, WE'RE GOING TO DUMP THE DIRTY WATER, FRACKING WATER FROM COLORADO AND ALLOW THEM TO DUMP IT HERE IN NEBRASKA. IS THAT ACCURATE?

SENATOR STINNER: YES, THAT'S ACCURATE. AND I WILL SAY THIS JUST TO ADD THAT THERE...AS WE STAND HERE TODAY, THERE IS WASTEWATER BEING PRODUCED IN KANSAS, COLORADO BEING DUMPED IN NEBRASKA AND NEBRASKA PRODUCING WASTEWATER THAT'S ALSO IS BEING DUMPED IN KANSAS AND COLORADO. SO IT'S A LITTLE BIT OF BOTH. THE THING THAT'S DIFFERENT ABOUT THIS WELL IS THE HIGH VOLUME OF IT. I MEAN, WHEN YOU'RE TALKING ABOUT A COUPLE HUNDRED GALLONS OF WATER IN ONE SITUATION, NOW WE'RE TALKING ABOUT THOUSANDS OF GALLONS THAT ADDS UP OVER A 30-YEAR TIME TO A BILLION GALLONS, THAT'S A LITTLE DIFFERENT SOLUTION. SO THAT'S THE PART OF IT THAT I THINK WORRIES THE OIL AND GAS COMMISSION. THEY SPOKE TO IT IN COMMITTEE, BUT IT ALSO WORRIES ALL OF US BECAUSE WE WANT TO ENSURE THAT WATER STAYS SAFE.

SENATOR KRIST: THANK YOU. AND WELL SAID, SENATOR STINNER. WHICH IS ANOTHER ONE OF MY CAUTIONS. LET'S SLOW DOWN...

SPEAKER HADLEY: ONE MINUTE.

SENATOR KRIST: ...AND DO THIS RIGHT. AGAIN, THIS IS NOT ABOUT THE CONFIRMATION THAT WE HAVE AT HAND. I'LL SUPPORT THE CONFIRMATION FROM NATURAL RESOURCES, BUT I'LL ALSO SUPPORT SOME CAREFUL THOUGHT ABOUT OUR REGULATORY PROCESS OF ACCEPTING AND FOR THAT MATTER DUMPING THIS DIRTY WATER, THIS FRACK WATER. THANK YOU.

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED.

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, I SUPPORT...I'LL VOTE FOR THE NOMINATION ALSO. I WOULD LIKE

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TO ASK SENATOR SCHNOOR A QUESTION OR TWO BECAUSE I DON'T SEE "GENERAL" GARRETT HERE. SENATOR SCHNOOR, IF YOU WILL YIELD.

SPEAKER HADLEY: SENATOR SCHNOOR, WILL YOU YIELD TO A QUESTION?

SENATOR SCHNOOR: I WILL.

SENATOR CHAMBERS: SENATOR SCHNOOR, YOU WERE IN THE MILITARY FOR HOW MANY YEARS?

SENATOR SCHNOOR: 20.

SENATOR CHAMBERS: AND WHAT BRANCH WERE YOU IN?

SENATOR SCHNOOR: AIR FORCE.

SENATOR CHAMBERS: DID YOU EVER HAVE AN OCCASION TO KNOW OR COME IN CONTACT WITH WHAT'S CALLED A LATRINE?

SENATOR SCHNOOR: ONCE OR TWICE.

SENATOR CHAMBERS: WHAT IS A LATRINE?

SENATOR SCHNOOR: IT'S A PLACE WHERE YOU USE THE BATHROOM.

SENATOR CHAMBERS: IS IT A FLUSH TOILET OR DO YOU DIG A HOLE OF VARIOUS DEPTHS AND SIZE DEPENDING ON HOW MANY PEOPLE HAVE TO USE IT AND IT'S LIKE AN OUTDOOR OUTHOUSE WITHOUT A HOUSE ON TOP OF IT, MORE OR LESS?

SENATOR SCHNOOR: WELL, I WOULD JUST SAY IT'S AN OUTHOUSE. THERE'S A WIDE VARIETY OF OPTIONS THAT CAN BE USED.

SENATOR CHAMBERS: BUT IT IS A PLACE FOR THE COLLECTION AND GATHERING OF HUMAN WASTE. WOULD YOU AGREE WITH THAT?

SENATOR SCHNOOR: YES, YES.

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SENATOR CHAMBERS: THANK YOU. MEMBERS OF THE LEGISLATURE, I DON'T WANT NEBRASKA TO BECOME THE LATRINE OF THE MIDWEST. WHEN I HEAR DISCUSSIONS ON...THIS IS AN UNRELATED BILL SOME PEOPLE MAY THINK, THE EXPANSION OF MEDICAL COVERAGE, I HEAR A LOT OF PEOPLE SAYING THAT THIS COULD RESULT IN DEBTS BEING PAID BY FUTURE GENERATIONS. WE KNOW THAT'S A SHAM, BUT WHAT WE'RE TALKING ABOUT HERE DEALS LITERALLY, NOT FIGURATIVELY, NOT ANALOGOUSLY TO FUTURE GENERATIONS IN THIS STATE AND TO THE WELFARE OF THE STATE ITSELF. AT A MOMENT IN TIME YOU HAVE A COMMISSION WHICH WILL ALLOW THIS STATE TO BECOME THE LATRINE AND THIS WATER WITH CHEMICALS AND WE DON'T KNOW WHAT ALL WILL BE DUMPED IN THIS STATE WHICH IS NOW THE LATRINE FOR ALL OF THESE OTHER STATES THAT PRODUCE THE WASTE BUT THEY DON'T WANT TO CLEAN IT UP IN THEIR OWN HOUSE. SO IT'S LIKE A BABY WHO MESSES IN A DIAPER BUT DOESN'T HAVE TO CLEAN IT. BUT IN THIS CASE THE BABY IS NOT IN NEBRASKA BUT THE DIAPER AND WHAT IS IN IT WILL BE PUT IN NEBRASKA. IS THERE ANYBODY WHO CAN ASSURE ANY OF US THAT WHAT WILL BE IN THOSE TRUCKS WILL BE WHAT WE'RE TOLD WILL BE IN THOSE TRUCKS? THERE HAVE BEEN MANY INSTANCES OF CORRUPTION AND ACTUAL CRIMINAL ACTIVITY IN THE TRANSPORTING AND DUMPING OF VARIOUS ITEMS AND SUBSTANCES WHICH OUGHT NOT TO BE DONE. THESE TRUCKS COULD BE A PART OF A SCHEME THAT WOULD PUT CHEMICALS OTHER THAN THAT WHICH IS JUST INVOLVED IN FRACKING AND BRING IT AND DUMP IT IN NEBRASKA. AND IF SOMEBODY BECOMES AWARE OF IT AND THERE IS AN INVESTIGATION AND THEY FIND OUT THAT CHEMICALS THAT WOULD NOT BE ALLOWED TO BE DUMPED INTO STREAMS, INTO RIVERS, INTO ANYPLACE WHERE THE GROUNDWATER OR SURFACE WATER EVEN CAN BE AFFECTED, BUT IT WAS PUT IN THESE TRUCKS, TRUCKED TO NEBRASKA AND DUMPED AND YOU FIND OUT AFTER THE FACT, YOU CANNOT RECTIFY THAT. THIS THAT IS BEING CONTEMPLATED FOR NEBRASKA TO BE THE RECIPIENT OF OUGHT NOT TO BE DONE. I WOULD LIKE TO ASK SENATOR SCHILZ A QUESTION OR TWO, AND HE MAY NOT HAVE THE ANSWER TO THIS.

SPEAKER HADLEY: SENATOR SCHILZ, WILL YOU YIELD TO A QUESTION?

SENATOR SCHILZ: YES, I WILL.

SENATOR CHAMBERS: SENATOR SCHILZ, EVEN THOUGH YOUR COMMITTEE WAS THE ONE FOR THESE CANDIDATES TO COME THROUGH, DO YOU HAVE ANY PARTICULAR EXPERTISE WITH REFERENCE TO FRACKING OR THE WASTE MATERIAL CREATED THEREBY?

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SENATOR SCHILZ: NOT VERY MUCH, SENATOR.

SPEAKER HADLEY: ONE MINUTE.

SENATOR CHAMBERS: OKAY. THEN I WON'T ASK YOU. THANK YOU. MEMBERS OF THE LEGISLATURE, FOR SOMEBODY WHO IS A VILLAIN AND HAS HORNS AND A TAIL BUT KEEPS THEM HIDDEN IN THIS LEGISLATURE I GET AN AWFUL LOT OF CALLS FROM YOU ALL'S PART OF THE STATE. WHEN I SAY A LOT OF CALLS, SOMEBODY CAN CHECK MY PHONE BILL AT THE PHONE COMPANY AND SEE HOW MANY CALLS I GET FROM THE RURAL AREAS, AND YOU KNOW WHAT PEOPLE TELL ME? THAT THEY BELIEVE THAT I'M CONCERNED ABOUT THE PEOPLE IN RURAL NEBRASKA EVEN THOUGH I DON'T LIVE THERE, THAT WHEN THEY CALL MY OFFICE THEY GET TO TALK TO ME, THEY GET TO TALK TO ME AT LENGTH. WHAT I HAVE DETECTED WITHOUT ANY EXPERTISE IN THIS AREA BUT FROM WATCHING THE NEWS...

SPEAKER HADLEY: TIME, SENATORS.

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT.

SPEAKER HADLEY: SENATOR HAAR, AND THIS IS YOUR THIRD TIME.

SENATOR HAAR: THANK YOU. MR. PRESIDENT, MEMBERS OF THE BODY, WATER IS LIFE AND IN NEBRASKA WATER IS GOLD, AND WE NEED AT LEAST A GOLD STANDARD. I WANT TO START BY SAYING I'M NOT DOWN ON TRUCKERS. THE QUESTION THAT I BROUGHT UP--AND THIS WAS BROUGHT UP BY A LITTLE WOMAN WHO TESTIFIED AT THAT UNOFFICIAL PUBLIC HEARING--SHE WAS CONCERNED WHAT HAPPENS IF THERE IS DUMPING. WHO'S LIABLE? IT WAS A QUESTION OF LIABILITY AND IN CURRENT NEBRASKA LAW IT'S NOT DEFINED. SO IF THERE WAS DUMPING OR AN ACCIDENT AND THERE WAS UNINTENTIONAL DUMPING BECAUSE OF AN ACCIDENT, THAT'S NOT IN NEBRASKA LAW. WELL, THERE IS A \$10,000 BOND REQUIREMENT; IN COLORADO, IT'S A MILLION DOLLAR BOND REQUIREMENT. I WANT TO BRING UP SOME OF THE OTHER THINGS, DO A LITTLE BIT OF EDUCATING, TOO. WE LEARNED DURING THE WHOLE KEYSTONE DEBATE THAT THE OGALLALA AQUIFER IS NOT A BIG UNDERGROUND POND WHERE YOU COULD PUT ON SCUBA GEAR AND GO SWIMMING AROUND. IT'S GRAVEL AND ROCK SATURATED WITH WATER. WELL, WHERE THEY'RE PUTTING THE FRACKING FLUID IS NOT A BIG OPEN SPACE. THE FLUID HAS TO BE FORCED INTO THAT SPACE. IT'S AN ANCIENT SEABED, SO THERE BELOW THE OGALLALA

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AQUIFER...SO WATER HAS...THAT FRACKING WASTEWATER HAS TO BE FORCED, HAS TO BE FORCED INTO THAT UNDERGROUND ANCIENT SEABED. AND THEY'RE TALKING ABOUT MILLIONS AND MILLIONS OF GALLONS BEING PUT INTO THAT ABANDONED OIL WELL. WE HAVE ANOTHER EXAMPLE OF WHERE, GEE, IT WORKED IN THE PAST, WHY CAN'T WE JUST KEEP DOING THAT, AND THAT'S IN MEAD. AND THIS USED TO BE IN MY DISTRICT, NOW SENATOR JOHNSON HAS IT AND I'M SURE HE'S WELL FAMILIAR WITH IT. BUT DURING THE COLD WAR, THERE WERE MISSILE SILOS. THE FIRST ATLAS MISSILES IN MEAD IN THESE HUGE CONCRETE BUNKERS, AND EVERY SO OFTEN THEY'D BRING THEM OUT OF THE BUNKERS AND STAND THEM UP AND FILL THEM WITH FUEL AS PRACTICE. AND WHEN THE PRACTICE WAS DONE, THEY WOULD DRAIN THE FUEL, PUT THE...THEY WOULD RINSE THE TANKS WITH CHEMICALS, AND THOSE RINSE CHEMICALS GOT DUMPED IN THE DITCHES. AND THEN THE MISSILES GOT PUT AWAY. WELL, GUESS WHAT? NOW THAT'S A SUPERFUND SITE. IT'S GOING TO TAKE 100 YEARS AND HUNDREDS OF MILLIONS OF DOLLARS OR AT LEAST TENS OF MILLIONS OF DOLLARS TO CLEAN UP THAT DUMPING THE RINSE WATER OR THE RINSE CHEMICALS, NOT WATER, THE RINSE CHEMICALS FROM THOSE ATLAS MISSILES IN THE DITCHES. SO THE DECISIONS WE MAKE WITH FRACKING...INJECTING FRACKING WATER BACK INTO THE GROUND HAVE FOREVER CONSEQUENCES TO THEM. AND IT'S ONE OF THE POINTS THAT WAS BROUGHT UP BY A CITIZEN WHO HAD BEEN AN ENGINEER AND HE SAID, WHAT IS THE RISK WHEN WE DO THIS KIND OF INJECTION INTO THE GROUND BECAUSE WE'RE TALKING ABOUT DISPOSING OF SOMETHING OVER THE LIFE OF THE PLANET, OVER THE LIFE OF THE EARTH? WE NEVER, EVER WANT THAT FRACKING WASTEWATER TO LEAK BACK UP THE PIPES INTO THE AQUIFER. AND ONE OF THE THINGS ABOUT THIS WHOLE ISSUE IS THERE ARE CHEMICALS IN THAT FRACKING WASTEWATER THAT ARE CONFIDENTIAL. WE DON'T KNOW WHAT THEY ARE, AND THE INDUSTRIAL WORD IS, I CAN'T THINK OF IT RIGHT NOW, BUT IT'S CONFIDENTIAL. WE DON'T EVEN KNOW WHAT'S GOING INTO THAT FRACKING WATER. CALIFORNIA IS THE FIRST STATE I BELIEVE NOW...

SPEAKER HADLEY: ONE MINUTE.

SENATOR HAAR: ...THAT REQUIRES DISCLOSURE OF EVERYTHING THAT GOES INTO THE FRACKING, SO AT LEAST YOU KNOW WHAT YOU'RE DISPOSING OF. BUT WE DON'T EVEN KNOW WHAT'S IN...WE KNOW IT'S SALTWATER BECAUSE IT COMES FROM AN ANCIENT SEABED, BUT WE DON'T KNOW EXACTLY WHAT'S IN THAT WASTEWATER. THERE ARE SOME CONFIDENTIAL CHEMICALS THERE. SO THAT'S ONE OF THE BIG ISSUES, AND THAT'S A CONCERN OF THE PEOPLE THAT LIVE IN THAT AREA. WE HAVE TO THINK OF DISPOSING OF THIS FRACKING

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WATER OVER THE LIFE OF THE EARTH, NOT JUST MY LIFETIME, NOT JUST THE LIFETIME OF THE PAGES AND SO ON, BUT OVER THE LIFE OF THE EARTH. SO WHAT SENATOR STINNER IS TALKING ABOUT THAT WE HAVE TO LOOK AT...WE HAVE TO ASK FOR A DELAY, WE HAVE TO ASK THOSE QUESTIONS. HOW DO WE BE ABSOLUTELY SURE THAT THOSE PIPES THAT ARE COATED WITH CEMENT WITHIN A PIPE AND COATED WITH CEMENT ARE NEVER, NEVER GOING TO LEAK...

SPEAKER HADLEY: TIME, SENATOR.

SENATOR HAAR: THANK YOU.

SPEAKER HADLEY: THOSE IN THE QUEUE ARE SENATORS HANSEN, BLOOMFIELD, DAVIS, AND CHAMBERS. SENATOR HANSEN, YOU ARE RECOGNIZED.

SENATOR HANSEN: THANK YOU, MR. PRESIDENT. SENATOR HAAR HAD ASKED FOR SOME MORE TIME, SO I'LL YIELD MY BALANCE TO HIM.

SPEAKER HADLEY: YOU'RE YIELDED 4 MINUTES AND 50 SECONDS, SENATOR HAAR.

SENATOR HAAR: THANK YOU, SENATOR HANSEN. SO BEFORE WE GO AHEAD WITH THIS GROUP OF SKIMPY RULES THAT WE HAVE HERE IN NEBRASKA, WE NEED TO LOOK REALLY CAREFULLY AT HOW DO WE DISPOSE OF THIS WASTEWATER IF IT COMES TO NEBRASKA. HOW DO WE DEPOSE OF THE WASTEWATER OVER THE LIFE OF THE EARTH? NOW SENATOR STINNER'S BILL AND PERHAPS BECAUSE OF INTERSTATE COMMERCE AND SO ON, PERHAPS SOME WASTEWATER, FRACKING WASTEWATER, WILL BE INJECTED FROM OTHER STATES IN NEBRASKA. SO IN A CERTAIN RESPECT WE MAY BECOME A LATRINE, BUT WE'RE NOT EVEN CHARGING FOR THAT. WE'RE NOT CHARGING A QUARTER TO USE THE LATRINE. AND I THINK THAT'S ONE OF THE THINGS THAT NEEDS TO BE DISCUSSED THIS SUMMER. HOW DO WE COLLECT THE MONEY TO TAKE CARE OF THE ROADS THAT AREN'T BUILT TO COVER 40 TO 80 SEMI LOADS OF FRACKING WATER PER DAY? ONE OF THOSE ROADS, BY THE WAY, AND AGAIN THIS IS BRINGING UP ISSUES THAT WERE RAISED AT THAT MEETING, THIS ROAD GOES BY SEVERAL SCHOOLS, AND ONE OF THE SCHOOLS IS A SCHOOL WHERE KIDS HAVE TO CROSS THE ROAD TO GO TO LUNCH. SO NOW YOU HAVE A SCHOOL WITH 40 TO 80 OR WHATEVER IT IS SEMI LOADS EXTRA GOING BY EVERY DAY, AND THERE ARE NO PROVISIONS OF THAT IN THE PERMITTING PROCESS. IF THIS



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IS GOING TO HAPPEN, THERE HAS TO BE SAFETY PROVISIONS IN THAT PERMIT. THEN WHAT ABOUT PATHWAYS, AND THIS WAS BROUGHT UP BY ANOTHER ENGINEER WHO CAME AND TESTIFIED, PATHWAYS OF MIGRATION FOR WASTE, THAT WASTEWATER BACK INTO THE AQUIFER. AGAIN, WHAT IF THERE IS AN EARTHQUAKE AND THAT PIPE GETS BROKEN? HOW DO WE KNOW THAT OVER THE LIFE OF THE EARTH, THAT WASTEWATER IS NOT GOING TO COME BACK AND CONTAMINATE OUR AQUIFERS? HERE'S ANOTHER ISSUE, AND THIS WAS BROUGHT UP BY LOCAL PEOPLE AT THAT HEARING. I TOOK NOTES, I WISH I COULD READ YOU THE TRANSCRIPT BUT THE HEARING THAT I WENT TO WAS NOT OFFICIAL. IT WAS SOMETHING THEY JUST ALLOWED US TO GET UP AND TALK BEFORE THEIR OFFICIAL MEETING. THERE'S NO INFRASTRUCTURE TO SUPPORT ACCIDENTS. FOR EXAMPLE, WHO TRAINS THE VOLUNTEER FIRE DEPARTMENTS AND THOSE LOCAL RESPONDERS WHO WILL HAVE TO COME AND CLEAN UP AN ACCIDENT? IF THERE'S AN ACCIDENT WITH ONE OF THESE SEMIS FOR WHATEVER REASON, WHO'S GOING TO CLEAN IT UP, AND HOW'S IT GOING TO BE CLEANED UP, AND WHO'S GOING TO PAY FOR THAT TRAINING? ANOTHER PERSON BROUGHT UP THAT THIS APPLICATION SEEMS TO BE TOTALLY OPEN ENDED. THERE'S REALLY NOT AN UPPER LIMIT ON HOW MUCH THEY CAN INJECT. AS LONG AS THEY CAN PUT THE PRESSURE PUMPS ON THAT WELL AND INJECT IT INTO THE EARTH THEY CAN INJECT ABOUT AS MUCH AS THEY WANT TO. THERE ARE QUESTIONS, AND THIS WAS BROUGHT...THIS IS ALL STUFF THAT WAS BROUGHT UP AT THE PUBLIC HEARING. THERE ARE QUESTIONS ABOUT THE COMPANY, T-REX, AND THEIR FINANCIAL BACKING AND THE FACT THAT THE COMPANY THAT THEY BOUGHT THEIR COMPANY FROM HAD GONE INTO BANKRUPTCY. SO THEY DON'T HAVE A LOT OF EXPERIENCE IN DOING THIS SORT OF THING. WE HAD PEOPLE COMING FROM...ASKING ABOUT THE AGE OF THE PIPE. FOR EXAMPLE, THEIR...

SPEAKER HADLEY: ONE MINUTE.

SENATOR HAAR: THANK YOU. THE WELL, THE ABANDONED OIL WELL THAT THEY'RE INJECTING THIS FRACKING WATER UNDER GREAT PRESSURE IS SOMETHING LIKE 15 YEARS OLD. WHAT ABOUT THE...DON'T PIPES RUST? YOU KNOW, WHAT ABOUT THE AGE OF THAT PIPE? AGAIN, WHAT ABOUT LOOKING AT THIS FOR THE OVER THE LIFE OF THE EARTH KINDS OF THINGS? SO IF FRACKING WATER COMES TO NEBRASKA, WE'VE GOT TO HAVE A GOLD STANDARD, MAYBE A PLATINUM STANDARD FOR PROTECTING OUR WATER, FOR PROTECTING OUR CHILDREN, FOR PROTECTING OUR ROADS. AND I, AGAIN, WOULD AGREE THAT THIS COMMISSION WITH THIS NEW COMMISSIONER WHO I WILL VOTE FOR HAS

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TO GIVE THE LEGISLATURE A CHANCE TO HAVE A SUMMER HEARING SO THAT WE CAN LOOK AT THESE RULES AND ASK QUESTIONS.

SPEAKER HADLEY: TIME, SENATOR. SENATOR BLOOMFIELD, YOU ARE RECOGNIZED.

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. SOMEWHERE ALONG THE LINE IN SENATOR HAAR'S LONG DISCUSSION THIS MORNING HE MENTIONED WE HAVE TO PROTECT THE CHILDREN FROM TRUCKERS. HAVING MADE MY LIVING IN THAT INDUSTRY FOR A NUMBER OF YEARS I HAVE SOME QUESTIONS ABOUT THAT. I WENT OVER AND ASKED SENATOR HAAR OFF THE MIKE ABOUT IT AND HE SAID HE'D LOVE TO TALK ABOUT IT. WELL, I HAVEN'T HEARD MUCH YET, SO HERE'S YOUR OPPORTUNITY, SENATOR. TO ME YOU, HAVE MALIGNED TRUCKERS TO THE POINT THAT THEY ARE A DANGER TO CHILDREN. I WISH YOU WOULD YIELD TO A QUESTION AND TAKE A BRIEF OPPORTUNITY TO CLARIFY THAT.

SENATOR HAAR: YES.

SPEAKER HADLEY: SENATOR HAAR, WILL YOU YIELD?

SENATOR HAAR: YES.

SENATOR HAAR: WOULD YOU LIKE ME TO RESPOND TO THAT?

SENATOR BLOOMFIELD: YES, I WOULD.

SENATOR HAAR: OKAY. I THOUGHT THAT I HAD RESPONDED. MY ISSUE ABOUT SPILLS AND SO ON IS WHO HAS THE FINANCIAL LIABILITY. AND IN THE CASE...I DIDN'T BRING UP THE CASE ABOUT THE SCHOOLS. THE THINGS I WAS TALKING TO YOU ABOUT, INCLUDING THE DUMPING THAT COULD HAPPEN AND THEN WHO'S RESPONSIBLE...

SENATOR BLOOMFIELD: OKAY.

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SENATOR HAAR: ...WERE PEOPLE FROM THOSE SCHOOLS WHOSE CHILDREN CROSS THAT ROAD EVERY DAY AND THEY'LL NOW HAVE AN ADDITIONAL 40 TO 80 SEMIS TRAVELING DOWN THAT ROAD.

SENATOR BLOOMFIELD: SENATOR, I BELIEVE THAT WOULD BE THE RESPONSIBILITY OF THE STATE OR THE COUNTY AND DOES NOT...I DON'T BELIEVE WE SHOULD IMPUGN THE TRUCKING INDUSTRY BY SAYING THOSE TRUCKERS, WHICH IS THE DRIVER NOT THE CONTENT THAT MAY BE SPILLED, IS A DANGER TO CHILDREN. I'M GOING TO LEAVE IT THERE. I'M NOT COMFORTABLE WITH THAT STATEMENT AND I WANTED TO RESPOND TO IT ON THE RECORD. AND WITH THAT, HOPEFULLY SENATOR SCHILZ WILL HAVE SOMETHING TO SAY ABOUT OUR NOMINEE HERE. AND I WOULD YIELD HIM THE REMAINDER OF MY TIME.

SPEAKER HADLEY: SENATOR SCHILZ, YOU'RE YIELDED 2 MINUTES AND 54 SECONDS.

SENATOR SCHILZ: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE BODY. I THINK I'VE SAID EVERYTHING THAT WE NEED TO SAY ABOUT THE NOMINEE. HE IS QUALIFIED. HE IS...HE WILL MAKE A GOOD MEMBER OF THAT COMMITTEE. BUT I DO WANT TO SAY A COUPLE THINGS ABOUT SOME OF THE STUFF THAT'S BEEN TALKED ABOUT HERE. I THINK WE NEED TO UNDERSTAND THAT THE REGULATIONS OF THESE INJECTION WELLS, IT FALLS TO THE VERY TECHNICAL SIDE. I MEAN, IT ENTWINES STATE AND FEDERAL REGULATIONS. THE EPA IS ULTIMATELY RESPONSIBLE FOR HOW OUR RULES AND REGS AND OUR LAWS LOOK HERE IN THE STATE. WE HAVE TO FOLLOW THAT, AND THEN WE NEED TO UNDERSTAND THAT DEQ ALSO HAS SOME DUTIES IN THIS AS WELL. SO IT'S NOT JUST ONE ENTITY THAT TAKES A LOOK AT THIS. EPA IS THE ONE THAT SETS THE STANDARDS FOR THESE WELLS. DEQ THEN HAS SOME DUTIES THAT THEY'LL DO AND THEN WHAT THEY HAVE DONE IS THEY HAVE DELEGATED THAT, AS IS IN MANY STATES, THEY'VE DELEGATED THAT TO THE OIL AND GAS COMMISSION OR WHATEVER SIMILAR ENTITY IS IN THOSE OTHER STATES. SO HOW THINGS ARE DONE HERE IN NEBRASKA IS NOT UNCOMMON AND NOT VERY DIFFERENT FROM THE OTHER STATES THAT WE TALK ABOUT, BECAUSE WE'RE ALL TAKING THE EPA STUFF ON THESE CLASS II INJECTION WELLS. SO I THINK IT'S IMPORTANT TO UNDERSTAND THAT THERE IS A PROCESS OUT THERE. IT DIDN'T COME AROUND BY CHANCE. AND SO WE NEED TO BE MINDFUL OF THAT AS WELL. IT'S ALSO IMPORTANT THAT WE UNDERSTAND THAT WE WILL TAKE A LOOK AT THIS IN THE INTERIM STUDY AS SENATOR STINNER HAS INTRODUCED.

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THE NATURAL RESOURCES COMMITTEE WILL BE GETTING ON THIS SOONER RATHER THAN LATER AFTER SESSION IS OVER...

SPEAKER HADLEY: ONE MINUTE.

SENATOR SCHILZ: ...SO THAT WE CAN START TO EXPLORE WHERE WE NEED TO GO AND WHAT WE NEED TO HAVE IN PLACE FOR THESE TYPES OF INJECTION WELLS. THANK YOU, MR. PRESIDENT.

SPEAKER HADLEY: SENATOR DAVIS, YOU ARE RECOGNIZED.

SENATOR DAVIS: THANK YOU, MR. PRESIDENT. JUST WANTED TO MAKE A COUPLE OF POINTS. FIRST OF ALL, I DID SEND OUT AN ARTICLE JUST TO ALL OF YOU A LITTLE BIT AGO WHICH WAS TAKEN FROM THE THE NEW YORK TIMES SOME TIME AGO ABOUT THE EARTHQUAKE SITUATION IN OKLAHOMA WHERE A LOT OF FRACKING HAS TAKEN PLACE AND THE DAMAGE THAT CAN HAPPEN ABOVEGROUND. SO I THINK THAT'S JUST SOMETHING THAT EVERYBODY OUGHT TO BE AWARE OF, THAT THERE ARE OTHER THINGS THAT CAN HAPPEN IF YOU'VE GOT THE RIGHT FORMATIONS UNDERGROUND, WHICH, YOU KNOW, I DON'T KNOW WHAT'S OUT THERE. SO THAT'S SOMETHING WE NEED TO THINK ABOUT AS WE DEVELOP OUR PLANS DOWN THE ROAD. YOU KNOW, SOME YEARS AGO, SOME 30 OR 40 YEARS AGO, THERE WAS A PROPOSAL TO PULVERIZE COAL IN WYOMING AND RUN A PIPELINE DOWN ALONG THE RAILROAD TRACKS AND SHIP THAT COAL TO ARKANSAS THROUGH NEBRASKA, WHICH FORTUNATELY THE LEGISLATURE HAD THE GOOD SENSE TO NOT DO THAT. BUT I'VE ALWAYS WONDERED WHAT WOULD HAVE HAPPENED TO OUR STATE HAD WE DONE THAT, AND IT WOULD HAVE TAKEN SO MUCH WATER. I THINK NEBRASKA IS SIGNIFICANTLY DIFFERENT THAN A LOT OF OTHER STATES IN TERMS OF WE'VE GOT THIS TREMENDOUS WATER RESOURCE HERE THAT IS GOING TO MAKE US, WE'RE ALREADY THERE, BUT IT'S GOING TO MAKE US EVEN MORE OF A SIGNIFICANT AGRICULTURAL POWERHOUSE AS TIME GOES ON. WE NEED TO MAKE SURE WE'RE PROTECTING THAT. I REALIZE THAT THIS IS A TECHNOLOGY THAT'S IN PLACE AND HAS BEEN PROVEN, BUT A LOT OF STATES DON'T HAVE AT STAKE WHAT WE DO. SO I THINK WHAT WE NEED TO DO IS BE CAUTIOUS. I HAVE NO PROBLEM WITH THE INDIVIDUAL WHO HAS BEEN SELECTED AND TO BE APPOINTED TO THE COMMISSION. I THINK THAT'S GOOD APPOINTMENT. I JUST WANT TO MAKE THIS LAST POINT THAT WE NEED TO BE CAREFUL. AND WITH THAT, I'LL YIELD THE REST OF MY TIME TO SENATOR HAAR.

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SPEAKER HADLEY: SENATOR HAAR, YOU'RE YIELDED 3 MINUTES AND 15 SECONDS.

SENATOR HAAR: THANK YOU, SENATOR DAVIS. SENATOR BLOOMFIELD, I WOULD APOLOGIZE TO YOU IF I OFFENDED YOU IN ANY WAY. I AM NOT AFTER TRUCKERS; I AM AFTER THE LIABILITY IF AN ACCIDENT HAPPENS, AND THE CONCERN OVER ALL THOSE TRUCKS GOING BY SCHOOLS WAS RAISED BY A PARENT. SO AGAIN, I HAVE NOTHING AGAINST TRUCKERS, AND I APOLOGIZE IF I OFFENDED YOU ON THAT STATEMENT. THE EPA HAS BASIC RULES, BUT STATES CAN GO BEYOND THAT. AND, AGAIN, I WOULD COME BACK TO THE FACT THAT ANYONE WHO'D LIKE TO LOOK AT THESE RULES, I HAVE A COPY OF COLORADO'S AND I HAVE A COPY OF NEBRASKA'S. AND COLORADO'S IS MUCH MORE EXTENSIVE AND THAT'S THE ABILITY THAT THE... YOU KNOW, STATES CAN GO BEYOND WHAT THE EPA SAYS AND COLORADO, TO PROTECT ITS CITIZENS AND TO PROTECT ITS GROUND AND TO PROTECT ITS RESOURCES, HAS GONE WAY BEYOND WHAT NEBRASKA HAS IN TERMS OF RULES AND REGS AND PROTECTIONS. AND AGAIN ONE OF THE BIG THINGS IS... AND THE WORD IS PROPRIETARY, THAT RIGHT NOW WHEN PEOPLE DO FRACKING THEY PUT IN PROPRIETARY CHEMICALS. PROPRIETARY MEANS THEY CAN'T BE DIVULGED. WE NEED TO KNOW WHAT GOES INTO THE FRACKING, ANY FRACKING FLUID IN OUR STATE AND ALSO ESPECIALLY IF FRACKING WATER IS BROUGHT AND INJECTED INTO NEBRASKA. WE NEED TO KNOW EVERYTHING THAT'S IN THAT FRACKING FLUID TO PROTECT OVER THE LIFE OF THE EARTH, AS ONE OF THE PEOPLE SAID. SO WITH THAT, I WOULD CONCLUDE BY SAYING I SUPPORT AND I HOPE THE OIL AND GAS COMMISSION HAS HEARD THE REQUEST THAT THEY WAIT UNTIL THE SUMMER, THAT THEY WAIT UNTIL THE LEGISLATURE HAS HAD A CHANCE TO REVIEW THEIR RULES, COMPARE THEM TO OTHER STATES, BECAUSE IN NEBRASKA WATER IS GOLD. AND WE NEED A GOLD STANDARD FOR DEPOSITING ANY KIND OF FRACKING WASTEWATER INTO NEBRASKA'S ABANDONED WELLS. THANK YOU VERY MUCH.

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED.

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT. MEMBERS OF THE LEGISLATURE, I'D LIKE TO ASK SENATOR HAAR A QUESTION IF HE WOULD...

SPEAKER HADLEY: SENATOR HAAR, WOULD YOU YIELD?

SENATOR HAAR: YES.

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SENATOR CHAMBERS: SENATOR HAAR, YOU WERE LOOKING FOR A WORD THAT WAS APPLIED TO THESE UNNAMED CONFIDENTIAL CHEMICALS. WAS THE WORD PROPRIETARY?

SENATOR HAAR: THAT'S IT. YES, YES.

SENATOR CHAMBERS: THANK YOU. MEMBERS OF THE LEGISLATURE, PROPRIETARY HAS NO PLACE WHATSOEVER WHEN WE'RE TALKING ABOUT THE SAFETY AND WELFARE OF THE PUBLIC IN THIS STATE. LET THEM HAVE ALL THAT THEY WANT TO WHEN THEY'RE TALKING ABOUT COMPETING WITH EACH OTHER WHO ARE GOING TO DO THESE VARIOUS THINGS. BUT IF, AS SENATOR HAAR POINTED OUT, THERE SHOULD BE AN ACCIDENT AND A SPILL, THE RESPONDERS DON'T KNOW WHAT THEY'RE DEALING WITH. THEY DON'T KNOW WHETHER THERE'S SOME CHEMICAL WHICH MIGHT HAVE CANCER-CAUSING PROPENSITIES OR CAN MAKE A PERSON STERILE OR A FEMALE INFERTILE. AND TO ALLOW THAT KIND OF SITUATION IN MY VIEW IS INEXCUSABLE. I DON'T LIVE IN THE RURAL AREAS. I HEAR A LOT OF DISCUSSION ON THE FLOOR ABOUT RURAL AREAS GETTING THE SHORT END OF THE STICK WHEN IT COMES TO TAXATION AND SO FORTH. WE ARE TALKING ABOUT HEALTH, NOT JUST OF THOSE RURAL PEOPLE WHO WILL NOT BE CARRIED...COVERED BECAUSE THE HARDHEARTED, POLITICAL-MINDED LEGISLATURE WILL NOT EXTEND THE MEDICAL COVERAGE WHICH IS AVAILABLE WHICH THE FEDERAL GOVERNMENT WILL PAY THE LION'S SHARE FOR. BUT THAT'S DENIED TO THE PEOPLE FOR POLITICAL REASONS. WHAT HAPPENS WITH THE WATER, EVEN IF IT'S UNDER CERTAIN PARTS OF THE STATE TO A GREATER EXTENT THAN OTHERS, IS A MATTER OF STATEWIDE CONCERN JUST AS THE HEALTH OF THE CITIZENS IS A MATTER. BUT ON THIS ONE YOU HAVE CHEMICALS THAT ARE DETRIMENTAL. WHY, IF THERE'S NO PROBLEM WITH ANY OF THIS, DON'T THEY JUST BUILD A PIPELINE, EVEN IF IT'S TEMPORARY, FROM THE AREA THEY'RE GOING TO BE FRACKING AND HAVE A COLLECTING AREA, AND ALL OF THE FRACKING WATER WILL RUN THROUGH THAT PIPELINE INTO THE NEAREST RIVER IF IT'S NOT HARMFUL? WHY DO THEY HAVE TO FIND A PLACE DEEP WITHIN THE EARTH TO HANDLE IT? SENATOR HAAR POINTED OUT THAT THE NEBRASKA PEOPLE WHO ARE ENTRUSTED WITH PROTECTING THE PUBLIC REQUIRE A \$10,000 BOND. IN COLORADO, HE SAID A \$1 MILLION BOND. IT REMINDS ME OF A TIME MANY, MANY YEARS AGO WHEN I WORE A YOUNGER MAN'S CLOTHES AND WAS A BARBER. WE WERE TRYING TO RAISE THE PRICE OF A HAIRCUT FROM 35 CENTS TO 50 CENTS, IF YOU CAN IMAGINE THAT. AND SOME OF THE BARBERS WHO'D BEEN AROUND A LONG TIME WERE AFRAID TO RAISE THE PRICE. SO ONE OF THE YOUNGER BARBERS SAID, WELL, I GUESS EVERY MAN KNOWS WHAT HIS WORK IS WORTH. YOURS IS

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WORTH 35 CENTS; OURS IS WORTH MORE. THESE PEOPLE WHO ARE SUPPOSED TO BE PROTECTING THE WELFARE OF YOU ALL'S CHILDREN AND FUTURE GENERATIONS THAT YOU INVOKE WHEN YOU DON'T WANT TO EXTEND MEDICAL COVERAGE KNOW THAT YOUR CHILDREN'S FUTURE IS NOT WORTH VERY MUCH AND IT DOESN'T EVEN BOTHER YOU. THERE IS NO REGULATION GOING ON BY THAT COMMISSION. WHEN THE EMINENT DOMAIN BILL THAT I OFFERED...

SPEAKER HADLEY: ONE MINUTE, SENATOR.

SENATOR CHAMBERS: ...CAME BEFORE THE JUDICIARY COMMITTEE AND A GUY NAMED SIDOE (PHONETIC), SYDOW, S-Y-D-O-W, APPEARED, HE DIDN'T KNOW WHAT WAS BEING DISCUSSED. HE TALKED ABOUT CERTAIN SIZED PIPES AND DIDN'T KNOW WHERE THEY WERE, DIDN'T KNOW WHEN THEY HAD BEEN PUT IN PLACE. BUT THEY DEFINITELY HAD NOTHING TO DO WITH THE BILL THAT WAS UNDER DISCUSSION. IN MY MIND, I WAS WONDERING WHAT IN THE WORLD DOES THIS OIL AND GAS COMMISSION DO? AND I FELT THEY DIDN'T DO ANYTHING EXCEPT MAYBE EVERY NOW AND THEN DRINK COFFEE AND EAT TOAST OR WHATEVER THEY DID. BUT WHEN THEY CAN DAMAGE THE STATE THROUGH THEIR LACK OF AWARENESS, LACK OF CONCERN, AND THE WAY THAT WHAT IS BEING DONE IN THE RURAL AREAS INDICATES THAT THEY CAN DO, WE HAD BETTER TAKE THAT COMMISSION AND WHAT IT DOES VERY SERIOUSLY, WHICH I DO. AND WITH ALL THESE CALLS THAT I'M GETTING, I'M GOING TO TELL PEOPLE THAT THERE ARE SOME RURAL SENATORS WHO ARE CONCERNED.

SPEAKER HADLEY: TIME, SENATOR.

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT.

SPEAKER HADLEY: SENATOR BLOOMFIELD, YOU'RE RECOGNIZED.

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. IN QUICK RESPONSE TO SENATOR HAAR, HE DIDN'T INSULT ME. I HAVEN'T DRIVEN A TRUCK FOR FIVE YEARS. BUT I DO BELIEVE HE MAY HAVE INSULTED THE TRUCKING INDUSTRY A LITTLE BIT. YOU KNOW, HAVING A TRUCK DRIVER DOES NOT MEAN DANGER TO CHILDREN. INCREASED TRAFFIC IS A HIGHWAY ISSUE, NOT A DRIVER ISSUE. SO, SENATOR HAAR, YOU DID NOT OFFEND ME. THANK YOU FOR THE APOLOGY. BUT I THINK PERHAPS IT'S THE TRUCKING INDUSTRY THAT YOU MIGHT CONSIDER CONTACTING. THANK YOU.

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SPEAKER HADLEY: SENATOR CHAMBERS, AND THIS IS YOUR THIRD TIME.

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, I WANT WHAT I SAY TO BE ON THE RECORD, AND IF PEOPLE WOULD READ TRANSCRIPTS, THEY WOULD HAVE A BETTER UNDERSTANDING OF WHAT ACTUALLY IS SAID. SENATOR HAAR, YOU MADE AN APOLOGY WHICH WAS NOT EVEN NECESSARY, AND SENATOR BLOOMFIELD ACKNOWLEDGED IT. THINGS THAT I SAY I THINK ABOUT AND I'M NOT GOING TO APOLOGIZE. AND MAYBE THE PEOPLE WHOSE COMMUNITIES ARE AFFECTED BY THIS FRACKING DON'T HAVE THE CONCERN THAT I HAVE FOR MY COMMUNITY. BUT ALL OF A SUDDEN, WITH THE NUMBER OF POLICE KILLINGS THAT ARE OCCURRING, I'M GETTING A DIFFERENT RESPONSE TO WHAT I SAID. AND IT'S COMING FROM ALL OVER THE COUNTRY THAT THEY WERE GLAD SOMEBODY SPOKE PUBLICLY AND RAISED THE ISSUE EVEN THOUGH MY WORDS WERE TAKEN OUT OF CONTEXT. AND EVERYBODY WHO WAS AT THAT HEARING KNOWS WHAT THE CONTEXT WAS. AND THE ONLY REASON ANYTHING WAS SAID ON THIS FLOOR WAS BECAUSE FOX NEWS PUT SOMETHING OUT. AND WHEN SENATOR McCOY FIRST BROUGHT IT UP HE WAS MISTAKEN, BECAUSE HE DIDN'T GET THE FACTS AND SAID I HAD SPOKEN AGAINST HELPING THE VETERANS. THAT'S THE KIND OF NONSENSE THAT HAS TO BE ADDRESSED. BUT I'M CONCERNED NOT JUST WITH THE POLICE KILLINGS. JUST LIKE THE OTHER DAY THEY HAD TO CHARGE A DEPUTY IN OKLAHOMA WITH INVOLUNTARY MANSLAUGHTER BECAUSE A BLACK SO-CALLED SUSPECT WAS ON THE GROUND UNDER THE CONTROL OF SEVERAL POLICE OFFICERS AND THIS DEPUTY CAME UP AND SHOT THE BLACK MAN AND KILLED HIM. THAT'S WHAT I'M TALKING...THAT'S AN EXECUTION. WHEN YOU SAW THAT VIDEO AND A MAN WAS RUNNING AND THE COP SHOT EIGHT TIMES IN THE BACK, THAT'S AN EXECUTION. HIS HEAD WASN'T CUT OFF, BUT IT WAS AN EXECUTION. THERE WAS A 17-YEAR-OLD BOY, A SIMILAR THING HAPPENED TO, HE WAS SHOT IN THE BACK RUNNING AND A GUN WAS RETRIEVED BY HIM. BUT FORTUNATELY FOR PEOPLE SUCH AS MYSELF WHO ARE CONCERNED ABOUT THESE UNJUSTIFIED POLICE KILLINGS, THE VIDEO SHOWED THAT COP PLANTING A TASER NEXT TO THAT MAN AFTER HE WAS KILLED. THESE GUNS ARE CALLED THROW-DOWNS. AND I'M GOING TO HAND THAT ARTICLE AROUND TO SHOW THAT THERE'S A TEMPLATE WHICH THESE VICIOUS COPS WHO COMMIT THESE VICIOUS CRIMES WILL DO AND THEY KNOW HOW TO DO IT. AND IN SOUTH CAROLINA THE COVER-UP HAD BEGUN BECAUSE THEY DID NOT REALIZE THEY WERE ON VIDEO. AND THE VIDEO WAS BEING PLAYED AND THE MODERATOR OR THE ANNOUNCER WAS MENTIONING HOW WHAT YOU SEE IS ENTIRELY DIFFERENT FROM WHAT THE POLICE REPORTED AND THEY READ FROM THE POLICE REPORTS. NOW, I'M GOING TO CONTINUE TO DEAL WITH THOSE ISSUES, BUT NOT ONLY THOSE. I SAY AGAIN,



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THIS MATTER OF FRACKING AFFECTS MORE THAN PEOPLE WITHIN A 6-MILE RADIUS, A 20-MILE RADIUS, ANYBODY IN THIS STATE, AND IN OTHER PLACES BESIDES THIS STATE WHERE THE AQUIFER MIGHT HAVE SOME IMPACT. THERE HAS TO BE REGULATION. I'M GLAD THAT SENATOR STINNER IS PRODUCING SOMETHING IN THE WAY OF A RESOLUTION. AND I DO HOPE THAT COMMISSION WILL TAKE NOTE OF IT AND PUT EVERYTHING ON HOLD. UNLIKE SENATOR BLOOMFIELD, I THINK WHAT HAPPENS IN AN AREA WHERE CHILDREN GO TO SCHOOL IS A MATTER OF CONCERN...

SPEAKER HADLEY: ONE MINUTE.

SENATOR CHAMBERS: ...BECAUSE THE LEGISLATURE HAS ENACTED LAWS THAT PUT A HIGHER PENALTY FOR SPEEDING IN A SCHOOL ZONE. THE STATE FELT IT WAS A STATE ISSUE AND THE WELFARE AND SAFETY OF THE CHILDREN IS A MATTER THAT THE LEGISLATURE SHOULD BE CONCERNED ABOUT. SO IF THERE IS A SCHOOL WHERE CHILDREN WILL CROSS THIS ROAD WHERE THERE WILL BE THIS INCREASE IN TRUCK TRAFFIC, IT IS A MATTER IN MY OPINION OF SOMETHING THE LEGISLATURE SHOULD BE CONCERNED ABOUT AND THAT OIL AND GAS COMMISSION HAS GOT TO TAKE INTO CONSIDERATION. THANK YOU, MR. PRESIDENT.

SPEAKER HADLEY: (VISITORS INTRODUCED.) SENATOR SCHUMACHER, YOU ARE RECOGNIZED.

SENATOR SCHUMACHER: THANK YOU, MR. SPEAKER, MEMBERS OF THE BODY. THIS IS CERTAINLY AN INTERESTING DISCUSSION THIS MORNING TAKING PLACE ON A CONFIRMATION HEARING. BUT WE ARE COUNTING DOWN AT 27 AND COUNTING AND WE'VE GOT A LOT OF WORK AHEAD OF US AND A LOT OF COMPLEX ISSUES. I WOULD TAKE JUST THIS MOMENT TO POINT OUT PARTICULARLY TO THE NEW MEMBERS, TWO STATUTES. WHEN YOU HAVE SOME CHANCE, YOU CAN REVIEW THEM, AND IT MAY POSE A SOLUTION TO SOME OF THESE PROBLEMS THAT WE HAVE: 50-401 AND 50-402. THEY TALK IN TERMS OF A LEGISLATIVE COUNCIL. AND A LEGISLATIVE COUNCIL THAT OPERATES DURING THE INTERIM TO PLAN OUT WHAT'S IMPORTANT, TO EDUCATE OURSELVES, TO SET AN AGENDA FOR THE NEXT YEAR SO WHEN WE COME IN WE KNOW WHAT WE'RE TALKING ABOUT. AND IT MAY BE THE BEST ALTERNATIVE THAT WE HAVE TO A LACK OF EXPERIENCE IN THE BODY AT THIS TIME. IT APPEARS TO BE A VERY POWERFUL TYPE OF COUNCIL. IT'S, FOR THE MOST PART, SINCE IT WAS IMPLEMENTED AT THE SAME TIME THAT THE UNICAMERAL WAS IMPLEMENTED,

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SOMEBODY MUST HAVE BEEN THINKING AND FORESEEING SOME OF THESE ISSUES AND SOME OF THESE PROBLEMS THAT WE HAVE. IT'S EITHER BEEN IGNORED BECAUSE IT'S A STATUTE AND WHO'S GOING TO ARREST US FOR IGNORING IT? OR IT MIGHT HAVE BEEN IMPLEMENTED IN A CONVOLUTED WAY AND OUR INTERIM STUDY AND OUR COMMITTEE WORK OVER THE SUMMER AND THE INTERIM. BUT THESE ARE THE KIND OF ISSUES THAT WE'VE BEEN DISCUSSING THIS MORNING THAT WE SHOULD HAVE A FORUM FOR DISCUSSING AS A BODY AS WELL AS AND THE OTHER ISSUES WE ARE FACING AND NEED TO BE BROUGHT UP TO STEAM ON AND SIMPLY DO NOT HAVE TIME IN A SESSION TO HAVE A GOOD, INTELLIGENT ROUNDTABLE DISCUSSION OF. SO I AGAIN WOULD GIVE YOU THESE NUMBERS FOR YOUR INFORMATION FOR YOU KIND OF TO ENVISION WHAT THIS MIGHT BECOME, HOW WE COULD POSSIBLY USE THIS, AND WHETHER OR NOT IT'S WORTH PUMPING MORE EFFORT INTO THAN WE HAVE AND WHETHER OR NOT WHOEVER DREAMT THIS UP IN 1937 WAS INDEED THINKING. IT'S STATUTE 50-401 AND STATUTE 50-402, AND THERE'S A FEW OTHER STATUTES AFTER THAT THAT ARE KIND OF RELATED. THANK YOU.

SPEAKER HADLEY: SENATOR MORFELD, YOU'RE RECOGNIZED.

SENATOR MORFELD: I YIELD MY TIME TO SENATOR HAAR.

SPEAKER HADLEY: SENATOR HAAR, YOU'RE YIELDED FIVE MINUTES.

SENATOR HAAR: THANK YOU VERY MUCH...THANK YOU, SENATOR MORFELD. I'LL BE VERY BRIEF. I JUST WANTED TO LET THE CONSTITUENTS OF SENATOR SCHILZ'S DISTRICT AND SENATOR STINNER'S DISTRICT, WHO ARE MOST AFFECTED BY THIS, TO KNOW THAT EVEN THOUGH THEY TOOK THE TROUBLE TO COME TO THE HEARING IN SIDNEY AND THEIR TESTIMONY WAS NOT A PART OF THE OFFICIAL RECORD THAT THEIR CONCERNS HAVE NOW BECOME AN OFFICIAL PART OF THIS RECORD. AND I WOULD ASK THE OIL AND GAS COMMISSION TO LOOK AT THIS OFFICIAL RECORD AND LISTEN TO THE PEOPLE. THANK YOU VERY MUCH.

SPEAKER HADLEY: SEEING NO ONE ELSE IN THE QUEUE, SENATOR SCHILZ, YOU'RE RECOGNIZED TO CLOSE ON THE REPORT.

SENATOR SCHILZ: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE BODY. I WOULD ONCE AGAIN JUST ITERATE FIRST THAT WE ARE...WE HAVE A STUDY THAT WILL BE ACTED ON, THE NATURAL RESOURCES COMMITTEE WILL DO ITS

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DUE DILIGENCE AND TAKE A LOOK INTO THE SITUATION AND MAKE SURE THAT WE ARE PROTECTING ALL STAKEHOLDERS AS WE MOVE FORWARD WITH THIS PROCESS. AND THAT BEING SAID, I WOULD LIKE TO ONCE AGAIN SAY THAT MR. RUNDEL WILL MAKE A GOOD COMMISSIONER AND I HOPE FOR YOUR GREEN VOTE ON HIS APPOINTMENT. THANK YOU, MR. PRESIDENT.

SPEAKER HADLEY: THE QUESTION IS THE ADOPTION OF THE REPORT OFFERED BY THE NATURAL RESOURCES COMMITTEE. ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. HAVE ALL THOSE VOTED? RECORD, MR. CLERK?

CLERK: (RECORD VOTE, LEGISLATIVE JOURNAL PAGE 1164.) 32 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF THE CONFIRMATION REPORT.

SPEAKER HADLEY: THE REPORT IS ADOPTED. MR. CLERK, THE NEXT ITEM ON THE AGENDA.

CLERK: SELECT FILE, MR. PRESIDENT. SENATOR HANSEN, LB265A. I HAVE ENROLLMENT AND REVIEW AMENDMENTS, SENATOR. (ER80, LEGISLATIVE JOURNAL PAGE 1155.) [LB265A]

SPEAKER HADLEY: MR. HANSEN, SENATOR HANSEN, YOU'RE RECOGNIZED. [LB265A]

SENATOR HANSEN: THANK YOU, MR. PRESIDENT. I MOVE THAT THE E&R AMENDMENTS TO LB265A BE ADOPTED. [LB265A]

SPEAKER HADLEY: YOU'VE HEARD THE MOTION. ALL IN FAVOR SIGNIFYING BY SAYING AYE. OPPOSED, NAY. THE MOTION IS ADOPTED. [LB265A]

CLERK: I HAVE NOTHING FURTHER ON THE BILL, SENATOR. [LB265A]

SPEAKER HADLEY: SENATOR HANSEN. [LB265A]

SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADVANCE LB265A TO E&R FOR ENGROSSING. [LB265A]

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SPEAKER HADLEY: YOU'VE HEARD THE MOTION. ALL THOSE IN FAVOR SIGNIFY BY SAYING AYE. THOSE OPPOSED, NAY. THE MOTION IS ADOPTED. MR. CLERK. [LB265A]

CLERK: LB500A. SENATOR, I HAVE NO AMENDMENTS TO THE BILL. [LB500A]

SPEAKER HADLEY: SENATOR HANSEN, YOU ARE RECOGNIZED. [LB500A]

SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADVANCE LB500A TO E&R FOR ENGROSSING. [LB500A]

SPEAKER HADLEY: YOU'VE HEARD THE MOTION. ALL THOSE IN FAVOR SIGNIFY BY SAYING AYE. OPPOSED SAY NAY. OPPOSED, NAY. MOTION IS ADOPTED. ITEMS FOR THE RECORD. [LB500A]

CLERK: MR. PRESIDENT, THANK YOU. TRANSPORTATION COMMITTEE REPORTS LB623 TO GENERAL FILE WITH AMENDMENTS. BUSINESS AND LABOR REPORTS LB276, LB306 TO GENERAL FILE WITH AMENDMENTS. SENATOR BURKE HARR OFFERS LR183, LR184. THOSE TWO RESOLUTIONS WILL BE LAID OVER. THAT'S ALL THAT I HAVE, MR. PRESIDENT. (LEGISLATIVE JOURNAL PAGES 1165-1176.) [LB623 LB276 LB306 LR183 LR184]

SPEAKER HADLEY: MR. CLERK, RETURN TO THE AGENDA.

CLERK: MR. PRESIDENT, EXCUSE ME, MR. PRESIDENT. LB80, FIRST BILL ON GENERAL FILE THIS MORNING, A BILL INTRODUCED BY SENATOR GLOOR. (READ TITLE.) INTRODUCED ON JANUARY 8, REFERRED TO THE HEALTH AND HUMAN SERVICES COMMITTEE, ADVANCED TO GENERAL FILE. I HAVE NO AMENDMENTS TO THE BILL, MR. PRESIDENT. [LB80]

SPEAKER HADLEY: SENATOR GLOOR, YOU'RE RECOGNIZED TO OPEN ON LB80. [LB80]

SENATOR GLOOR: THANK YOU, MR. PRESIDENT. GOOD MORNING, MEMBERS. LB80 SEEKS TO UPDATE THE SEDATION PORTION OF THE DENTAL ACT. THAT'S SEDATION, NOT SEDITION. IT SEEMS IN THIS CHAMBER I SHOULD BE CLEAR ON THAT. THIS HASN'T BEEN UPDATED, IT HASN'T BEEN VISITED SINCE 1986, AND A LOT OF THINGS HAVE CHANGED ABOUT THE WAY SEDATION IS PROVIDED WHEN

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WE GO TO VISIT OUR LOCAL DENTIST. THIS WAS BROUGHT TO ME BY THE BOARD OF DENTISTRY BY WAY OF I THINK AN IMPORTANT EXPLANATION. THIS IS NOT BROUGHT TO ME BY THE DENTAL ASSOCIATION, THE LOBBYING ARM OF DENTISTS. IT WAS BROUGHT BY THE BOARD OF DENTISTRY; THOSE ARE GUBERNATORIAL APPOINTEES. WE HAVE CONFIRMATION HEARINGS ON THE REPRESENTATIVES TO THE BOARD DENTISTRY AND, IN FACT, VOTE THEM THROUGH AS PART OF THAT CONFIRMATION PROCESS HERE. SO THIS IS THE REGULATORY ASPECT OF OUR DEPARTMENT OF HEALTH THAT OVERSEES THE PRACTICE OF DENTISTRY. I THINK IT'S IMPORTANT TO MAKE THAT DIFFERENTIATION. CURRENTLY IN NEBRASKA, DENTISTS HAVE TO BE LICENSED AS A DENTIST AND OBTAIN AN ADDITIONAL PERMIT TO US NITROUS OXIDE OR GENERAL ANESTHESIA. LB80 REWRITES THE DENTAL ANESTHESIA DEFINITIONS AND THE PROCESS FOR OBTAINING PERMITS. I PRIORITIZED THIS BILL BECAUSE I RECOGNIZE THIS IS AN IMPORTANT PATIENT SAFETY ISSUE. AND ALSO, THERE ARE ISSUES RELATED TO THE TIMING NEEDED TO IMPLEMENT THE BILL SPECIFICALLY FOR DENTISTS TO GET THE NECESSARY TRAINING. IN LB80, THE CURRENTLY DEFINED GENERAL ANESTHESIA TERM USED IN STATUTE IS INCORPORATED INTO A NEW DEFINITION CALLED DEEP SEDATION. THERE ARE TWO MORE LEVELS OF SEDATION THAT ARE ALSO DEFINED THAT ARE AT A LESSER LEVEL: MODERATE SEDATION, AND MINIMAL SEDATION. EACH LEVEL OF SEDATION IS DEFINED BY THE TYPE AND AMOUNT OF THE DRUG THAT'S USED AND THE EXPECTED PHYSIOLOGICAL EFFECT AND RESPONSE BY THE PATIENT IN THE USE OF THIS SEDATION THAT'S BEING USED. EACH LEVEL OF SEDATION WOULD THEN REQUIRE A SEPARATE PERMIT AND PREREQUISITE TRAINING AS OPPOSED TO--AND THIS IS AN IMPORTANT DIFFERENTIATION--THE CURRENT PROCESS THAT CASTS A VERY WIDE NET UNDER THE TERM GENERAL ANESTHESIA. AND SO WHAT WE'RE TALKING ABOUT HERE IS DENTISTS COMING TO US TO REGULATE THEMSELVES MUCH TIGHTER WHEN IT COMES TO SEDATION THAT IS PROVIDED TO THEIR PATIENTS. LB80, AS I SAID, WILL IMPROVE THE SAFETY OF PATIENTS. IT SHOULD IMPROVE THE EFFICIENCY OF DENTAL ANESTHESIA. IT'S IMPORTANT ALSO TO NOTE THAT THE AMERICAN DENTAL ASSOCIATION ALMOST EIGHT YEARS AGO NOW MADE THE RECOMMENDATIONS TO WHAT WE'RE TALKING ABOUT IMPLEMENTING OUR STATUTES. THE NEBRASKA BOARD OF DENTISTRY, WHO I'VE ALREADY EXPLAINED ARE IN FACT PART OF OUR HEALTH DEPARTMENT PROCESS, WENT THROUGH THE CREDENTIALING REVIEW PROCESS WITH THIS. THIS IS THE FAMOUS OR INFAMOUS 407 REVIEW. SO THIS HAS BEEN THROUGH A 407 REVIEW, WAS APPROVED, AND THIS WAS IN 2013 AND 2014, AND NOW COMES TO US FOR APPROVAL. IN THE 407 PROCESS, THERE ARE THREE REVIEW LEVELS. THERE'S AN IN-DEPTH REVIEW BY A TECHNICAL COMMITTEE THAT'S A SUBCOMMITTEE OF

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THE BOARD OF HEALTH. IT'S A REVIEW BY THE BOARD OF HEALTH ITSELF AND THEN THERE'S A REVIEW BY OUR MEDICAL DIRECTOR AT THE DEPARTMENT OF HEALTH. LB80 REMOVES THE CURRENT PERMIT FOR NITROUS OXIDE BECAUSE, FRANKLY, NITROUS OXIDE IS NOW A REQUIRED COURSE OF STUDY IN EVERY DENTAL SCHOOL IN THIS COUNTRY. IT'S ALL PART OF THEIR CURRICULUM. IT'S NO LONGER SEEN AS NECESSARY FOR PERMITTING. THERE CURRENTLY IS A REQUIREMENT TO REPORT ADVERSE IMPACTS OF ANY ANESTHESIA IN DENTAL OFFICES TO THE BOARD OF HEALTH. NOTHING WILL CHANGE AS RELATES TO THAT. THERE WILL STILL BE REPORTING REQUIREMENTS. THE EFFECTIVE DATE OF LB80 IS JUNE 1, 2016. THAT'S JUNE 1, 2016. THAT'S ENOUGH TIME NOT ONLY FOR RULES AND REGS WHICH I UNDERSTAND ARE ALREADY...HAVE BEEN DRAFTED AND THEY'RE IN DRAFT FORM, BUT FOR DENTISTS TO OBTAIN THE ADDITIONAL EDUCATION AND TRAINING NEEDED TO MEET THE NEW REQUIREMENTS OF THESE PERMITS. THE BILL WILL PROVIDE GREATER ASSURANCE THAT DENTISTS RECEIVE SUFFICIENT EDUCATION AND TRAINING TO ADMINISTER SEDATION, AND IT PROVIDES A MUCH GREATER LEVEL OF SAFETY FOR INDIVIDUAL NEBRASKANS RECEIVING SEDATION FOR DENTAL PROCEDURES. THE NEBRASKA BOARD OF DENTISTRY WILL DETERMINE WHAT THE TRAINING AND EDUCATION COURSES WILL BE NECESSARY THAT WILL GO HAND IN HAND WITH THE REGULATIONS. I WANT TO POINT OUT THAT THE 407 REPORT FROM THE DIRECTOR, OUR MEDICAL DIRECTOR OF THE DEPARTMENT, CONTAINED ONE AREA OF CONCERN. THERE ARE SIX REQUIRED AREAS TO BE ADDRESSED IN THE DIRECTOR'S REPORT. ALL BUT ONE ENDORSED GOING AHEAD WITH THE BILL. THE ONE AREA HAD TO DO WITH THE TRAINING PERSONS WHO ASSIST THE DENTISTS IN MONITORING PATIENTS. SOME OF THE PERSONS WHO MAY BE ASSISTING THE DENTIST ARE DENTAL HYGIENISTS. THE OTHERS MAY BE DENTAL ASSISTANTS. DENTAL ASSISTANTS AREN'T CURRENTLY LICENSED. THERE'S A PROCESS UNDERWAY, A 407 PROCESS UNDERWAY, THAT RELATES TO THIS. AS MANY IN THIS BODY KNOW, ANY TIME THERE'S A 407 PROCESS OUT THERE THAT INVOLVES PEOPLE, THERE'S A DEGREE OF TERRITORIALITY THAT COMES INTO PLAY. AND I'M SURE SOME OF YOU HAVE BEEN CONTACTED AS RELATES TO THAT. THIS IS NOT ABOUT THE TRAINING FOR PEOPLE WHO WORK FOR DENTISTS OR WORK UNDER THEIR LICENSE. THIS IS ABOUT THE DENTISTS THEMSELVES AND REGULATING THEIR ABILITY TO PRACTICE SEDATION ON THEIR PATIENTS. I'D BE GLAD TO FIELD ANY FURTHER QUESTIONS ON THAT OF THOSE OF WHO MAY HAVE SOME. ALTHOUGH THE BILL LOOKS COMPLEX, IT'S JUST AN UPDATING OF THE LAWS THAT EXIST RELATING TO ANESTHESIA THAT DENTISTS CAN USE FOR DENTAL WORK. BUT I WILL TELL YOU BECAUSE IT'S BEEN 30 YEARS SINCE THIS HAS BEEN LOOKED AT AND BECAUSE AS ONE INDIVIDUAL IN THE PRACTICE OF ANESTHESIA, NOT A

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DENTIST, TOLD ME, WE'VE GONE THROUGH MULTIPLE GENERATIONS OF MEDICATIONS AVAILABLE OVER THAT 30-YEAR PERIOD OF TIME, THERE ARE COMPONENTS OF IT THAT SEEM A LITTLE COMPLEX. IT'S A BILL I WOULD WIND UP BY WAY OF SAYING, A BILL BROUGHT TO US BY DENTISTS TO IMPROVE THE SAFETY AND CARE THAT THEY PROVIDE TO THEIR PATIENTS. IT'S MORE STRICT ON THEIR ABILITY TO DO SEDATION. CREDIT TO THEM TO LOOK AT THE AMERICAN DENTAL ASSOCIATION RECOMMENDATIONS AND DECIDE TO TIGHTEN UP OUR STATE STATUTES. IT HAS GONE THROUGH THE OBLIGATORY 407 REVIEW PROCESS. WERE IT NOT, I WOULD NOT CARRY THE BILL, AND I'VE MADE THIS SPEECH BEFORE. WE PUT A LOT OF WORK INTO UPDATING THE 407 PROCESS. I WOULD DISCOURAGE ANY SENATOR FROM CARRYING FORWARD A BILL THAT HASN'T UNDERGONE A 407 PROCESS. IT ADVANCED UNANIMOUSLY FROM THE COMMITTEE AND I FELT THIS WAS AN IMPORTANT ENOUGH SAFETY ISSUE FOR THE STATE THAT I MADE IT MY PRIORITY BILL. AND I WOULD APPRECIATE YOUR SUPPORT. THANK YOU, MR. PRESIDENT. [LB80]

SPEAKER HADLEY: SENATOR CAMPBELL, YOU'RE RECOGNIZED. [LB80]

SENATOR CAMPBELL: THANK YOU, MR. PRESIDENT. COLLEAGUES, AS SENATOR GLOOR INDICATED, THIS BILL CAME OUT UNANIMOUSLY FROM THE HEALTH AND HUMAN SERVICES COMMITTEE. AND I WANT TO STRESS A COUPLE OF THINGS ABOUT THE IMPORTANCE OF LB80. THE FIRST IS THAT THIS IS A BILL ABOUT DENTISTS. AND I REALLY WANT TO GIVE CREDIT TO THE DENTAL PROFESSION AND DENTAL ASSOCIATION IN THE STATE BECAUSE THEY LOOKED AT WHAT NEEDED TO BE UPDATED IN THEIR SCOPE OF PRACTICE AND BROUGHT IT FORWARD. THOUGH IT WILL MEAN ADDITIONAL TRAINING FOR SOME OF THE DENTISTS, I THINK THAT THE PROFESSION SHOULD BE COMMENDED FOR BRINGING THIS ISSUE FORWARD. SECONDLY, I WANT TO TALK TO ALL OF YOU WHO SAY, I DON'T KNOW WHAT THE 407 PROCESS IS. THE 407 PROCESS WAS ESTABLISHED A GREAT NUMBER OF YEARS AGO, ACTUALLY WHEN DON WESELY WAS THE CHAIR OF THE HEALTH AND HUMAN SERVICES COMMITTEE. AND BILLS LIKE THIS WOULD COME BEFORE THE LEGISLATURE AND THE SENATORS WOULD GO, HOW SHOULD I JUDGE? I DON'T HAVE A MEDICAL DEGREE. I'M NOT A DENTIST. I DON'T...WHAT ARE WE DOING? AND, BASICALLY, WE WERE TRYING TO SET POLICY ON CREDENTIALING OF MEDICAL PERSONNEL ACROSS THE STATE BY A LEGISLATURE THAT PROBABLY WASN'T QUALIFIED TO DO THAT. IF I SAID TO SENATOR WILLIAMS, I WANT YOU TO TAKE A LOOK AT THIS, SENATOR WILLIAMS WOULD GO, I'M A BANKER, I'M NOT A DENTIST. SO THE IMPORTANCE OF THE 407 PROCESS CANNOT BE EMPHASIZED ENOUGH, BECAUSE WHAT HAPPENS IS, THEY BRING TOGETHER A TECHNICAL COMMITTEE OF EXPERTS TO

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TAKE A LOOK AT WHAT THAT CHANGE IN SCOPE SHOULD BE. THEN IT GOES TO THE STATE BOARD OF HEALTH. AND THEN IT GOES TO THE DIRECTOR OF PUBLIC HEALTH. AND THEN ALL OF THESE RECOMMENDATIONS AND VOTES COME TO THE HEALTH AND HUMAN SERVICES COMMITTEE, IF A BILL IS PROPOSED ON THAT MATTER. WELL, YOU CAN IMAGINE HOW IMPORTANT IT IS TO THE MEMBERS OF THE HEALTH AND HUMAN SERVICES COMMITTEE THAT WE HAVE EXPERTS WHO HAVE REVIEWED THE MATTER BEFORE US. IT MAKES IT MUCH EASIER FOR THE HEALTH AND HUMAN SERVICES COMMITTEE TO THEN TAKE A LOOK AT THE LEGISLATION AND BRING IT FORWARD TO THE FLOOR OF THE LEGISLATURE, BECAUSE WE KNOW EXPERTS HAVE LOOKED AT IT. IN THIS CASE, AND WHAT I PAY THE CLOSEST ATTENTION TO IN A 407 REPORT, AND THEY CAN BE LIKE THIS OR THEY CAN BE LIKE THIS, I PAY MOST ATTENTION TO THE TECHNICAL COMMITTEE BECAUSE THOSE ARE THE EXPERTS IN THE STATE. AND THEIR NUMBER ONE FOCUS IS THE HEALTH SAFETY AND WELFARE OF THE PUBLIC ARE ADEQUATELY ADDRESSED BY THE PRESENT SCOPE, OR INADEQUATELY, OF PRACTICE OR LIMITATIONS ON THE SCOPE OF PRACTICE. AND EVERY ONE OF THE SIX CRITERION BASICALLY RELATE TO THE HEALTH AND SAFETY OF NEBRASKANS. WILL THEY BE SAFER BY THIS CHANGE? ARE THEY PROTECTED? AND THAT REALLY IS, ALSO, WHAT THE LEGISLATURE SHOULD LOOK AT. DOES THIS PROMOTE THE SAFETY AND HEALTH OF NEBRASKANS? IN THIS CASE, ALL SIX CRITERION THAT THE TECHNICAL COMMITTEE HAS TO LOOK AT, THAT THE BOARD OF HEALTH LOOKS AT, AND THE DIRECTOR DOES, IN THE TECHNICAL COMMITTEE WERE APPROVED UNANIMOUSLY BY THE MEMBERS; THE CHAIR USUALLY ABSTAINS AND HE DID. SO UNANIMOUSLY THEY BROUGHT THIS PROPOSAL FORWARD. SO WHEN LB80 CAME BEFORE THE COMMITTEE, WE HAD THE BACKGROUND TO KNOW... [LB80]

SPEAKER HADLEY: ONE MINUTE. [LB80]

SENATOR CAMPBELL: THANK YOU, MR. PRESIDENT. ...WE HAD THE BACKGROUND TO KNOW THAT THIS HAD BEEN SOLIDLY LOOKED AT, RESEARCHED, AND EXAMINED. AND SO I WOULD ENCOURAGE YOUR SUPPORT OF LB80. I APPRECIATE SENATOR GLOOR BRINGING IT FORWARD, BECAUSE IT DOES DEAL WITH THE HEALTH AND SAFETY OF NEBRASKANS. THANK YOU, MR. PRESIDENT. [LB80]

SPEAKER HADLEY: SENATOR FRIESEN, YOU'RE RECOGNIZED. [LB80]



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SENATOR FRIESEN: THANK YOU, MR. PRESIDENT. SENATOR GLOOR, WOULD YOU YIELD TO A QUESTION? [LB80]

SPEAKER HADLEY: SENATOR GLOOR, WILL YOU YIELD TO A QUESTION? [LB80]

SENATOR GLOOR: CERTAINLY. [LB80]

SENATOR FRIESEN: YOU TOUCHED ON IT JUST BRIEFLY, BUT COULD YOU GO A LITTLE BIT MORE AT LENGTH IN TALKING ABOUT DENTAL ASSISTANTS AND DENTAL HYGIENISTS AND HOW THIS WOULD AFFECT THEM. I THOUGHT YOU SAID, BASICALLY, IT HAD NO EFFECT. BUT COULD YOU CLARIFY THAT POINT. AND I'LL YIELD THE REST OF MY TIME TO YOU. THANK YOU, MR. PRESIDENT. [LB80]

SENATOR GLOOR: YEAH, YOU HEARD ME CORRECTLY, SENATOR. AND I GUESS I'D REITERATE IT AND ELABORATE ON IT A LITTLE BIT. CURRENT STATUTE THAT COVERS DENTISTS WILL NOT BE TOUCHED AS IT RELATES TO THIS FOR THE USE OF WHOEVER IS GOING TO ASSIST THE DENTIST IN DOING THEIR PROCEDURES, WHETHER IT'S DENTAL HYGIENISTS OR DENTAL ASSISTANTS, SO WE'VE LEFT THAT ALONE. THERE CLEARLY HAS BEEN QUESTIONS. I'M SURE SOME OF YOU HAVE GOT PHONE CALLS SAYING THAT THAT OUGHT TO BE BROUGHT INTO THIS DIALOGUE, BUT TO ME THAT'S TURNING THE WORLD UPSIDE DOWN. WHAT WE'VE GOT ARE DENTISTS TRYING TO REGULATE THEMSELVES WHEN IT COMES TO PROVIDING ANESTHESIA. THE PEOPLE WHO WORK FOR THEM, REGARDLESS OF WHAT THEIR TITLE ARE, WORK UNDER THAT DENTIST'S LICENSE. THEY CAN'T DO WHAT THEY DO UNLESS THE DENTIST IS SUPERVISING THEM UNDER THEIR LICENSE. AND THERE ARE ALSO LIABILITY ISSUES THAT INSURANCE CARRIERS PLACE ON DENTISTS WHEN IT COMES TO DOING ANESTHESIA. SO I KNOW THAT PART OF THE 407 REVIEW PROCESS THAT'S CURRENTLY GOING ON IN THE BACKGROUND WILL SPEAK TO SOME OF THIS. BUT RIGHT NOW, WE HAVE DENTISTS TRYING TO REGULATE DENTISTS AND THAT MAY SERVE TO PROVIDE BETTER GUIDANCE FOR THE 407 PROCESS AND THE DECISIONS THAT MAY BE MADE FOR PEOPLE WHO WORK FOR THOSE DENTISTS. BY THE WAY, WHAT CURRENT STATUTE REQUIRES IS THAT THERE BE AN ASSISTANT, WHETHER THAT'S A DENTAL HYGIENIST OR DENTAL ASSISTANT. AND IT REQUIRES THAT THAT PERSON HAVE THE TRAINING TO BE ABLE TO DO LIKE CPR SHOULD THERE BE SOME SORT OF A COMPLICATION. SO THAT'S SPOKEN TO IN CURRENT STATUTE. WE'RE NOT TALKING ABOUT CHANGING THIS IN ANY WAY WITH THIS

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PARTICULAR BILL. IT'S STRICTLY ABOUT THE PRACTICE OF DENTISTRY. THANK YOU. [LB80]

SPEAKER HADLEY: SENATOR EBKE, YOU'RE RECOGNIZED. [LB80]

SENATOR EBKE: THANK YOU, MR. PRESIDENT. I WONDER IF SENATOR GLOOR WOULD YIELD TO JUST MAYBE ONE QUESTION. [LB80]

SPEAKER HADLEY: SENATOR GLOOR, WILL YOU YIELD? [LB80]

SENATOR GLOOR: HAPPILY. [LB80]

SENATOR EBKE: THANK YOU, SENATOR GLOOR. WE'VE TALKED ABOUT THIS A LITTLE BIT OFF MIKE AND THE QUESTION OF DENTISTS ADMINISTERING ANESTHESIA AND I THINK YOU TOUCHED ON IT JUST A FEW MINUTES AGO. BUT AM I CORRECT THAT A DENTIST CANNOT CURRENTLY, NOR WOULD THIS BILL ANTICIPATE THAT THEY COULD, ADMINISTER ANESTHESIA BY THEMSELVES IN THE OFFICE? [LB80]

SENATOR GLOOR: CORRECT. [LB80]

SENATOR EBKE: OKAY. [LB80]

SENATOR GLOOR: WELL, LET ME SAY THIS: SOME OF IT HAS TO DO WITH THE DEFINITION OF ANESTHESIA. AND YOU WOULD CERTAINLY UNDERSTAND THIS WITH SOME OF YOUR BACKGROUND. IF YOU WANT...YOU KNOW, A LOT OF US...I LOVE GOING TO MY DENTIST; I GET TREATED VERY WELL BY MY DENTIST. BUT ON THE OTHER HAND, THERE IS USUALLY A NEEDLE INVOLVED THAT NUMBS UP MY GUM. THAT COULD BE CONSIDERED ANESTHESIA. [LB80]

SENATOR EBKE: SO IF WE SAY...IF WE SAY DEEP SEDATION OR GENERAL ANESTHESIA. [LB80]

SENATOR GLOOR: RIGHT. EXACTLY. YEAH, THERE ARE ASSISTANTS THERE AND ARE REQUIRED TO BE AVAILABLE OR ATTEND TO THE DENTISTS THAT ARE THERE. SO, YES, AS RELATES TO THAT, CERTAINLY. [LB80]

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SENATOR EBKE: AND COULD YOU...I WAS OUT OF THE ROOM FOR JUST A FEW MINUTES. COULD YOU CLARIFY, AGAIN, WHAT THE REQUIREMENTS ARE FOR THOSE WHO WOULD BE ASSISTING THE DENTIST? [LB80]

SENATOR GLOOR: WHAT CURRENT STATUTES SPEAKS TO IS THAT THOSE PEOPLE WHO THEN ASSIST THE DENTIST ARE TRAINED IN WHAT WE WOULD CALL BASIC LIFE SUPPORT. IN OTHER WORDS, CARDIOPULMONARY RESUSCITATION. HOPEFULLY, THAT CERTAINLY ISN'T NECESSARY, BUT THAT'S A REQUIREMENT. [LB80]

SENATOR EBKE: OKAY. AND I THINK YOU TOUCHED ON THIS AS WELL. BUT IF SOMETHING WERE TO GO WRONG IN THE OFFICE AS A RESULT OF ANESTHESIA, WHO IS LIABLE FOR THAT? [LB80]

SENATOR GLOOR: THE DENTIST WITH THEIR LICENSE. [LB80]

SENATOR EBKE: OKAY, SO THEIR LICENSURE AND THEIR MALPRACTICE. [LB80]

SENATOR GLOOR: ABSOLUTELY. YES. THEY ARE THE CAPTAIN OF THE SHIP. [LB80]

SENATOR EBKE: OKAY. I APPRECIATE THOSE COMMENTS. THANK YOU VERY MUCH. [LB80]

SPEAKER HADLEY: SENATOR WILLIAMS, YOU ARE RECOGNIZED. [LB80]

SENATOR WILLIAMS: THANK YOU, MR. PRESIDENT. AND GOOD MORNING, COLLEAGUES. I WOULD LIKE TO SAY A SPECIAL THANK YOU TO SENATOR CAMPBELL FOR HER EXPLANATION OF THE 407 PROCESS AND HOW THAT WORKS AND HOW SOME OF US, AS NEW SENATORS, MAY NOT KNOW ABOUT THAT. I WAS ACQUAINTED WITH THAT SHORTLY AFTER I WAS ELECTED TO THIS OFFICE. I WAS CONTACTED BY A GROUP THAT WAS INVOLVED WITH A SCOPE OF PRACTICE ISSUE. AND IT BECAME APPARENT THAT THAT IS NOT A NEW ISSUE AND IT'S NOT JUST THE DENTISTS THAT HAVE THESE PROCESSES INVOLVED. AND WHAT I BECAME ACQUAINTED WITH WAS EXACTLY WHAT SENATOR CAMPBELL TALKED ABOUT, THE 407 PROCESS, WHICH IS A PROCESS THAT IF ADMINISTERED CORRECTLY, WHICH IT IS, REACHES A RESULT THAT BOTH LOOKS AT THE PUBLIC SAFETY INVOLVED AND THE EDUCATION REQUIREMENTS OF THE VARIOUS

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PEOPLE AND REACHES A RESULT THAT WE CAN RELY ON AS LEGISLATORS, THEN, IN DEALING WITH THOSE ISSUES. AND IN THE CASE THAT WE'RE LOOKING AT RIGHT NOW, THERE IS A 407 PROCESS IN THE WORKS. AND THE DENTAL HYGIENISTS, THE DENTISTS, AND THE OTHER DISCIPLINES THAT ARE INVOLVED ARE ALL INVOLVED WITH THAT MAKING THEIR CASES ON THESE TYPES OF ISSUES. BUT AS I UNDERSTAND IT FROM CONVERSATIONS WITH SENATOR GLOOR, THIS PARTICULAR ISSUE, LB80, IS SLIGHTLY DIFFERENT BECAUSE ALL OF THIS PROCESS IS UNDER THE CONTROL OF THE DENTIST. SO IT'S REALLY NOT A SCOPE OF PRACTICE ISSUE FOR THE DENTAL HYGIENIST AS SUCH. IT'S A REFINEMENT OF THE LAWS AS THEY REGARD TO THE DENTISTS RIGHT NOW. SENATOR GLOOR, WOULD YOU YIELD TO A QUESTION? [LB80]

SPEAKER HADLEY: SENATOR GLOOR, WILL YOU YIELD? [LB80]

SENATOR GLOOR: CERTAINLY. [LB80]

SENATOR WILLIAMS: THANK YOU, SENATOR GLOOR. IN A DISCUSSION THAT WE HAD YESTERDAY, I BELIEVE IT WAS, YOU TALKED ABOUT AN OPERATING ROOM SCENARIO WITH A DOCTOR, A MEDICAL DOCTOR OR A SURGEON, WHO IS IN CONTROL OF THAT SITUATION AND COMPARED THAT TO A DENTIST IN HIS OFFICE ADMINISTERING ANESTHESIA. WOULD YOU MIND EXPLAINING THAT TO THE GROUP HERE? [LB80]

SENATOR GLOOR: CERTAINLY. AND THANK YOU, SENATOR WILLIAMS. THOSE PEOPLE WHO HAVE THE LEGAL BACKGROUND TO UNDERSTAND THE TERM-- CAPTAIN OF THE SHIP, WILL UNDERSTAND WHAT WE'RE TALKING ABOUT HERE WHEN IT COMES TO MEDICAL PROFESSIONALS AND OTHERS WHO ARE ULTIMATELY IN CHARGE AND WHOSE LICENSE IS ON THE LINE. AND WHAT I HAD SAID IS, ALTHOUGH I'M EMPATHETIC WITH THE 407 PROCESS UNDER REVIEW AND THE CONCERNS ABOUT DENTAL HYGIENISTS AND DENTAL ASSISTANTS AND THEIR PLACE IN THE GRAND SCHEME OF THINGS, WE SHOULDN'T LET THAT DETERMINE WHAT HAPPENS WITH DENTISTS WHO ARE ULTIMATELY IN CONTROL, BOTH LEGALLY AND ETHICALLY, OF CARE TO THAT PATIENT. IT WOULD BE AS IF WE WERE TELLING THE SURGEON IN THE OR, YOU KNOW, THERE'S A DISAGREEMENT GOING OUT IN THE PREOPERATIVE ROOM BETWEEN THE SURGICAL ASSISTANTS AND THE NURSES ABOUT THIS AND HOW THEY'RE GOING TO PROVIDE CARE. LET'S WAIT TO DO SURGERY UNTIL WE FIGURE IT OUT AMONGST OURSELVES AND THEN YOU CAN GO AHEAD AND DO YOUR THING. AND THAT'S THE WORLD TURNED UPSIDE DOWN. IN THIS CASE, THE DENTISTS,

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THE SURGEONS ARE THE ONES WHO ARE SAYING, THIS IS HOW WE WANT TO REGULATE OURSELF. AND ONCE WE REGULATE OURSELVES, THE PEOPLE WHO WORK UNDER OUR LICENSE, THE PEOPLE WHO WORK FOR US IN MOST CASES, CAN START SETTling OUT HOW THEY FIT INTO THAT. [LB80]

SPEAKER HADLEY: ONE MINUTE. [LB80]

SENATOR GLOOR: THAT I THINK WAS A SCENARIO I PAINTED. [LB80]

SENATOR WILLIAMS: THANK YOU, SENATOR GLOOR, THAT IS VERY HELPFUL TO ME IN UNDERSTANDING HOW THESE SITUATIONS OCCUR. AND WITH THAT, I WOULD CERTAINLY SUPPORT LB80. THANK YOU. [LB80]

SPEAKER HADLEY: SENATOR HILKEMANN, YOU ARE RECOGNIZED. [LB80]

SENATOR HILKEMANN: GOOD MORNING, MR. SPEAKER, THANK YOU. I RISE TO SPEAK OVERALL IN FAVOR OF LB80. I HAVE JUST A COUPLE OF QUESTIONS OR COMMENTS THAT I'M GOING TO MAKE ON THAT. FIRST OF ALL, SENATOR GLOOR, WOULD YOU YIELD TO A QUESTION? [LB80]

SPEAKER HADLEY: SENATOR GLOOR, WILL YOU YIELD? [LB80]

SENATOR GLOOR: CERTAINLY. [LB80]

SENATOR HILKEMANN: SENATOR GLOOR, WOULD YOU, FOR THE RECORD, TELL THE BODY HOW THIS IS ACTUALLY GOING TO MAKE THE PRACTICE OF DENTISTS SAFER FOR NEBRASKANS. [LB80]

SENATOR GLOOR: YES, I WILL, SENATOR HILKEMANN. AND IT'S INTERESTING YOU SHOULD BE THE NEXT QUEUED UP WHEN I REFERENCED SURGEONS IN CONTROL OF THE SITUATION (LAUGH) SINCE YOU SERVED IN THAT CAPACITY BEFORE. THE OVERALL ISSUE HERE IS THAT CURRENTLY THERE ARE TWO BASIC DEFINITIONS UNDER WHICH A DENTIST CAN PROVIDE AND BE PERMITTED TO PROVIDE ANESTHESIA. ONE IS INHALATION THERAPY, SPECIFICALLY NITROUS OXIDE. AND THE OTHER IS A BROAD DEFINITION CALLED GENERAL ANESTHESIA. AND YOU CAN DO A HOST OF THINGS UNDER GENERAL ANESTHESIA. EVERYTHING FROM PUT PEOPLE ASLEEP, AS WE WOULD THINK OF IN A SURGERY SETTING, TO GIVE SOMEBODY AN ORAL MEDICATION LIKE

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VALIUM TO RELAX THEM. AND WHAT WE'RE TALKING ABOUT UNDER THESE REGULATIONS, AGAIN, BROUGHT FROM THE AMERICAN DENTAL ASSOCIATION SEVEN YEARS AGO, AS A RECOMMENDATION IS WE'RE GOING TO TAKE THAT BROADER DEFINITION OF GENERAL ANESTHESIA AND WE'RE GOING TO CHOP IT UP INTO MINIMAL, MODERATE, AND DEEP SEDATION, BASED UPON THE MEDICATION THAT'S GIVEN AND WHAT THE PHYSIOLOGICAL EFFECT IS WHEN THAT MEDICATION, WHATEVER IT IS THAT'S GIVEN, AFFECTS THE PATIENT. AND EACH ONE OF THOSE AREAS HAS TO HAVE SEPARATE TRAINING AND PERMITTING BEFORE THE DENTIST CAN DO THAT. SO WE'RE TAKING THIS BROAD UNIVERSE OF ANESTHESIA AND CHOPPING IT UP INTO SMALLER SEGMENTS WITH REQUIRED TRAINING THAT GOES ALONG WITH IT. IT WILL BE MUCH SAFER FOR THE PATIENTS AND PROVIDE FOR A MUCH BETTER LEVEL OF TRAINING FOR THE DENTISTS. [LB80]

SENATOR HILKEMANN: THANK YOU, SENATOR GLOOR. I THINK ONE OF THE THINGS...AND SENATOR EBKE, I WANTED TO RESPOND TO YOUR QUESTION, BECAUSE I...IN THE RESEARCH OF THIS BILL, WHY THIS IS SUCH A BROAD SPECTRUM AND WHY, WHEN I FIRST LOOKED AT IT AND SAID GENERAL ANESTHESIA OUTPATIENT, I'M THINKING ABOUT OUTPATIENT SURGICAL CENTERS. AND THEN I FIND OUT THAT THIS IS ACTUALLY BEING PERFORMED IN THE OFFICES. THIS BROAD SPECTRUM THAT WE'RE GOING THROUGH FROM GENERAL ANESTHESIA ALL THE WAY DOWN TO NITROUS OXIDE...BECAUSE THIS INVOLVES ORAL SURGEONS. AND THE ORAL SURGEONS ARE VERY WELL TRAINED IN THE INDUCTION OF GENERAL ANESTHESIA AND THEY COULD DO THIS IN THEIR OFFICES, ALMOST ALL OF THEM. NOT ONLY DO THEY HAVE DENTAL ASSISTANTS, MOST OF THEM HAVE NURSES AND LPNs THAT THEY WORK WITH IN THIS. SO THIS IS A VERY WIDE SPECTRUM. AND AS I VISITED WITH SOME OF MY DENTAL FRIENDS IS THAT THIS BILL ACTUALLY IMPROVES THE STATUS AND IMPROVES THE SAFETY. AND I THANK YOU FOR MAKING THAT COMMENT, SENATOR GLOOR. AND AS FOR THE 407 PROCESS, I HAVE TO SAY, I WAS...WHEN I WAS CHAIRMAN OF THE STATE BOARD OF HEALTH, WAS THE FIRST YEAR THAT WE USED THE 407 PROCESS. SO I HAVE SOME FIRSTHAND EXPERIENCE WITH THAT. AND IT DEFINITELY HAS...IT'S FOR LEGISLATIVE BODY. IF YOU'VE GONE THROUGH THE 407 PROCESS JUST ONCE, YOU REALIZE THAT IT IMPROVES THE QUALITY AND THE SAFETY FOR THE PEOPLE OF THE STATE OF NEBRASKA. AND I WOULD JUST CONCLUDE, THIS IS GOOD LEGISLATION AND WE NEED TO MOVE IT ON AS FAR AS DENTAL HYGIENISTS ARE CONCERNED. THE REASON WE DON'T WANT TO ADD THAT IN THERE, FOR EXAMPLE, ORAL SURGEONS--WHO ARE THE ONES WHO DO THE BULK OF THE GENERAL ANESTHESIA--DO NOT HAVE DENTAL HYGIENISTS IN THEIR OFFICE BECAUSE THEY DO NOT DO DENTAL HYGIENISTS

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IN AN ORAL SURGICAL PRACTICE. SO THAT WOULD ANSWER THAT. SO THANK YOU VERY MUCH. [LB80]

SPEAKER HADLEY: SENATOR GLOOR, YOU'RE RECOGNIZED TO CLOSE ON THE ADVANCEMENT OF LB80. [LB80]

SENATOR GLOOR: THANK YOU, MEMBERS. I APPRECIATE THE QUESTIONS AND THE COMMENTS. IT'S A GOOD BILL; IT'S GOOD FOR NEBRASKANS. IT DOESN'T TAKE THE PAIN OUT OF VISITING YOUR DENTIST THE NEXT GO-ROUND, BUT IT CERTAINLY MAKES IT A LOT SAFER. THANK YOU. [LB80]

SPEAKER HADLEY: THE QUESTION IS THE ADVANCEMENT OF LB80 TO E&R INITIAL. ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. HAVE ALL VOTED? RECORD, MR. CLERK. [LB80]

CLERK: 36 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADVANCEMENT OF LB80. [LB80]

SPEAKER HADLEY: THE BILL ADVANCES. MR. CLERK. [LB80]

CLERK: LB494, A BILL BY SENATOR NORDQUIST RELATES TO LABOR. (READ TITLE.) BILL WAS INTRODUCED ON JANUARY 20; REFERRED TO THE BUSINESS AND LABOR COMMITTEE, ADVANCED TO GENERAL FILE. THERE ARE COMMITTEE AMENDMENTS PENDING, MR. PRESIDENT. (AM647, LEGISLATIVE JOURNAL PAGE 881.) [LB494]

SPEAKER HADLEY: SENATOR NORDQUIST, YOU'RE RECOGNIZED TO OPEN ON YOUR BILL. [LB494]

SENATOR NORDQUIST: THANK YOU, MR. SPEAKER, AND GOOD MORNING, MEMBERS. I'M HERE THIS MORNING TO INTRODUCE AND TO OPEN ON LB494. I'D FIRST LIKE TO START BY THANKING SENATOR HANSEN FOR CHOOSING LB494 AS HIS PRIORITY BILL. LB494, AS INTRODUCED, WOULD INCREASE THE TIPPED MINIMUM WAGE INCREMENTALLY FROM \$2.13 PER HOUR UNTIL IT EQUALS 50 PERCENT OF THE MINIMUM WAGE. WITH THE CURRENT MINIMUM WAGE LAW, IT WOULD REACH \$4.50 PER HOUR BY 2018. THE PURPOSE OF THIS BILL IS TO MAKE HARD WORK PAY IN NEBRASKA. AND I KNOW SENATOR HARR HAS A COMMITTEE AMENDMENT FROM THE BUSINESS AND LABOR COMMITTEE THAT I WILL

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SUPPORT. THE TIPPED MINIMUM WAGE WAS ESTABLISHED IN 1966. AND ORIGINALLY IT WAS TIED TO THE FEDERAL MINIMUM WAGE. FROM 1966 TO 1996, IT RANGED FROM 50 TO 60 PERCENT OF THE FEDERAL MINIMUM WAGE. IT WAS DECOUPLED WITH A 1996 LAW, SO IT NO LONGER MOVED WITH THE FEDERAL MINIMUM WAGE IN 1996. AND ACTUALLY, THE \$2.13 AN HOUR COMES FROM WHEN THE MINIMUM WAGE REACHED \$4.25 AN HOUR IN 1991. FIFTY PERCENT OF IT WAS \$2.13 AN HOUR AND THAT'S WHY IT HAS REMAINED AT \$2.13 AN HOUR SINCE 1991. I THINK PROBABLY ONLY THE NEBRASKA LEGISLATURE IS PROBABLY THE ONLY OTHER WAGE RATE THAT HAS NOT INCREASED SINCE THE TIPPED MINIMUM WAGE HAS INCREASED. IT'S VALUE HAS FALLEN BY 36 PERCENT IN INFLATION-ADJUSTED TERMS. WE KNOW THE RESTAURANT INDUSTRY IN THE UNITED STATES IS ONE OF THE LARGEST AND FASTEST-GROWING SECTORS OF OUR ECONOMY. IN NEBRASKA ALONE, THERE ARE OVER 15,000 SERVERS. AND THE INDUSTRY, WHILE IT'S RAPIDLY GROWING, DOES FACE LONG-TERM STABILITY THAT IS BEING THREATENED BY THE QUALITY OF THE WORK FORCE. RESTAURANT WORKERS, OFTEN, MORE THAN ANY OTHER WORKERS ACTUALLY, FACE HIGH LEVELS OF POVERTY. THEY RELY ON GOVERNMENT BENEFITS MORE THAN ANY OTHER WORKERS. ESSENTIALLY, THE GOVERNMENT IS STEPPING IN IN A LOT OF WAYS TO SUBSIDIZE THE RESTAURANT WORKERS. FOUR OF OUR SIX NEIGHBORING STATES PAY ABOVE THE FEDERAL MINIMUM WAGE FOR TIPPED WORKERS. IN COLORADO, THE TIPPED MINIMUM WAGE IS \$5.21 AN HOUR. IN IOWA, IT'S \$4.35 AN HOUR. IN MISSOURI, IT'S \$3.82 AN HOUR. AND IN SOUTH DAKOTA, IT'S \$4.25 AN HOUR. WYOMING AND KANSAS REMAIN AT \$2.13 AN HOUR. SO IF YOU LOOK AT OUR NEIGHBORING STATES, THE AVERAGE TIPPED MINIMUM WAGE IS \$3.64 AN HOUR, AND THE MEDIAN TIPPED MINIMUM WAGE IS \$3.82 AN HOUR. PROVIDING LIVABLE WAGES IS IMPORTANT TO THE SUCCESS OF BUSINESS. THIS IS AN INDUSTRY THAT HAS A VERY HIGH TURNOVER RATE, 80 PERCENT TO 90 PERCENT. SOME OF THOSE COSTS ARE QUANTIFIABLE. THE COST OF TRAINING, RECRUITING, SCREENING NEW WORKERS, EQUIPMENT, UNIFORMS, ADMINISTRATIVE COSTS, UNEMPLOYMENT INSURANCE, AND SOME OF THOSE COSTS ARE NOT QUANTIFIABLE, BUT CERTAINLY, HAVE AN IMPACT ON THE BOTTOM LINE OF THE BUSINESS. TEAM MORALE, RELATIONSHIP WITH CUSTOMERS, EMPLOYER AND WORKER TRUST, PAYING WORKERS WAGES THAT ALLOW THEM TO SUPPORT THEMSELVES AND THEIR FAMILIES WILL HELP FACILITATE LOWER TURNOVER RATES AND HIGHER PRODUCTIVITY FOR RESTAURANTS. THIS PRACTICE HELPS WORKERS FEEL INVESTED IN THE SUCCESS OF THE BUSINESS. I'M SURE WE'LL HEAR ARGUMENTS THAT WITH TIPS, SERVERS ARE MAKING THE DECENT WAGES, BUT THAT IS THE EXCEPTION, NOT THE RULE. THE REALITY AND THE STATISTICS ARE CRYSTAL CLEAR THAT THE



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LARGEST GROUP OF ALL WORKERS, SERVERS, HAVE THREE TIMES THE POVERTY RATE AS OUR WORK FORCE AS A WHOLE. AND SERVERS RELY ON FOOD STAMPS AT DOUBLE THE RATE OF THE GENERAL POPULATION. ANOTHER IMPORTANT POPULATION TO CONSIDER IS THE IMPACT ON WOMEN AND FAMILIES. A TIPPED WAGE IS A WOMEN'S AND CHILDREN'S ISSUE. WOMEN MAKE UP 66 PERCENT OF TIPPED WORKERS NATIONALLY AND 71 PERCENT OF RESTAURANT SERVERS. WOMEN ALSO, BECAUSE OF THIS DYNAMIC OF THE TIPPED WAGE BEING SO LOW, WORKERS IN RESTAURANTS, SERVERS, HAVE TO RELY ON THEIR CUSTOMERS TO MAKE A DECENT WAGE. SO UNFORTUNATELY, AND THE RESEARCH AND STUDIES HAVE BEEN CLEAR THAT SERVERS, ESPECIALLY FEMALE SERVERS, HAVE TO PUT UP WITH MORE FROM THEIR CUSTOMERS. AND STUDIES HAVE SHOWN THAT 80 PERCENT OF WOMEN WORKING IN RESTAURANTS, UNFORTUNATELY, HAVE REPORTED BEING AND FACING HARASSMENT, BEING SEXUALLY HARASSED. AND THERE'S RESEARCH THAT SHOWS THAT THOSE WORKERS IN STATES WHERE THE TIPPED MINIMUM WAGE REMAINS AT SUCH LOW LEVELS THAT WORKERS IN THOSE RESTAURANTS FACE HIGHER LEVELS OF HARASSMENT THAN WORKERS IN OTHER STATES. LASTLY, YOU MAY HEAR THAT RESTAURANTS WILL HAVE TO LAY OFF WORKERS, REDUCE HOURS, AND TIPPED...IF THE TIPPED WAGE IS RAISED BECAUSE COSTS WILL GO UP. LABOR COSTS PER WORKER WILL INCREASE FOR RESTAURANTS THAT PROVIDE LIVING WAGES AND BENEFITS, BUT CERTAINLY THE PRODUCTIVITY OF THOSE WORKERS WILL ALSO INCREASE, HELPING OFFSET THOSE ADDITIONAL COSTS. THERE'S BEEN A SIGNIFICANT MOVEMENT ACROSS THE COUNTRY, AS I SAID, FOUR OF OUR NEIGHBORING STATES...MORE OF OUR NEIGHBORING STATES HAVE A HIGHER TIPPED MINIMUM WAGE THAN HAVE A HIGHER OVERALL MINIMUM WAGE. ONE OF THOSE STATES, IN PARTICULAR, IOWA DOES NOT HAVE A MINIMUM WAGE THAT'S ABOVE \$7.25 AN HOUR, BUT THEY HAVE RAISED THEIR TIPPED MINIMUM WAGE TO \$4.35 AN HOUR. ALTHOUGH PAYING WORKERS FAIR WAGES AND PROVIDING THEM A HEALTHY WORKPLACE DOES NOT COME WITHOUT A PRICE TAG. EMPLOYERS WHO ARE ENGAGED IN THESE TYPES OF PRACTICES HAVE REPORTED THAT INVESTING IN THEIR WORKERS PAYS DIVIDENDS IN THE LONG RUN. THEY AVOID THE STEEP TURNOVER COSTS THAT MOST RESTAURANTS FACE AND TAPPING INTO PRODUCTIVITY OF WORKERS HELPS RESTAURANTS CAPTURE CONSUMER LOYALTY AND SUCCESS IN THE COMPETITIVE INDUSTRY. THERE HAS ALSO BEEN RESEARCH DONE THAT SHOWS THE STATES THAT ACTUALLY HAVE NO DIFFERENTIAL IN THE TIPPED MINIMUM WAGE, MEANING THEY PAY THE FULL...RESTAURANTS HAVE TO PAY THE FULL MINIMUM WAGE. THAT RESTAURANT INDUSTRIES IN THOSE STATES--THERE'S, I BELIEVE, NINE OF THEM, I'LL HAVE TO FLIP TO MY FACT SHEET HERE, THAT THERE'S SEVEN OF THEM, I'M SORRY--THOSE SEVEN STATES HAVE AS STRONG, IF NOT STRONGER,

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RESTAURANT INDUSTRIES THAN THE REST OF THE COUNTRY. AND, ACTUALLY, OVER THE NEXT DECADE PROJECTIONS SHOW THAT RESTAURANT INDUSTRIES IN THOSE SEVEN STATES ARE EXPECTED TO OUTPERFORM RESTAURANT INDUSTRY IN STATES THAT HAVE LOWER TIPPED MINIMUM WAGES. SO CLEARLY, THE EVIDENCE SHOWS THIS IS NOT...DOES NOT HAVE A NEGATIVE IMPACT ON RESTAURANTS. CLEARLY, THE NEGATIVE SIDE EFFECTS OF GOVERNMENTS AND CUSTOMERS HAVING TO SUBSIDIZE THESE BUSINESSES HAS A NEGATIVE IMPACT ON THE BUSINESS ITSELF, BUT CERTAINLY ON SOCIETY AS A WHOLE. AND I ENCOURAGE YOU TO STAND IN SUPPORT OF LB494. THANK YOU. [LB494]

SPEAKER HADLEY: AS THE CLERK STATED, THERE ARE AMENDMENTS FROM THE BUSINESS AND LABOR COMMITTEE. SENATOR BURKE HARR, AS CHAIR OF THE COMMITTEE, YOU'RE RECOGNIZED TO OPEN ON THE AMENDMENTS. [LB494]

SENATOR HARR: THANK YOU, MR. SPEAKER, MEMBERS OF THE BODY. AM647 INCREASES THE MINIMUM CASH WAGE FOR THOSE INDIVIDUALS PAID BY TIPS. BEGINNING AUGUST 1 OF THIS YEAR, THE CASH WAGE WOULD INCREASE FROM THE CURRENT RATE OF \$2.13 AN HOUR TO \$2.35 AN HOUR THROUGH THE END OF THE YEAR. THEN, BEGINNING ON JANUARY 1, 2016, AND CONTINUING THEREAFTER, THE RATE WOULD INCREASE TO \$2.64 AN HOUR. THE INCREASE REFLECTED IN AM647 RAISES THE MINIMUM CASH WAGES FOR TIPPED EARNERS TO MIRROR THE PERCENTAGE INCREASE IN REGULAR MINIMUM WAGE EARNERS IN 2015 AND 2016. WHILE THE REGULAR MINIMUM WAGE HAS RISEN WITH INFLATION, THE TIPPED WAGE HAS REMAINED STAGNANT OR THE SAME SINCE 1991, AND THAT'S AT \$2.13 AN HOUR. AM647 ADVANCED OUT OF COMMITTEE ON A 7-0 VOTE. I WOULD ASK FOR YOUR SUPPORT ON AM647. THANK YOU VERY MUCH. [LB494]

SPEAKER HADLEY: SENATOR HANSEN, YOU ARE RECOGNIZED. [LB494]

SENATOR HANSEN: THANK YOU, MR. PRESIDENT. FIRST OFF, I WOULD LIKE TO THANK SENATOR NORDQUIST FOR INTRODUCING THIS BILL. AND I THANK SENATOR HARR AND ALL OF THE FOLKS ON THE BUSINESS AND LABOR COMMITTEE FOR THEIR HARD WORK IN HEARING THE BILL AND PUTTING FORTH THE COMMITTEE AMENDMENTS. I'D LIKE TO RISE TODAY AND EXPLAIN WHY I SUPPORT THIS BILL, WHY I WAS A COSIGNER, AND WHY I CHOSE TO MAKE IT MY PERSONAL PRIORITY. AND AGAIN, THANK SENATOR NORDQUIST FOR ALLOWING ME TO DO SO. WHEN I WAS KNOCKING ON DOORS LAST YEAR, WHEN I WAS GOING THROUGH THE DISTRICT CAMPAIGNING, AS IS WITH ALL OF THE OTHER

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FRESHMEN, OBVIOUSLY THERE WAS THE BALLOT INITIATIVE OF 425 THAT WOULD RAISE THE MINIMUM WAGE FOR NON-TIPPED WORKERS. SO BEING ON THE BALLOT AT THE SAME TIME, WHEN YOU GO UP TO A VOTER AND YOU GO UP TO A NEIGHBOR AND YOU ASK THEM WHAT ISSUES ARE ON YOUR MIND. WELL THAT CERTAINLY CAME UP A FAIR AMOUNT. AND THE SUPPORT WAS, IN MY DISTRICT, VERY, VERY, VERY STRONG FOR RAISING THE MINIMUM WAGE. PEOPLE SHARED WITH ME THEIR STORIES OF PEOPLE THEY KNEW WHO WERE ON MINIMUM WAGE JOBS, PEOPLE WHO HAD OTHER CAREERS AND THROUGH SITUATIONS AND CIRCUMSTANCES ENDED UP AT A MINIMUM-WAGE JOB AT A TIME AND POINT IN THEIR LIFE WHERE THEY DIDN'T EXPECT. AND ULTIMATELY IN THE DISTRICT, I BELIEVE THE MINIMUM-WAGE PETITION GOT MORE VOTES THAN I DID. SO WE SEE...AND I KNOW THAT'S BEEN THE CASE ACROSS THE STATE OF NEBRASKA. WE SAW A CLEAR VOTE OF THE PEOPLE JUST A FEW MONTHS AGO THAT THE MINIMUM WAGE FOR NON-TIPPED EMPLOYEES NEEDED TO BE ADJUSTED. AND I CERTAINLY WOULD THINK THEY THINK THE SAME THING FOR TIPPED MINIMUM WAGES. AS HAS BEEN SAID BY SENATOR NORDQUIST AND BY SENATOR HARR, THIS IS AN ISSUE THAT HASN'T BEEN ADDRESSED SINCE 1991 AND THAT WAS AT THE FEDERAL LEVEL. SIMPLY PUT, WE NEED TO FOCUS AND RECOGNIZE THAT THE PEOPLE OF NEBRASKA HAVE BEEN VERY CLEAR ON THIS ISSUE, THAT THEY WANT US TO TAKE SOME ACTION, THEY WANT US TO TAKE LEADERSHIP ON THE MINIMUM WAGE. SO FOR THAT, AS I SAID BEFORE, I THANKED THOSE MEMBERS OF THE BUSINESS AND LABOR COMMITTEE THAT CAME UP WITH THE COMMITTEE AMENDMENT. AND I WOULD AGREE TO SUPPORT THAT COMPROMISE THAT WOULD ADDRESS...ADJUST THE TIPPED MINIMUM WAGE BY A PORTION SIMILAR TO WHAT WE JUST DID FOR THE REGULAR MINIMUM WAGE. I KNOW WE'RE GOING TO HEAR A LOT OF DIVERSE OPINIONS ON THE MINIMUM WAGE, ON THE ROLE OF THE MINIMUM WAGE IN THE ECONOMY, ON THE ROLE OF THE GOVERNMENT IN EMPLOYING SITUATIONS, AND I WOULD BE INTERESTED TO HEAR THOSE AND HEAR DIFFERENT PERSPECTIVES. WHAT I'M ASKING TODAY IS FOR THE BODY TO CONTINUE TO SUPPORT AM647 AND LB494 AND TO TAKE A LONG-TERM APPROACH FOR THIS. I FEEL MANY OF THE CRITICISMS AND MANY OF THE CONCERNS FROM THE INDUSTRIES THAT UTILIZE TIPPED EMPLOYEES TEND TO, FROM JUST MY PERSPECTIVE, TEND TO FOCUS ON THE SHORT-TERM EFFECTS. THE SHORT-TERM EFFECTS OF WHAT WILL HAPPEN WITH THE RESTAURANT SITUATION WITH THE NUMBER OF EMPLOYEES, THE PRICES OF MEALS, AND SO ON AND SO ON. ALL OF THOSE WILL BE ISSUES THAT CAN BE ADDRESSED AND WILL BE ADDRESSED IN A RELATIVELY SHORT MANNER. WHAT WE AS A STATE, I'M ASKING YOU TO DO, IS TO FOCUS AT THE LONG-TERM EFFECTS OF WHAT WE CAN DO FOR TIPPED WORKERS. AGAIN, JUST GOING BACK TO THE FACT IT'S BEEN 24 YEARS NOW

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SINCE TIPPED WORKERS, THE TIPPED WAGE HAS CHANGED. THIS IS AN ISSUE THAT'S BEEN LINGERING, IT'S BEEN ON THE BACK BURNER, IT'S BEEN OFF OUR MIND FOR QUITE A WHILE. AND NOW I'M HAPPY TO HAVE A CHANCE ON THE FLOOR TO BRING IT UP AND ADDRESS IT. [LB494]

SPEAKER HADLEY: ONE MINUTE. [LB494]

SENATOR HANSEN: THANK YOU, MR. PRESIDENT. WITH THAT, I WILL CLOSE AND ASK THE BODY TO ADVANCE LB494. [LB494]

SPEAKER HADLEY: THOSE IN THE QUEUE ARE: SENATORS SCHNOOR, DAVIS, MURANTE, McCOLLISTER, AND OTHERS. SENATOR SCHNOOR, YOU'RE RECOGNIZED. [LB494]

SENATOR SCHNOOR: THANK YOU, MR. PRESIDENT. I'M NOT SURE IF SENATOR NORDQUIST SAID THIS OR NOT, BUT IN THE BILL IT SAYS THE SUM OF CASH WAGES AND GRATUITIES RECEIVED BY EACH PERSON COMPENSATED BY WAY OF GRATUITIES SHALL EQUAL OR EXCEED THE MINIMUM WAGE RATE PROVIDED IN SUBSECTION ONE OF THIS SECTION. SO, BASICALLY, SOMEBODY THAT'S...WE'LL SAY A WAITER OR WAITRESS, THEY'RE GETTING TIPS. IF THEY DON'T GET ENOUGH TO EQUAL THE MINIMUM WAGE, THE RESTAURANT THEN HAS TO FILL IN THAT GAP THROUGH A SALARY. SO I GUESS, SENATOR NORDQUIST, WOULD YOU YIELD TO A QUESTION, PLEASE? [LB494]

SPEAKER HADLEY: SENATOR NORDQUIST, WILL YOU YIELD? [LB494]

SENATOR NORDQUIST: YES. [LB494]

SENATOR SCHNOOR: THANK YOU, SIR. THE OTHER STATES...YOU PASSED THIS PAPER AROUND WITH OTHER TIPPED WAGES FOR OTHER STATES, DO THEY HAVE THE SAME CLAUSE, I GUESS, IN THEIR STATUTE AS I JUST READ? [LB494]

SENATOR NORDQUIST: SORRY, SENATOR SCHUMACHER PULLED ME ASIDE REAL QUICK. SO YOU WERE READING...IS THAT THE PIECE THAT SAYS THAT ESSENTIALLY THEY HAVE TO GET UP TO THE FULL RATE WITH THEIR TIPS? [LB494]

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SENATOR SCHNOOR: YEAH, WELL, LET'S JUST SAY THEIR TIPPED WAGES AND THEIR GRATUITIES, WE'LL JUST SAY, TOTAL \$7 AN HOUR, THEN THE RESTAURANT HAS TO PAY THE OTHER DOLLAR AN HOUR. ARE OTHER STATES, DO THEY DO THE SAME THING? [LB494]

SENATOR NORDQUIST: YEAH, THAT IS FEDERAL LAW THAT THEY HAVE TO DO THAT. [LB494]

SENATOR SCHNOOR: OKAY. I THOUGHT YOU MAY HAVE SAID THAT WHEN YOU WERE SPEAKING. AND I GUESS I EITHER DIDN'T UNDERSTAND IT OR JUST DIDN'T HEAR IT. BUT I JUST WANTED THAT CLARIFICATION. I GUESS I JUST WANTED TO POINT OUT THAT EVEN THOUGH...I GUESS IT'S JUST A MATTER OF REALLY WHERE THE MONEY IS GOING TO BE COMING FROM. IT'S EITHER COMING FROM THE GRATUITIES OR IT'S COMING FROM THE...IN THIS CASE, THE RESTAURANT OWNER. SO IT'S ONE WAY OR THE OTHER, IS THAT CORRECT? [LB494]

SENATOR NORDQUIST: YEAH, AND THAT...I DON'T KNOW...AND THAT WOULD BE MY SHORT ANSWER. I WOULD SAY HAVING IT IN THE BASE PAY GIVES A LOT MORE STABILITY TO THAT WORKER IN THEIR DAY-TO-DAY LIFE, THE MORE THAT'S IN THEIR BASE PAY RATHER THAN RELYING ON THE FLUCTUATION OF TIPS. YOU CAN IMAGINE TRYING TO SET A FAMILY BUDGET NOT KNOWING IF IT'S A BAD NIGHT, WEATHER IS NOT GOOD, PEOPLE DON'T GO OUT TO EAT. IF IT'S A REALLY COLD NIGHT OR A REALLY HOT NIGHT, IT REALLY...YOU KNOW, DEPENDING ON WHAT RESTAURANT YOU'RE WORKING AT COULD REALLY HAVE A BIG IMPACT ON HOW MUCH YOU TAKE HOME. SO THAT'S ONE ARGUMENT FOR HAVING A...AT LEAST SOMEWHAT OF A STRONG BASE PAY. [LB494]

SENATOR SCHNOOR: OKAY. AND, YOU KNOW, I'VE NEVER WORKED AS A WAITER OR A WAITRESS. I'VE NEVER HAD TO DEAL WITH THIS. BUT I GUESS IF THIS IS ALREADY COMPENSATED BY THE RESTAURANT OWNER IN THIS CASE, AT THE END OF A PERSON'S PAY PERIOD, ISN'T HE COMPENSATED IMMEDIATELY FOR THAT? [LB494]

SENATOR NORDQUIST: YEAH, BUT...YOU KNOW, AND AS WE HEARD AT THE HEARING, PAY PERIODS CAN RANGE, SOME RESTAURANTS EVEN HAVE PAY PERIODS THAT CAN BE UP TO FOUR WEEKS, SOME ARE TWO WEEKS, SOME ARE A WEEK, I GUESS, SO IT REALLY...THAT DEPENDS, TOO. SO YOU COULD HAVE TO WAIT POTENTIALLY FOUR WEEKS TO GET SETTLED UP FROM THE EMPLOYER IF THE...AND I CAN TALK MORE, THERE'S PLENTY EVIDENCE THAT SHOWS THAT,

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YOU KNOW, THIS PROVISION IS NOT BEING ADEQUATELY FOLLOWED. IT IS THE LAW BUT THERE'S LOTS OF EVIDENCE THAT SHOWS THAT IT ISN'T. [LB494]

SENATOR SCHNOOR: OKAY, THANK YOU. I JUST WANTED THAT TIME TO GET A LITTLE CLARIFICATION FOR MY OWN KNOWLEDGE AS WELL. SO THAT'S ALL THE QUESTIONS I HAVE. THANK YOU, SIR. [LB494]

SPEAKER HADLEY: SENATOR DAVIS, YOU ARE RECOGNIZED. [LB494]

SENATOR DAVIS: THANK YOU, MR. PRESIDENT. I WONDER IF SENATOR NORDQUIST WILL YIELD TO A FEW QUESTIONS. [LB494]

SPEAKER HADLEY: WILL SENATOR NORDQUIST YIELD? [LB494]

SENATOR NORDQUIST: YES. [LB494]

SENATOR DAVIS: SO, SENATOR NORDQUIST, LET ME JUST FIRST SAY THAT I UNDERSTAND WHAT YOU'RE TRYING TO DO. BUT WITH FEDERAL LAW, THESE PEOPLE ARE ALREADY RECEIVING MINIMUM WAGE, CORRECT? [LB494]

SENATOR NORDQUIST: THAT IS THE REQUIREMENT BY FEDERAL LAW. IT WAS CLEAR FROM THE TESTIMONY AT THE HEARING, THE REPRESENTATIVE OF THE RESTAURANT ASSOCIATION SAID--ESSENTIALLY GOES OUT IN THE RESTAURANT ASSOCIATION NEWSLETTER TO TELL THEIR MANAGERS TO DO IT. OUR OWN DEPARTMENT OF LABOR GETS...IN THE STATE GETS OVER A HUNDRED COMPLAINTS A YEAR OF PEOPLE...THEY DON'T EVEN...THEY DON'T EVEN GET A PAYCHECK, LET ALONE SETTLED UP BECAUSE THEIR \$2.13 AN HOUR, BASICALLY, GOES TO PAY TAXES AND THEY DON'T EVEN GET ANY ADDITIONAL COMPENSATION. SO WE KNOW IT'S A SIGNIFICANT PROBLEM HERE. NATIONALLY, THE U.S. DEPARTMENT OF LABOR HAS DONE SWEEPS...THEY DID ONE BETWEEN 2010 AND 2013 SHOWED 84 PERCENT OF RESTAURANTS ARE OUT OF COMPLIANCE WITH THAT PROVISION. SO IT IS A VERY SIGNIFICANT NONCOMPLIANCE ISSUE FOR RESTAURANTS. [LB494]

SENATOR DAVIS: BUT, SENATOR NORDQUIST, STILL IN ALL, IF THE EMPLOYEE REPORTS TO THE DEPARTMENT OF LABOR THAT THERE IS A PROBLEM, IT IS A DEPARTMENT OF LABOR ISSUE THAT CAN BE CORRECTED AND SHOULD BE CORRECTED, RIGHT? [LB494]

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SENATOR NORDQUIST: THAT IS CORRECT. AND WE HAVE INCREASED THE WAGE THEFT LAWS IN RECENT YEARS ON SECOND OFFENSE OF WAGE THEFTS BY AN EMPLOYER IF THEY ARE NOT DOING THE RIGHT JOB; IT'S A \$5,000 FINE. THE ISSUE IS, YOU PUT THE EMPLOYER IN A POSITION OF POWER THEN, THE WORKER IS, YOU KNOW, POTENTIALLY COULD BE PUTTING THEIR JOB AT JEOPARDY BY PURSUING THAT. SO THAT IS A CONCERN. [LB494]

SENATOR DAVIS: SO WHAT HAPPENS IN SITUATIONS WHERE YOU'VE GOT A HIGH-TIP EMPLOYEE AT A...AFTER YOU MAKE THIS RAISE? AREN'T YOU ACTUALLY INCREASING THE WAGE OF THE HIGH-TIPPED EMPLOYEE? [LB494]

SENATOR NORDQUIST: YES, BUT THAT CERTAINLY, ACCORDING TO ALL STATISTICS, IS THE...THAT IMAGE OF THE YOUNG STRAPPING MAN WORKING IN A HIGH-END STEAK HOUSE IS VERY MUCH THE EXCEPTION, NOT THE NORM. THE NORM IS THAT TIPPED WORKERS AT THE END OF THE DAY ARE TAKING HOME CHECKS THAT PUT THEM IN POVERTY THREE TIMES THE AVERAGE WORK FORCE. [LB494]

SENATOR DAVIS: THANK YOU, SENATOR NORDQUIST. SO MEMBERS, I THINK YOU NEED TO THINK CAREFULLY ABOUT THIS BILL, BECAUSE WHILE SENATOR NORDQUIST HAS MADE SOME GOOD POINTS, IN REALITY THE EMPLOYEE IS SUPPOSED TO BE GETTING MINIMUM WAGE ANYWAY. THEY NEED TO REPORT THAT TO THE DEPARTMENT OF LABOR IF THAT'S NOT THE CASE. AND DEPARTMENT OF LABOR CAN ENFORCE THAT. ON THE OTHER HAND, IF EMPLOYEES ARE MAKING A GOOD WAGE WITH TIPS, WE'RE JUST RAISING THEIR COST...RAISING THEIR COMPENSATION. SO AT THE LOCAL LEVEL, ESPECIALLY IN PART OF THE STATE LIKE MINE, THIS IS REALLY GOING TO BE A HUGE PROBLEM FOR SMALL RESTAURANTS THAT ARE OPERATING ON A VERY THIN MARGIN ANYWAY. WE JUST PUT MINIMUM WAGE...THE PEOPLE JUST PASSED A MINIMUM WAGE LAW LAST YEAR. WE HAD A DISCUSSION LAST SESSION IN HERE ABOUT MINIMUM WAGE. THE BODY DECIDED NOT DO IT. SO SENATOR NORDQUIST TOOK IT TO THE PEOPLE AND THE PEOPLE VOTED FOR IT, WHICH IS FINE. I SUPPORTED IT, ACTUALLY, AT THE POLLS. BUT HERE, I THINK WE'RE MAKING A MISTAKE. WE NEED TO EVALUATE IT CAREFULLY. I MAY GET UP AGAIN ON THIS. BUT I GUESS THE LAST POINT IS THAT THE BODY NEEDS TO RECOGNIZE ALSO THAT IT WILL TAKE 33 VOTES ON FINAL TO PASS THIS BILL, BECAUSE IT WAS A CONSTITUTIONAL CHANGE THAT THE PEOPLE PUT IN PLACE LAST SUMMER. NOT DEALING WITH THE...THESE PARTS, BUT WITH THE MINIMUM WAGE RAISE. [LB494]

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SPEAKER HADLEY: ONE MINUTE. [LB494]

SENATOR DAVIS: SO WITH THAT I'LL SIT DOWN AND I'LL TALK AGAIN IF I NEED TO. THANK YOU. [LG494]

SPEAKER HADLEY: SENATOR MURANTE, YOU'RE RECOGNIZED. [LB494]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT; MEMBERS, GOOD MORNING. SENATOR DAVIS HIT ON A POINT AND I WOULD LIKE TO CLARIFY THAT FOR THE RECORD AS WELL. SO WOULD SENATOR NORDQUIST YIELD TO A QUESTION? [LB494]

SPEAKER HADLEY: SENATOR NORDQUIST, WILL YOU YIELD? [LB494]

SENATOR NORDQUIST: YES. [LB494]

SENATOR MURANTE: SENATOR NORDQUIST, IS IT YOUR UNDERSTANDING THAT LB494 WILL REQUIRE 33 VOTES ON FINAL READING FOR FINAL PASSAGE? [LB494]

SENATOR NORDQUIST: THAT IS MY UNDERSTANDING AS WELL AS LB599. [LB599 LB494]

SENATOR MURANTE: OKAY. THANK YOU, SENATOR NORDQUIST. JUST WANTED TO CLARIFY THAT FOR THE RECORD, WE HAVE A CONSTITUTIONAL PROVISION THAT IF A LAW IS ENACTED THROUGH THE PETITION INITIATIVE PROCESS, IT REQUIRES A SUPER MAJORITY OF THE LEGISLATURE TO ALTER THAT STATUTE. SO JUST WANTED THAT STATED FOR THE RECORD. I DO STAND IN OPPOSITION TO LB494. BUT I WOULD LIKE TO PROVIDE MORE, A LITTLE BIT OF CONTEXT AS TO THE WIDE RANGE OF "GRATUITIED" EMPLOYEES, BECAUSE WHILE THE STATE'S MINIMUM WAGE WHICH CURRENTLY IS AT \$8 AN HOUR AND ON JANUARY 1 WILL MOVE TO \$9 AN HOUR IS A SIMPLE TO UNDERSTAND ONE-SIZE-FITS-ALL SOLUTION BECAUSE EVERYBODY GETS PAID \$8 OR \$9 AN HOUR. "GRATUITIED" EMPLOYEES ARE A LITTLE BIT DIFFERENT AND A ONE-SIZE-FITS-ALL SOLUTION, IN MY VIEW, ISN'T THE RIGHT WAY TO GO BECAUSE A "GRATUITIED" EMPLOYEE, DEPENDING ON WHERE THEY WORK, WILL HAVE ENTIRELY DIFFERENT INCOME AND ENTIRELY DIFFERENT AMOUNT OF MONEY THAT THEY MAKE DEPENDING ON WHERE THEY WORK AND HOW GOOD THEY ARE. THESE ARE PEOPLE THAT FUNCTIONALLY, IN THE REAL WORLD, WORK ON COMMISSIONS. AND WHETHER



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THEY'RE MAKING \$2.13 OR THAT NUMBER GOES UP, IT DOESN'T CHANGE THE FACT THAT AT THE END OF THE DAY, THEIR BREAD IS BUTTERED BY THE TIPS THAT THEY MAKE, NOT BY THE HOURLY WAGES THAT THEY MAKE. IT'S BEEN STATED ALREADY THAT IF THEY MAKE BELOW THE MINIMUM WAGE...BELOW THE \$8...SOON TO BE \$9 MINIMUM WAGE, THAT A RESTAURANT OWNER HAS TO MAKE UP THAT DIFFERENCE. SO THEY ARE ALREADY THERE FROM THAT POINT. THEY WON'T MAKE LESS THAN THAT. WE ALREADY HAVE THAT PROTECTION IN LAW. BUT WE SHOULDN'T, I BELIEVE, EMPLOY LB494 BECAUSE ON THE ONE HAND YOU'RE GOING TO HAVE RESTAURANTS THAT HAVE LOW TICKET PRICES, LOW VOLUME, PERHAPS A SMALL NUMBER OF TABLES AND THOSE SERVERS WILL NOT...THEY CERTAINLY COULD NOT MAKE A LIFE OUT OF SERVING AT A RESTAURANT LIKE THAT. ON THE OTHER HAND, YOU HAVE HIGH-END STEAK HOUSES IN OMAHA AND LINCOLN WHERE THE AVERAGE TICKET PRICE IS GOING TO BE \$50 TO \$60 PER PERSON AND YOU'RE GOING TO TURN THE TABLE SEVERAL TIMES OVER, OVER THE COURSE OF AN EVENING. THOSE PEOPLE ARE MAKING \$400 AND \$500 A NIGHT. THEY ARE MAKING WELL ABOVE THE MINIMUM WAGE AS IT CURRENTLY EXISTS. IN SOME RESTAURANTS--I CAN SPEAK TO AN EXAMPLE--THE VOLUME IS SO HIGH THAT THE SERVERS AND THE "GRATUITIED" EMPLOYERS MAKE MORE THAN THE MANAGERS DO. SO THE PROBLEM...I UNDERSTAND WHAT THE PROBLEM SENATOR NORDQUIST IS TRYING TO ADDRESS, BUT MY CONCERN WITH IT IS ESPECIALLY FOR RESTAURANTS WHICH ARE EITHER STRUGGLING TO GET BY OR DON'T HAVE THAT LEVEL OF VOLUME. THE ONE THING YOU CANNOT DO TO A SERVER, TO A "GRATUITIED" EMPLOYEE AT A RESTAURANT, IS INCENTIVIZE THE BUSINESS OWNERS TO TAKE THEIR TABLES AWAY, TO CUT THEM EARLY, BECAUSE THAT'S WHERE THEIR MONEY COMES FROM. IF YOU DRIVE UP THE COSTS AT THE RESTAURANT AND THE RESTAURANT OWNER DECIDES TO EITHER CUT SERVER SECTIONS OR... [LB494]

SPEAKER HADLEY: ONE MINUTE. [LB494]

SENATOR MURANTE: ...CUT THE AMOUNT OF TIME THAT THE SERVERS ARE THERE TO BE EMPLOYED, WHEN YOU INCENTIVIZE THEM TO DO THAT, YOU TAKE THEIR TABLES AWAY AND THEN YOU REALLY DO TAKE AWAY THEIR MONEY. THAT IS WHERE THEIR BREAD IS BUTTERED. IT'S NOT ON THE HOURLY WAGE THAT THEY MAKE. SO IF YOU CARE ABOUT THESE...ESPECIALLY IN RESTAURANTS WHICH DON'T HAVE AN INCREDIBLE AMOUNT OF VOLUME AND THEREFORE DON'T HAVE THE ABILITY TO ADJUST FOR THIS SORT OF A CHANGE, WHAT YOU'RE INCENTIVIZING IS TAKING AWAY THOSE TABLES AND TAKING AWAY THOSE TIPS AND THEN YOU REALLY ARE HURTING THE TIPPED EMPLOYEES. THAT'S WHY I THINK IN A PRACTICAL REALITY THIS MAY DO MORE

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HARM THAN GOOD. YOU DO NOT WANT TO INCENTIVIZE RESTAURANT OWNERS TO CUT THE HOURS OF THE SERVERS BECAUSE THEY'RE LOSING A LOT MORE THAN THAT \$2.13. [LB494]

SPEAKER HADLEY: TIME, SENATOR. [LB494]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT. [LB494]

SPEAKER HADLEY: SENATOR McCOLLISTER, YOU'RE RECOGNIZED. [LB494]

SENATOR McCOLLISTER: THANK YOU, MR. PRESIDENT; AND GOOD MORNING, COLLEAGUES. I RISE IN SUPPORT OF LB494 AND ALSO THE AMENDMENT, AM647. I FEEL A SPECIAL OBLIGATION TO SPEAK ON THE ISSUE BECAUSE I HAD A HAND IN CRAFTING THE AMENDMENT. PROBABLY WOULDN'T SURPRISE TOO MANY PEOPLE, BUT WE GOT SOME PUSHBACK FROM RESTAURANT OWNERS WITH THE ORIGINAL AMOUNT OF MONEY THAT THE BILL ENVISIONED. SO IN TALKING WITH SENATOR NORDQUIST, WE'RE ABLE TO REDUCE THAT AMOUNT AND MAKE IT APPROXIMATELY THE SAME PERCENTAGE AS THE MINIMUM WAGE INCREASE THAT WE PASSED LAST FALL. THE AMOUNT THAT WE'RE LOOKING AT, I THINK, HARMONIZES THIS...THIS BILL HARMONIZES US WITH THE MINIMUM WAGE AND I THINK IT'S A GOOD THING. AND IT ALSO ENABLES EMPLOYEES TO RECEIVE GRATUITIES TO NOT BE ISOLATED OR NOT TO RECEIVE A MINIMUM WAGE INCREASE AS OTHER EMPLOYEES HAVE RECEIVED. I DO RECOGNIZE THAT SENATOR MURANTE HAS A UNIQUE VANTAGE POINT ON THIS BILL. AND I RESPECT HIS OPINION, BUT I WOULD ASK YOU TO VOTE GREEN FOR LB494 AND THE AMENDMENT, AM647. I YIELD THE BALANCE OF MY TIME TO SENATOR NORDQUIST. [LB494]

SPEAKER HADLEY: SENATOR NORDQUIST, YOU'RE YIELDED 3 MINUTES AND 34 SECONDS. [LB494]

SENATOR NORDQUIST: THANK YOU, MR. PRESIDENT AND MEMBERS. SO TALKING...YOU KNOW, SENATOR MURANTE'S POINT ABOUT THE TWO TYPES HERE, THE LOW VOLUME, LOW COST RESTAURANT THAT'S GOING TO BE HURT. WELL, THEY'RE MOST LIKELY, IF THEY HAVE LOW COST ITEMS AND LOW VOLUME AND THE WORKERS STRUGGLING TO MAKE ENDS MEET, TO GET TO THAT MINIMUM WAGE LEVEL--WHICH WILL BE \$9 IN JANUARY--THEY'RE THE RESTAURANTS THAT HAVE TO MAKE UP THAT DIFFERENCE ANYWAY BY LAW. AND THEN, ON THE OTHER HAND, THE HIGH-END RESTAURANTS, THOSE ARE

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THE ONES THAT, POTENTIALLY, AND IN THE RESTAURANT INDUSTRY THOSE ARE PROBABLY... WE KNOW STATISTICALLY THAT THOSE ARE VERY FEW COMPARED TO THE LOWER-COST RESTAURANTS. AT THOSE HIGH-COST RESTAURANTS, YEAH, THOSE BUSINESSES AT THE END OF THE DAY, IF THEY'RE FULFILLING THEIR LEGAL OBLIGATION AND MAKING UP THE DIFFERENCE, THEY MAY HAVE TO PUT IN A FEW MORE DIMES AN HOUR WITH THIS COMMITTEE AMENDMENT, WHICH OVER TWO YEARS UPS IT TO TWO DOLLARS AND... SORRY, I SHOULD HAVE LOOKED, \$2.65, I THINK IS WHAT IT WAS. BUT THE OTHER RESTAURANTS, WE'RE NOT HURTING THEM, BECAUSE BY LAW--AND IF THEY'RE NOT DOING IT, THEY'RE IN VIOLATION OF WAGE THEFT, WHICH IS A \$5,000 OFFENSE, THOSE RESTAURANTS HAVE TO MAKE UP THAT DIFFERENCE ANYWAY--SO IT HAS NO NEGATIVE IMPACT ON THOSE RESTAURANTS. SO IT'S CRITICAL... FIRST OF ALL, IT'S CRITICAL THAT WE AS A STATE MAKE SURE THAT WE ARE COMPLETELY ENFORCING THIS. AND IF THIS BILL DOESN'T GO FORWARD, WE'RE GOING TO KEEP WORKING TO MAKE SURE THAT WE HAVE VERY TOUGH ENFORCEMENT ON THE LAWS THAT ARE ON THE BOOKS. BUT WE CERTAINLY ARE FALLING BEHIND A NATIONAL TREND THAT SAYS--AT THE END OF THE DAY, WHO IS RESPONSIBLE FOR THESE WAGES FOR THESE WORKERS? AND YES, IT'S PROBABLY A SHARED RESPONSIBILITY. BUT SINCE 1991, MORE AND MORE OF THE COSTS OF RESTAURANT WORKERS AND SERVERS HAVE BEEN SHIFTED AWAY FROM THE BUSINESS OWNER, THEN SHIFTED ONTO CUSTOMERS, AND SHIFTED ONTO GOVERNMENT. WE HAVE SEEN THE ROLLS OF WORKERS ON GOVERNMENT BENEFITS CONTINUE TO GROW SINCE 1991. AND IT'S GOING TO CONTINUE TO GROW THAT WAY AS LONG AS A WORKER'S BASE PAY IS \$2.13 AN HOUR. AT THE END OF THE DAY, TIPS AREN'T MAKING UP THE FULL DIFFERENTIAL HERE BETWEEN... WE CAN SEE IT FROM THE STATISTICS. [LB494]

SPEAKER HADLEY: ONE MINUTE. [LB494]

SENATOR NORDQUIST: IN NEBRASKA ALONE, THREE... RESTAURANT WORKERS ARE IN POVERTY AT A RATE OF THREE TIMES THE GENERAL WORKFORCE AND ON FOOD STAMPS AT A RATE OF TWO TIMES THE GENERAL WORKFORCE. SO OVER THE LAST DECADES, SINCE 1991, IT HAS BEEN A SHIFT TO PUT MORE BURDEN ONTO TAXPAYERS AND MORE BURDEN ONTO CUSTOMERS AND AWAY FROM THE BUSINESS OWNERS. THIS IS A STEP IN THE RIGHT DIRECTION. OBVIOUSLY, I WOULD HAVE LIKED TO HAVE GONE BACK TO A POLICY THAT INDEXES IT TO HALF OF THE MINIMUM WAGE, WHICH WAS THE FEDERAL POLICY UP UNTIL 1996, FROM 1966 TO 1996. IT WOULD PUT US MUCH MORE IN LINE WITH STATES LIKE SOUTH DAKOTA, IOWA, MISSOURI, AND COLORADO THAT HAVE MOVED FORWARD WITH HIGHER TIPPED WAGES, AND THEIR RESTAURANT

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INDUSTRIES ARE SEEING NO ADVERSE IMPACT OF THIS. AND, YOU KNOW, I'M SURE THERE COULD BE EMPIRICAL STUDIES THAT LOOK AT THOSE RESTAURANT WORKERS AND THEIR RELIANCE ON BENEFITS. [LB494]

SPEAKER HADLEY: TIME, SENATOR. [LB494]

SENATOR NORDQUIST: THANK YOU. [LB494]

SPEAKER HADLEY: (VISITORS INTRODUCED.) SENATOR BLOOMFIELD, YOU'RE RECOGNIZED. [LB494]

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. COLLEAGUES, IF YOU TAKE A LOOK AT YOUR GADGET, YOU'LL SEE THAT I VOTED AGAINST THIS BILL IN COMMITTEE. AND IT WAS PRETTY MUCH FOR THE REASONS THAT SENATOR SCHNOOR STARTED THE DEBATE WITH. THE EMPLOYERS ARE REQUIRED TO PAY UP TO MINIMUM WAGE IF THE TIPS FALL SHORT. SO THESE FOLKS ARE, IN FACT, GETTING MINIMUM WAGE. I WONDER IF SENATOR HARR WOULD YIELD TO A...BURKE HARR WOULD YIELD TO A QUICK QUESTION? [LB494]

SPEAKER HADLEY: SENATOR BURKE HARR, WILL YOU YIELD TO A QUESTION? [LB494]

SENATOR HARR: YES. [LB494]

SENATOR BLOOMFIELD: THANK YOU, SENATOR HARR. IN JANUARY, NEBRASKA'S MINIMUM WAGE GOES \$9. IS THAT CORRECT? [LB494]

SENATOR HARR: I BELIEVE, YES...BY, YES. [LB494]

SENATOR BLOOMFIELD: AND AT THIS POINT OR IN JANUARY, WHAT'S THE FEDERAL MINIMUM WAGE? [LB494]

SENATOR HARR: WHATEVER...I DON'T KNOW THE ANSWER TO THAT. [LB494]

SENATOR BLOOMFIELD: OKAY, THANK YOU. I WONDER IF SENATOR NORDQUIST WOULD YIELD. [LB494]

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SPEAKER HADLEY: SENATOR NORDQUIST, WILL YOU YIELD? [LB494]

SENATOR NORDQUIST: YES. [LB494]

SENATOR BLOOMFIELD: THANK YOU, SENATOR NORDQUIST. DO YOU KNOW WHAT THE FEDERAL MINIMUM WAGE IS EFFECTIVE JANUARY 1? [LB494]

SENATOR NORDQUIST: THE FEDERAL MINIMUM WAGE CURRENTLY IS \$7.25 AN HOUR. [LB494]

SENATOR BLOOMFIELD: OKAY, THANK YOU. COLLEAGUES, THESE FOLKS ARE ALREADY MAKING MORE THAN THE FEDERAL MINIMUM WAGE BECAUSE THEY ARE GUARANTEED THE STATE MINIMUM WAGE. I WONDER IF SENATOR MURANTE WOULD YIELD TO A QUESTION OR TWO. [LB494]

SPEAKER HADLEY: SENATOR MURANTE, WILL YOU YIELD? [LB494]

SENATOR MURANTE: YES. [LB494]

SENATOR BLOOMFIELD: THANK YOU, SENATOR MURANTE. YOU RUN A FOOD ESTABLISHMENT, IS THAT CORRECT? [LB494]

SENATOR MURANTE: YES. [LB494]

SENATOR BLOOMFIELD: YOU HAVE TIPPED EMPLOYEES? [LB494]

SENATOR MURANTE: MANY. [LB494]

SENATOR BLOOMFIELD: THANK YOU. WHEN YOU PAY THEM, IF THEY FALL SHORT OF THE MINIMUM WAGE, DO YOU MAKE UP THAT DIFFERENCE ON THE REGULAR PAY SCHEDULE OR DO YOU DO THAT ONCE EVERY SIX MONTHS OR HOW IS THAT DONE? [LB494]

SENATOR MURANTE: IT WOULD BE DONE IN THE NORMAL COURSE OF PAYROLL. SO WE PAY EVERY TWO WEEKS, SO IT WILL BE DONE AT THAT TIME. WITH THAT SAID, IT'S NEVER HAPPENED BEFORE. NO ONE...AT LEAST IN MY TWO YEARS

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OPERATING THE RESTAURANT, NO ONE HAS EVER FALLEN BELOW THAT. BUT THAT'S HOW WE WOULD OPERATE. [LB494]

SENATOR BLOOMFIELD: OKAY. THANK YOU. COLLEAGUES, I THINK WE ARE TRYING TO ANSWER A PROBLEM HERE THAT DOESN'T EXIST. MINIMUM WAGE IS BEING PAID. THE STABILITY IS ALREADY THERE. THE IDEA THAT THEY DON'T KNOW HOW MUCH THEY'RE GOING TO HAVE AT THE END OF THE WEEK...THEY KNOW THEY'RE GOING TO HAVE AT LEAST WHAT THE \$9 AN HOUR WOULD BE BECAUSE THAT IS REQUIRED UNDER LAW. AND IF WE HAVE PROPRIETORS THAT AREN'T FOLLOWING THAT LAW, WHAT MAKES THEM THINK WE'RE GOING TO FOLLOW THE OTHER LAWS. THEN WE HAVE A LAW ENFORCEMENT ISSUE. SO I REALLY DON'T THINK WE NEED TO GO HERE. AND I WOULD YIELD THE REMAINDER OF MY TIME TO SENATOR MURANTE IF HE'D LIKE IT. [LB494]

SPEAKER HADLEY: SENATOR MURANTE, YOU'RE YIELDED 1 MINUTE AND 35 SECONDS. [LB494]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT; THANK YOU, SENATOR BLOOMFIELD. IT MAY BE SOMEWHAT INSTRUCTIVE TO GO THROUGH THE PROCESS A LITTLE BIT AS TO HOW SERVERS ARE PAID. I'VE BEEN ASKED THAT A COUPLE OF TIMES. AND BASICALLY, YOU HAVE...THE HOURLY WAGE THAT THEY MAKE, WHICH AS I MENTIONED PREVIOUSLY IS GENERALLY SPEAKING...NOT GENERALLY...THAT IS NOT WHERE A SERVER IS GOING TO MAKE THE BULK OF THEIR MONEY. SO AFTER EVERY SHIFT, A TIPPED EMPLOYEE WOULD EITHER TAKE CASH OR THE CREDIT CARD TIPS THAT THEY RECEIVE AND ENTER IT INTO A POINT-OF-SALE SYSTEM, WHICH ALMOST EVERY RESTAURANT IN THE WORLD HAS AT THIS POINT OR IN AMERICA, ANYWAY. [LB494]

SPEAKER HADLEY: ONE MINUTE. [LB494]

SENATOR MURANTE: AND THEY TAKE THAT IN, THE CASH THEY RECEIVE THEY PUT IN THEIR POCKET; THE CREDIT CARD TIPS THAT THEY RECEIVE ARE TAKEN OUT OF THE REGISTER AND GIVEN TO THEM. THEY HAVE TO CLAIM ON...THE CASH TIPS THAT THEY RECEIVE, THEY HAVE TO CLAIM BY FEDERAL LAW AT LEAST 10 PERCENT. THEY CANNOT CLAIM THAT THEY RECEIVED LESS THAN 10 PERCENT OF THE OVERALL SALES THAT THEY HAD IN THEIR SECTION THAT NIGHT. AND THEN WE DO PAYROLL EVERY TWO WEEKS. AND THEY WOULD RECEIVE A PAYCHECK WITH THE TAXES TAKEN OUT OF THE TIPS THAT THEY EARN. SO THEY HAVE TIPPED INCOME AND THEN WHATEVER WE PAY HOURLY

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GOES INTO THEIR PAYCHECK. THE PRACTICAL EFFECT OF THAT IS THAT THEY MAKE MORE... [LB494]

SPEAKER HADLEY: TIME, SENATOR. [LB494]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT. [LB494]

SPEAKER HADLEY: THOSE IN THE QUEUE ARE SENATORS JOHNSON, NORDQUIST, HANSEN, GROENE, CRAIGHEAD AND OTHERS. SENATOR JOHNSON, YOU'RE RECOGNIZED. [LB494]

SENATOR JOHNSON: THANK YOU, MR. SPEAKER. THE CITIZENS OF NEBRASKA VOTED TO RAISE THE MINIMUM WAGE, AS WE ALL KNOW. MY VOTE IN FAVOR OF THIS PARTLY WAS TO GET IT OUT ON THE FLOOR SO THAT THE FULL BODY COULD TALK ABOUT IT BECAUSE THE BODY, LAST YEAR, DID NOT SUPPORT THE MINIMUM WAGE. SO I WAS KIND OF CURIOUS HOW IT WAS GOING PLAY OUT HERE ON THE FLOOR. THE HISTORY OF TIPPED JOBS, WE'VE ALWAYS HAD TIPS INVOLVED. I REMEMBER BACK WHEN IT WAS DEFINITELY 10 PERCENT BASED ON GOOD SERVICE. AND NOW AS WE DIG INTO IT MORE, IT'S HOW MUCH ARE WE WILLING TO PAY OF THEIR WAGES AND HOW MUCH IS THE RESTAURANT GOING TO HAVE TO PAY, BECAUSE IT'S GUARANTEED TO BE A SET AMOUNT THAT A TIPPED EMPLOYEE WOULD RECEIVE. SO I AGREE AT THIS POINT THAT THE LOWER TICKET ITEM, THE LOWER VOLUME RESTAURANTS ARE AFFECTED DIFFERENT THAN THOSE WITH HIGH VOLUME BASED ON THEIR PERCENTAGE OF MONEY THAT THEY MIGHT HAVE TO PAY IN. SO I DO THINK IT HURTS THE SMALLER RESTAURANTS. IF THE EMPLOYEE IS GUARANTEED A MINIMUM WAGE, THEN I EVEN QUESTION AT THIS POINT WHY WE NEED LB494. IT'S ALREADY OUT THERE. IF WE RAISE THE MINIMUM FOR TIPPED EMPLOYEES, SOME PEOPLE MIGHT SAY, WELL, OKAY, THEY'RE GETTING MORE NOW AS A GUARANTEE; THE RESTAURANT IS GOING TO HAVE TO PAY MORE .SO MAYBE I'LL JUST GO BACK TO A 10 PERCENT OR GO BACK TO A FEELING OF IF I GET GOOD SERVICE, I'LL TIP. SO I GUESS I'M STRUGGLING RIGHT NOW WHERE I'LL END UP ON THIS. AS I SAID, I DID SUPPORT IT GETTING OUT OF COMMITTEE. AND AT THE TIME, I LOOKED AT IT AND THOUGHT, YOU KNOW, IT'S PROBABLY NOT GOING TO HURT A LOT. IT'S GOING TO CHANGE WHO PAYS WHAT AND WHAT PERCENTAGE. BUT NOW AS I LOOK AT SOME OF THAT ON THE LOWER END, I GUESS I'LL CONTINUE TO LISTEN TO TESTIMONY. THANK YOU, MR. SPEAKER. [LB494]

SPEAKER HADLEY: SENATOR NORDQUIST, YOU ARE RECOGNIZED. [LB494]

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SENATOR NORDQUIST: THANK YOU, MR. SPEAKER AND MEMBERS. I THINK THE FACT OF THE MATTER IS HERE, WHILE WE SAY THEY'RE GETTING THE FULL MINIMUM WAGE, IT'S CRYSTAL CLEAR FROM THE EVIDENCE THAT THEY ARE NOT. THEY WOULD NOT BE IN POVERTY AT A HIGHER RATE THAN OTHER WORKERS. THEY WOULD NOT BE UTILIZING FOOD STAMPS AT RATE OF HIGHER WORKERS. WE WOULD NOT SEE THE U.S. DEPARTMENT OF LABOR SAYING 84 PERCENT OF RESTAURANTS ARE OUT OF COMPLIANCE. AND WE WOULD NOT HAVE OVER A HUNDRED COMPLAINTS EVERY SINGLE YEAR COMING INTO OUR DEPARTMENT OF LABOR. SO THE FACT OF THE MATTER IS WE HAVE 15,000 WORKERS IN THIS STATE WHO ARE GETTING PAID A BASE PAY OF \$2.13 AN HOUR AND THEIR EMPLOYER MAY OR MAY NOT BE MAKING UP THE DIFFERENCE. THAT'S WHAT THIS COMES DOWN TO. AND HOW CAN YOU EXPECT A FAMILY...AND YES, THERE ARE A LOT OF FAMILIES, THERE ARE PEOPLE WHO HAVE COME OUT FOR THIS BILL, WHO...THERE WAS A LADY WHO TESTIFIED, PEOPLE WHO SENT LETTERS IN ON THIS BILL, SAID--I'M A CAREER RESTAURANT WORKER, CAREER SERVER, AND I'M PROUD OF IT. I'M PROUD TO GO TO WORK EVERY DAY AND SERVE PEOPLE. THERE ARE FAMILIES THAT RELY ON THIS. AND HAVING A BASE PAY OF \$2.13 AN HOUR, WHICH HASN'T BEEN INCREASED NOW IN TWO DECADES, IS FLAT OUT SHAMEFUL. NO ONE IN THIS DAY AND AGE SHOULD HAVE TO WORK FOR \$2.13 AN HOUR AND HOPE THAT MAYBE THEIR EMPLOYER FOLLOWS THE LAW. WOULD SENATOR MURANTE YIELD TO A QUESTION? [LB494]

SPEAKER HADLEY: SENATOR MURANTE, WILL YOU YIELD TO A QUESTION?  
[LB494]

SENATOR MURANTE: YES. [LB494]

SENATOR NORDQUIST: SO, SENATOR MURANTE, WITH THE FEDERAL REQUIREMENT OF MAKING UP THE DIFFERENCE TO THE FULL MINIMUM WAGE, CAN YOU EXPLAIN HOW YOU INTERACT WITH YOUR EMPLOYEES REGARDING THAT? [LB494]

SENATOR MURANTE: I DON'T UNDERSTAND THE QUESTION, SENATOR NORDQUIST. INTERACT IN WHAT WAY? [LB494]

SENATOR NORDQUIST: SO, WELL YOU MENTIONED THAT YOU'VE NEVER HAD AN EMPLOYEE, NOT IN YOUR TIME THERE, MAKE...NOT HIT THAT LEVEL. DO YOU RELY ON THEM TO COME TO YOU TO SAY THAT THEY DON'T? [LB494]



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SENATOR MURANTE: NO, WE HAVE A POINT-OF-SALE SYSTEM THAT KEEPS TRACK OF ALL OF THAT STUFF AND A PAYROLL COMPANY THAT...EVERYTHING IS AUTOMATED, SO WE DON'T HAVE DIRECT CONTROL OVER ANY OF THAT KIND OF STUFF. [LB494]

SENATOR NORDQUIST: DO YOU COMMUNICATE TO THEM THAT THEY'RE ENTITLED TO THAT IF THEY DON'T MAKE UP THE DIFFERENCE? [LB494]

SENATOR MURANTE: WE'RE REQUIRED TO POST A NUMBER OF DIFFERENT...NOT "WE" SPECIFICALLY, BUT RESTAURANTS ARE REQUIRED TO DISCLOSE A NUMBER OF DIFFERENT LABOR LAWS AND OTHER SORTS OF THINGS ON THE WALL. SO I'M...I MEAN, IT'S JUST...THAT IS NOT A CONCERN THAT GETS BROUGHT UP BECAUSE WE DON'T HAVE ANYONE THAT COMES ANYWHERE CLOSE TO MAKING, OVER A TWO-WEEK PERIOD, LESS THAN \$9 AN HOUR. [LB494]

SENATOR NORDQUIST: ALL RIGHT, THANK YOU. THANK YOU, SENATOR MURANTE. FOLKS, I THINK THERE'S CERTAINLY AN ENFORCEMENT ISSUE HERE. AND THE FEDERAL DEPARTMENT OF LABOR REGULATIONS SAY THAT AN EMPLOYER MUST PROVIDE THE FOLLOWING INFORMATION TO TIPPED EMPLOYERS BEFORE THE EMPLOYEE CAN GET THE TIPPED CREDIT. AND IF THE EMPLOYER DOESN'T DO THAT, THEY CANNOT COUNT ON THE TIPPED CREDIT, WHICH THE TIPPED CREDIT IS THE REDUCTION FROM THE FULL MINIMUM WAGE TO THE TIPPED MINIMUM WAGE. WE HEARD TESTIMONY FROM THE RESTAURANT ASSOCIATION IN OUR OWN COMMITTEE THAT SAID, WELL, IT GOES OUT MAYBE IN A BIMONTHLY NEWSLETTER TO MANAGERS. THE FACT OF THE MATTER IS WE'VE SEEN AMPLE EVIDENCE. WE KNOW NATIONALLY SURVEYS SHOW THAT OVER 75 PERCENT OF RESTAURANT WORKERS ARE NOT AWARE OF THIS PROVISION. SO HOW MANY RESTAURANTS IN NEBRASKA, HOW MANY RESTAURANTS ACROSS THIS COUNTRY ARE NOT POINT BLANK TELLING THEIR EMPLOYEES, YOU ARE ENTITLED TO THIS DIFFERENCE, AND I, AS THE OWNER, HAVE TO MAKE IT UP. IF YOU ARE A RESTAURANT OWNER...NOW THERE ARE GOOD RESTAURANT OWNERS, LIKE SENATOR MURANTE WHO HAS THE TRACKING SYSTEM AND POSTS THE REQUIREMENTS, BUT IF YOU ARE A RESTAURANT OWNER AND THIS WAS THE PROVISION AND IT WAS UP FOR YOU TO TELL THE WORKER THAT YOU HAVE TO PAY THEM THE DIFFERENCE, WOULD YOU? I'VE HAD FRIENDS IN COLLEGE... [LB494]

SPEAKER HADLEY: ONE MINUTE. [LB494]

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SENATOR NORDQUIST: ...AND I JUST WAS SPEAKING TO SOME THE OTHER WEEK THAT WERE WORKING FOR PROBABLY...IT'S PROBABLY THE SECOND OR THIRD, I WOULD ASSUME, LARGEST RESTAURANT CHAIN, A NATIONAL CHAIN IN NEBRASKA...THIS IS A NATIONAL CHAIN THAT YOU WOULD THINK WOULD BE ABIDING BY FEDERAL LAW...WASN'T MAKING UP THE DIFFERENCE. THIS IS HAPPENING. THIS IS A PERVASIVE PROBLEM IN THE RESTAURANT INDUSTRY THAT ISN'T BEING ENFORCED. AND BECAUSE OF THAT, WE AS TAXPAYERS ARE PICKING UP THE DIFFERENCE WHEN THOSE WORKERS GO HOME WITH A PAYCHECK THAT DOESN'T EVEN GET THEM TO MINIMUM WAGE. THAT IS WHY WE ARE BRINGING THIS FORWARD. NEBRASKANS SPOKE CLEARLY IN NOVEMBER SAYING MAKE HARD WORK PAY TO THE TUNE OF 60 PERCENT OF THE VOTERS, 73 COUNTIES. AND THIS...IT'S QUITE FRANKLY SOMETHING THAT I WOULD HAVE LIKED TO HAVE ON THE BALLOT SIDE-BY-SIDE BECAUSE WE KNOW NEBRASKANS ARE SUPPORTIVE OF THIS. UNFORTUNATELY, WE HAD SIX WEEKS TO COLLECT SIGNATURES AND YOU COULDN'T DO IT ON ONE BALLOT, ON ONE PETITION. [LB494]

SPEAKER HADLEY: TIME, SENATOR. [LB494]

SENATOR NORDQUIST: WAS THAT TIME? [LB494]

SPEAKER HADLEY: SENATOR HANSEN, YOU'RE RECOGNIZED. [LB494]

SENATOR HANSEN: THANK YOU, MR. PRESIDENT. SOMETHING SENATOR NORDQUIST SAID JUST REALLY HIT THE NAIL ON THE HEAD FOR ME ON THIS ISSUE IS, NO ONE SHOULD HAVE TO WORK FOR \$2.13 AN HOUR. NO ONE SHOULD HAVE THEIR EMPLOYER, THE STATE OF NEBRASKA, SAY THEY ARE WORTH \$2.13 AN HOUR, ESPECIALLY IN CONSIDERATION WHEN WE AS A STATE, WE AS A COLLECTION OF PEOPLE HAVE SAID, OH, EVERYONE ELSE IS WORTH...THEIR EFFORTS ARE WORTH \$8 A YEAR, \$9 A YEAR NEXT YEAR. YOU KNOW, THERE CERTAINLY IS THE DISCUSSION THAT...AND TO ME THAT EVEN ILLUSTRATES THE LARGER ISSUE OF THERE'S CERTAINLY DISCUSSION THAT, OH, WELL, IF THE TIPS FALL SHORT, WE'LL BUMP THEM UP TO MINIMUM WAGE. SO THEY'RE GUARANTEED TO BE MAKING MINIMUM WAGE. WELL, THERE'S THAT WHOLE ISSUE OF...WE DON'T NECESSARILY THINK THEY'RE WORTH MINIMUM WAGE IN THE FIRST PLACE, THEY'RE NOT WORTH FULL MINIMUM WAGE IN THE FIRST PLACE. WE HOPE THE CUSTOMERS WILL PICK UP THE TAB FOR US. WE'D HOPE THE CUSTOMERS WILL BRIDGE THE GAP FOR US. AND IF SO, I GUESS BECAUSE THE LAW SAYS SO, WE CAN CATCH THEM UP SO AS TO NOT LET THEM FALL

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BEHIND. SENATOR NORDQUIST ACTUALLY I BELIEVE WAS MAKING SOME VERY GOOD POINTS ABOUT THE ENFORCEMENT. AND IF HE'S INTERESTED, I WOULD YIELD THE BALANCE OF MY TIME TO HIM. [LB494]

SPEAKER HADLEY: SENATOR NORDQUIST, YOU'RE YIELDED 3 MINUTES AND 40 SECONDS. [LB494]

SENATOR NORDQUIST: THANK YOU, MR. PRESIDENT, MEMBERS. AND AGAIN, THIS IS A FEDERAL LAW THAT REQUIRES THE DIFFERENCE TO MAKE UP...FOR THE RESTAURANT OWNER TO MAKE UP THE DIFFERENCE. BUT WE HAVE SEEN SO MANY STATES COME FORWARD AND SAY, WE'RE NOT GOING TO FORCE, YOU KNOW, WE'RE NOT GOING TO SHIFT THE COSTS OF THAT WORKER AWAY FROM THE BUSINESS ONTO THE CUSTOMER OR ONTO TAXPAYERS. WE ARE GOING TO MAKE THOSE BUSINESSES LIVE UP TO TAKING CARE OF THEIR EMPLOYEES, LIKE WE DO EVERY OTHER BUSINESS WITH THE MINIMUM WAGE. STATES LIKE ALASKA HAVE A \$7.75 TIPPED MINIMUM WAGE; CALIFORNIA IS \$8 AN HOUR; MONTANA, \$7.90 AN HOUR; NEVADA HAS AN \$8.25 AN HOUR TIPPED MINIMUM WAGE; NORTH DAKOTA, \$4.86 AN HOUR. THESE ARE STATES...WEST VIRGINIA, \$5.80 AN HOUR; OREGON, \$9.10 AN HOUR. THESE ARE STATES, INCLUDING FOUR OF OUR NEIGHBORING STATES, THAT HAVE SAID IT MAKES PUBLIC POLICY SENSE NOT TO LET THE BUSINESS SHIFT THOSE COSTS AWAY FROM THE BUSINESS. I HAD AN IRATE BLIMPIE'S OWNER COME TO ME AND SAY, WHY IS IT NOW YOU'VE RAISED THE MINIMUM WAGE, WHY IS IT NOW THAT WHEN I SERVE MY SANDWICH TO SOMEBODY I HAVE TO PAY MY WORKERS \$9 AN HOUR OR I WILL NEXT YEAR, BUT IF THAT GUY GOES AND SITS DOWN AND HAS THAT SAME SANDWICH AT A SIT-DOWN RESTAURANT, THAT BUSINESS OWNER ONLY HAS TO PAY HIM \$2.13 AN HOUR? HOW IS THAT FAIR TO MY BUSINESS? AND THAT'S EXACTLY THE PROBLEM HERE, FOLKS. WORKERS SHOULD BE WORTH A BASE PAY. AND THAT'S WHAT THE MINIMUM WAGE SHOULD BE AND IT SHOULD BE AT LEAST HALF OF IT. NOW, POLITICS IS THE ART OF THE POSSIBLE, SO I'M WILLING TO ACCEPT ANY COMPROMISE THAT CAN BE MOVED FORWARD. BUT THIS COMES DOWN TO TAKING CARE OF WORKERS. THIS COMES DOWN TO MAKING SURE THAT EVERYBODY WHO WORKS PUTS IN THE EFFORT TO WORK, CAN TAKE HOME A PAYCHECK THAT ALLOWS THEM TO SUPPORT THEIR FAMILY. AND WE CAN SAY THAT RESTAURANTS ARE MAKING IT UP, BUT THE FACTS JUST DON'T BEAR THAT OUT. THE FACTS ARE CRYSTAL CLEAR THAT RESTAURANT WORKERS ARE LIVING IN POVERTY, ARE RELYING ON FOOD STAMPS AND OTHER GOVERNMENT BENEFITS, AND IT IS BEING SHIFTED ONTO THE TAXPAYERS. WE HAVE A CHANCE TO MAKE A SMALL STEP... [LB494]

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SPEAKER HADLEY: ONE MINUTE. [LB494]

SENATOR NORDQUIST: ...IN THAT DIRECTION. IT'S AN ISSUE THAT NEEDS TO BE CONTINUED TO BE ADDRESSED. THANK YOU. [LB494]

SPEAKER HADLEY: SENATOR GROENE, YOU'RE RECOGNIZED. [LB494]

SENATOR GROENE: THANK YOU, MR. PRESIDENT. I'D LIKE TO MAKE THE POINT, ALL MY...LAST 25 YEARS I'VE TRAVELED THE RURAL AREAS IN AGRICULTURE, SMALL TOWNS, 2,000 PEOPLE OR LESS. AS THE YEARS WENT BY, IT'S HARDER AND HARDER TO FIND A RESTAURANT IN A SMALL TOWN. THEY DON'T EXIST. I COULD NAME A FEW TOWNS THAT DON'T EVEN HAVE A RESTAURANT. THEY MIGHT HAVE A SUBWAY OR SOMETHING LIKE THAT WHERE A PERSON IS PAID MINIMUM WAGE. I WOULD VENTURE TO GUESS THE AVERAGE LIFE OF A SMALL TOWN RESTAURANT IS MAYBE TWO TO THREE YEARS. THEN THEY FOUND OUT IT'S WORSE THAN MILKING COWS. THEY HAVE TO WORK IT THEMSELVES, BECAUSE THEY CAN'T AFFORD EMPLOYEES. I WOULD ALSO SAY ONE OF THE RESTAURANTS DOWN IN THE HAYMARKET OR THE OLD MARKET IN OMAHA PROBABLY GETS MORE CUSTOMERS IN ONE EVENING THAN SOME OF THE SMALL-TOWN RESTAURANTS DO IN A WEEK. THEY CAN'T AFFORD IT. THEY CAN'T AFFORD WHAT YOU ARE TRYING TO DO. THEY'RE GOING TO SEND PEOPLE HOME. THEY'RE GOING TO TRY TO WORK EXTRA HOURS, THE OWNERS ARE THEMSELVES, AND THEY'RE GOING TO TRY TO SURVIVE. NOT EVERYBODY IS IN THE HAYMARKET, NOT EVERYBODY IS IN THE OLD MARKET. THERE IS AN AWFUL LOT OF SMALL-TOWN RESTAURANTS THAT JUST CAN'T MAKE IT. AND BY THE WAY, \$9 AN HOUR IS GOING TO CLOSE A LOT OF STORES IN MAIN STREET, SMALL TOWN AMERICA. THEY TRY TO WORK TOGETHER AS COMMUNITIES. THEY TRY TO HIRE THE LOCAL KIDS. THEY TRY TO HIRE THE PERSON THAT'S DOWN AND OUT. THEY MIGHT HAVE FIVE CUSTOMERS, TEN A DAY IN SOME OF THE SMALL STORES ON MAIN STREET. BUT WHAT'S BEST FOR OMAHA IS ALSO BEST FOR SMALL TOWN, WESTERN NEBRASKA, TOO, I GUESS. COMMENT HERE: I LOOKED UP THE NATIONAL CONFERENCE OF STATE LEGISLATURES DATED FEBRUARY 24, 2015. SOUTH DAKOTA HAS AN \$8.50 MINIMUM WAGE; WYOMING \$5.15; COLORADO \$8.23; KANSAS \$7.25; MISSOURI \$7.65; IOWA \$7.25; NEBRASKA \$9. OUR WAIT STAFF IN THE STATE OF NEBRASKA MAKES MORE THAN ANY OTHER STATE AROUND US. I AM NOT GOING TO ASSUME THAT SMALL BUSINESS PEOPLE ARE CROOKS IN THE RESTAURANT BUSINESS AND THEY DO NOT PAY THEIR STAFF THE \$9 AN HOUR, ANYMORE THAN I'M GOING TO ASSUME THAT WAIT STAFF AVERAGE 10 PERCENT TIPS AND THAT IS EXACTLY WHAT THEY CLAIM ON THEIR INCOME TAX; NOT THAT TYPE OF PERSON. I HAPPEN TO BELIEVE EVERYBODY DESERVES

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THE BENEFIT OF THE DOUBT AND THEY OBEY THE LAWS. OUR WAIT STAFF IN NEBRASKA, COME JANUARY 1, WILL BE PAID THE HIGHEST MINIMUM WAGE IN THE FIVE-, SIX-STATE AREA. THIS IS UNNECESSARY. SMALL-TOWN PEOPLE WILL AT LEAST HAVE A KID AROUND, HAVE HIM OVERFILL THE SALT AND PEPPER SHAKERS. IF YOU EAT IN RESTAURANTS A LOT, YOU WILL KNOW WHAT I MEAN, IT'S HARD TO SHAKE A PEPPER SHAKER THAT'S PLUM FULL, BUT THAT'S WHAT THEY DO WITH THEIR STAFF WHEN IT'S SLOW TIME. ANYWAY, THEY'RE GOING TO SEND THOSE KIDS HOME. THEY'RE NOT GOING TO KEEP THEM AROUND. THEY LEARN A WORK ETHIC. THAT'S PART OF THE THINGS WE DO IN SMALL TOWNS, WE HIRE THOSE KIDS, HIRE YOUNGER PEOPLE, PEOPLE DOWN AND OUT SO THEY CAN GAIN A WORK ETHIC SO THEY CAN MOVE UP TO WORK IN ANOTHER JOB. LEAVE US ALONE. YOU'VE GOT YOUR \$9 AN HOUR, THAT'S ENOUGH. I'D SURE LIKE TO STOP IN SOME OF THE SMALL TOWNS AND HAVE SOMEBODY HAVE A DREAM THAT STARTS A SMALL TOWN BUSINESS AND OPENS A RESTAURANT AND A CAFE. SO THANK YOU, MR. PRESIDENT. THAT'S ALL I'VE GOT TO SAY. [LB494]

SPEAKER HADLEY: (VISITORS INTRODUCED.) SENATOR CRAIGHEAD, YOU ARE RECOGNIZED. [LB494]

SENATOR CRAIGHEAD: THANK YOU, MR. PRESIDENT. GOOD MORNING, COLLEAGUES. I'VE WORKED IN RESTAURANTS, STARTED WHEN I WAS ABOUT 14 YEARS OLD. I'VE HAD FAMILY MEMBERS THAT HAVE OWNED RESTAURANTS. I HAVE FAMILY MEMBERS THAT WORK IN RESTAURANTS NOW. AND I'VE TALKED TO A LOT OF PEOPLE THAT WORK IN RESTAURANTS. SENATOR NORDQUIST...I'D LIKE TO KNOW IF SENATOR NORDQUIST WOULD ANSWER A QUESTION, PLEASE. [LB494]

SPEAKER HADLEY: SENATOR NORDQUIST, WILL YOU YIELD? [LB494]

SENATOR NORDQUIST: YES. [LB494]

SENATOR CRAIGHEAD: SENATOR NORDQUIST, DO YOU KNOW HOW MUCH TIP WORKERS HAVE TO CLAIM FOR INCOME TAX PURPOSES? DO THEY CLAIM \$2.13, DO THEY CLAIM \$7.35, WHAT DO THEY CLAIM? [LB494]

SENATOR NORDQUIST: I AM NOT FAMILIAR, I...JUST WITH WHAT SENATOR MURANTE SAID, THEY HAVE TO CLAIM AT LEAST 10 PERCENT OF THEIR TIP...10

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PERCENT OF THE BILL AS INCOME FOR THEIR TIPS. AND I ASSUME THE BASE PAY IS IN THAT AS WELL. I DON'T KNOW BEYOND THAT. [LB494]

SENATOR CRAIGHEAD: OKAY, SO LET'S SAY YOU'VE GOT SOMEBODY THAT REALLY GETS OUT THERE AND WORKS AND THEY HUSTLE AND THEY'RE A REALLY GOOD EMPLOYEE. LET'S SAY THEY MAKE \$50,000 IN TIPS A YEAR. AND IT DOES HAPPEN, THIS IS NOT UNCOMMON. OKAY? HOW MUCH DOES THAT PERSON PROBABLY CLAIM? [LB494]

SENATOR NORDQUIST: IT WOULD BE...AT MINIMUM THEY HAVE TO CLAIM 10 PERCENT OF THEIR...10 PERCENT OF THE TOTAL BILL. SO DEPENDING ON THAT \$50,000 HOW MUCH THE BASE AMOUNT WAS, I WOULD ASSUME WITH TRACKING MORE CREDIT CARD TRANSACTIONS THAT MORE OF THAT IS BEING TRACKED THAN JUST THE CASH PIECE. AND I DON'T WANT TO TAKE YOUR TIME, I WILL RESPOND THOUGH AT SOME POINT ABOUT...IT DOES HAPPEN, BUT THAT TYPE OF RESTAURANT WORKER IS THE EXCEPTION AND NOT THE NORM. AND I THINK IT'S IMPORTANT THAT WE HAVE A REAL PERCEPTION OF WHAT RESTAURANT WORKERS ARE MAKING. [LB494]

SENATOR CRAIGHEAD: OKAY. I'M TRYING TO MAKE A POINT HERE. AND I DISAGREE, I DON'T THINK THAT'S THE EXCEPTION. SO LET'S SAY THAT THIS PERSON CLAIMS MINIMUM WAGE PLUS 10 PERCENT, WHICH STILL PUTS HIM AT POVERTY LEVEL AND THEY CAN GET SNAP BENEFITS AND MEDICAID AND ACTUALLY THEY'RE MAKING \$50,000 A YEAR. IS THAT NOT STEALING FROM THE GOVERNMENT? [LB494]

SENATOR NORDQUIST: I CERTAINLY...AS SENATOR GROENE SAID, HE SAID WE ASSUME PEOPLE DON'T BREAK THE LAW. I CERTAINLY THINK THAT THAT IS ALSO THE EXCEPTION, NOT THE NORM. [LB494]

SENATOR CRAIGHEAD: THANK YOU, SENATOR NORDQUIST. AND MR. CHAIRMAN, I WILL YIELD THE REST OF MY TIME TO SENATOR MURANTE. [LB494]

SPEAKER HADLEY: SENATOR MURANTE, YOU'RE YIELDED 2 MINUTES AND 35 SECONDS. [LB494]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR CRAIGHEAD. I WON'T ADD MUCH MORE BEYOND WHAT I HAVE ALREADY SAID,

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EXCEPT TO SAY THAT TO THOSE WHO WOULD SUGGEST THAT THE AMOUNT THAT SERVERS PAY...GET PAID, HAS NOT CHANGED ANY OVER AN EXTENDED PERIOD OF TIME; THAT'S JUST NOT ACCURATE. BECAUSE THEY GET PAID...THE BULK OF THEIR PAY COMES FROM THEIR TIPS. THEIR TIPS IS A PERCENTAGE OF THE SALES THAT THEY MADE. AS THE MENU PRICES GO UP, THEIR TIPS GO UP. SO THEY GET PAID MORE YEAR AFTER YEAR. AS INFLATION DRIVES UP PRICES, THEY ARE GOING TO MAKE MORE THAN THEY DID THE YEAR BEFORE. IT IS NOT THE SAME AS JUST THE FLAT, MINIMUM WAGE WHERE YOU ARE ESSENTIALLY...YOU'RE NOT MAKING ANY COMMISSION. IF THE MENU PRICES GO UP AND IF YOUR SALES GOES UP, THE PERCENTAGE...AND, QUITE FRANKLY, THE STATISTICS WOULD SHOW THAT PEOPLE ARE TIPPING MORE TODAY THAN THEY EVER HAVE BEFORE. TIPPING PERCENTAGES IS GOING UP, A CULTURE OF GRATUITY IS GOING UP, WHICH IS, I THINK, A VERY GOOD THING. SO THEY DO GET PAID MORE. THEY WILL GET PAID MORE NEXT YEAR THAN THEY DID THIS YEAR, AND MORE THIS YEAR THAN THE YEAR PRIOR. IT'S IMPORTANT TO JUST MAKE THAT POINT. SO THANK YOU, MR. PRESIDENT. [LB494]

SPEAKER HADLEY: THOSE IN THE QUEUE ARE: SENATORS BURKE HARR, DAVIS, CRAWFORD, HANSEN, AND MURANTE. SENATOR BURKE HARR, YOU ARE RECOGNIZED. [LB494]

SENATOR HARR: THANK YOU, MR. SPEAKER. YOU KNOW, THAT LAST POINT WAS VALID. THEIR PAY GOES UP...OVER TIME. AND IF I OWNED A PIZZA PLACE, I WOULD PROBABLY SAY THE SAME THING, BECAUSE GUESS WHAT GOES DOWN? HOW MUCH THE OWNER HAS TO PAY FOR THAT LABOR. SENATOR MURANTE, WILL YOU YIELD TO A QUESTION? [LB494]

SPEAKER HADLEY: SENATOR MURANTE, WILL YOU YIELD? [LB494]

SENATOR MURANTE: YES. [LB494]

SENATOR HARR: THANK YOU. DO YOU OWN A RESTAURANT? [LB494]

SENATOR MURANTE: NO. [LB494]

SENATOR HARR: OKAY. DO YOU MANAGE A RESTAURANT? [LB494]

SENATOR MURANTE: YES. [LB494]

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SENATOR HARR: OKAY. DO YOU KNOW, DO YOU PAY MINIMUM WAGE? [LB494]

SENATOR MURANTE: FOR "GRATUITIED" EMPLOYEES, YES. [LB494]

SENATOR HARR: OKAY. YOU DON'T PAY THEM ANY MORE THAN MINIMUM WAGE, IS THAT CORRECT? [LB494]

SENATOR MURANTE: THE "GRATUITIED" EMPLOYEES, YES. [LB494]

SENATOR HARR: OKAY. SO YOU'RE PAYING THAT RESTAURANT...HAD THEY EVER PAID MORE THAN MINIMUM WAGE FOR TIPPED WORKERS? [LB494]

SENATOR MURANTE: NOT TO MY KNOWLEDGE. [LB494]

SENATOR HARR: OKAY. FOLKS, WHAT THAT MEANS IS, THAT RESTAURANT IS PAYING THE SAME AMOUNT TODAY IN HOURLY WAGES AS IT DID IN 1991. THINK ABOUT WHAT YOU HAVE GOT PAID IN 1991. AND UNLESS YOU'RE SENATOR CHAMBERS, WHO HAS BEEN A STATE SENATOR, YOU ALL GOT A PAY RAISE. THINK ABOUT THAT. THEY WANT TO DO...THEY WANT TO MAKE MORE MONEY OFF THE BACKS OF THEIR WORKERS. THEY WANT TO PAY LESS IN LABOR. LOOK, I'D PROBABLY WANT TO DO THE SAME THING. BUT YOU DON'T DO IT OFF THE BACK OF THE PEOPLE WHO MAKE YOU MONEY. YOU HEARD SENATOR MURANTE, TWISTED LOGIC WHERE HE SAID THIS COULD BE BAD BECAUSE THE WAY RESTAURANTS MAKE MONEY IS OFF THEIR WAITERS AND WAITRESSES WHO SERVE THESE PEOPLE. AND THEN HE SAID, AND THEY MIGHT BE SENT HOME EARLY AND THEN THAT MANAGER MIGHT LOSE OUT ON MONEY. I DIDN'T REALLY UNDERSTAND THAT. BUT WHAT THAT TELLS YOU, YEAH, THE WORKER IS GETTING OKAY. BUT WHY, AGAIN, CAN'T THE WORKERS SHARE IN SOME OF THE PROFITS THAT THEY ARE CREATING? SURE, THEY GET TIPS. BUT THAT RESTAURANT, THE COST PER LABOR GOES SMALLER AND SMALLER AND SMALLER AND SMALLER. YOU HAVE TO COME INTO WORK. I HAVE BEEN A TIPPED EMPLOYEE. YOU'VE GOT TO COME IN BEFOREHAND, YOU'VE GOT TO SET UP, YOU'VE GOT TO DO PREP TIME. I'VE LEFT AFTER ALL THE CUSTOMERS LEAVE, YOU'VE GOT TO CLEAN UP. AND FOR THAT TIME, YOU DON'T RECEIVE ANY TIPS. YOU GET PAID THAT WHATEVER IT IS, \$2.13 AN HOUR. NOW, HOPEFULLY, IT AVERAGES OUT OVER TIME WITH THE TIPS THAT YOU RECEIVED WHILE YOU WERE WORKING. BUT GOSH DARN IT, I JUST THINK THERE'S SOMETHING WRONG. YOU KNOW, \$2.13, THINK ABOUT THAT. IF WE INCREASED IT, THAT WOULD BE \$3.67 AN HOUR IN TODAY'S DOLLARS. WE'RE NOT EVEN TRYING TO CATCH UP



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WITH INFLATION. ALL WE'RE TRYING TO DO IS HELP HIM OUT A LITTLE BIT; IT'S NOT A LOT. I HEARD SENATOR MURANTE WAS...YESTERDAY, VERY CONCERNED, VERY, VERY CONCERNED ABOUT LOW WAGE WORKERS HAVING TO PAY MORE IN GAS TAX. AND TALKING ABOUT HOW THAT 6 CENTS REALLY MATTERS. AND I GET... [LB494]

SPEAKER HADLEY: ONE MINUTE. [LB494]

SENATOR HARR: ...THAT SACRIFICE. THANK YOU. DID YOU SAY TIME? [LB494]

SPEAKER HADLEY: ONE MINUTE. [LB494]

SENATOR HARR: OH, I'M SORRY. AND I GET THAT SACRIFICE. AND YET THE VERY NEXT DAY, WE'RE UP AND HE'S SAYING THESE PEOPLE MAKE ENOUGH MONEY, EVEN THOUGH THEY ARE BELOW POVERTY AND HE DOESN'T THINK THEY SHOULD EARN MORE MONEY. HE THINKS THE RESTAURANT OWNERS SHOULD GET THAT MONEY, NOT THE WORKER WHO IS EARNING THE MONEY. I DON'T KNOW, I JUST...I FUNDAMENTALLY HAVE A PROBLEM WITH THAT. I GET WE HAD A BALLOT INITIATIVE, THIS IS GOING TO TAKE 33 VOTES, FOLKS, TO PASS; 30 OR 33, I CAN'T REMEMBER. THIRTY-THREE. SO I GUESS I WILL SUPPORT AM647. I WOULD ASK FOR YOUR SUPPORT ON THE UNDERLYING BILL AS WELL. THANK YOU. [LB494]

SPEAKER HADLEY: (VISITORS INTRODUCED.) SENATOR DAVIS, YOU ARE RECOGNIZED. SENATOR DAVIS, YOU ARE RECOGNIZED. [LB494]

SENATOR DAVIS: THANK YOU, MR. PRESIDENT. COLLEAGUES, LET ME TRY TO COUCH THIS IN A LITTLE DIFFERENT MANNER. BUT THE FIRST THING I WANT TO SAY IS...I COME FROM A VERY, VERY RURAL PART OF THE STATE WITH ONLY FIVE, SIX COMMUNITIES THAT ARE A THOUSAND PEOPLE OR MORE. SO WHEN YOU TALK ABOUT STRUGGLING BUSINESSES, WE HAVE A LOT OF THEM IN A LOT OF OUR LITTLE TOWNS. AND EVERY ONE OF THOSE LITTLE TOWNS HAS A LITTLE QUIANT TAVERN OR A RESTAURANT AND A LOT OF THE FOLKS HERE AND ELSEWHERE LIKE TO TRAVEL OUT AND HAVE DINNER IN ONE OF THOSE PLACES AND THEY ENJOY THE UNUSUAL NATURE OF IT, THE QUIETNESS OF IT, BECAUSE A LOT OF THOSE LITTLE CAFES ONLY HAVE ABOUT 40 OR 50 CUSTOMERS PER DAY. SO LAST YEAR, I DID A LITTLE TOUR OF MY DISTRICT AND I STOPPED AT THE BAR IN JOHNSTOWN, WHICH IS A POPULATION ABOUT 50. AND THE PERSON WHO OWNED THE PLACE SAID, WELL, YOU KNOW, I HAD TO RAISE MY

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HAMBURGER PRICES 50 CENTS AND PEOPLE ARE REALLY MAD ABOUT IT. COLLEAGUES, THERE ISN'T ANYBODY LIVING ON THE WAGE THAT THEY'RE PAID. WE KNOW THAT. THAT IS LIKE \$2.13 AN HOUR, SO THERE'S NOBODY...NO EMPLOYER ONLY COMPENSATING THOSE PEOPLE WITH THAT WAGE, BECAUSE THEY WOULDN'T BE WORKING THERE. SO THAT IS A BOGUS ARGUMENT IN MY MIND. LET'S LOOK AT WHAT REALLY HAPPENS. SO IF YOU'VE GOT AN INDIVIDUAL WHO IS PAID THE \$2.13 AND HE WORKS A 10-HOUR SHIFT, WE'LL SAY, HE MAKES \$26.50 ABOUT. SO HE MAKES A HUNDRED DOLLAR TIP, HE MAKES \$126.50. SO IF WE INCREASE THIS, HE'S GOING TO MAKE ANOTHER \$5 OR \$6 BECAUSE THAT IS WHAT HIS BASE SALARY IS GOING TO BE, PLUS HE GETS THE TIP. NOW, WE GO TO SOMEBODY WHO IS IN A SMALL TOWN RESTAURANT, AND THE PEOPLE ARE COMPLYING WITH THE LAW, HE'S JUST GOING TO MAKE THE MINIMUM WAGE, WHICH IS WHAT THE OTHER FOLKS ARE MAKING ANYWAY. SO WE NEED TO BE CAREFUL ABOUT THIS. I THINK IT'S JUST BAD POLICY. AND AS SENATOR GROENE SAID, WE'RE GOING TO END UP CLOSING A LOT OF SMALL PLACES BECAUSE THEY ARE ABSOLUTELY OPERATING ON A WING AND A PRAYER IN ALL HONESTY. THIS IS JUST NOT GOOD POLICY. SUPPLY AND DEMAND CAN DICTATE THE PRICE OF THESE THINGS. LET'S LET THAT HAPPEN. I WOULD URGE THE BODY TO CONSIDER THE AMENDMENT VOTE AS A TEST VOTE FOR SUPPORT OF THIS BILL. AND I WOULD HOPE THAT SENATOR NORDQUIST WOULD RECOGNIZE WITHOUT 33 VOTES HE CAN'T GET THE BILL THROUGH AND WE MIGHT BE SMART TO PULL IT AT THIS POINT. WITH THAT, I WILL YIELD THE REST OF MY TIME TO SENATOR MURANTE. [LB494]

SPEAKER HADLEY: SENATOR MURANTE, YOU ARE YIELDED 2 MINUTES AND 16 SECONDS. [LB494]

SENATOR MURANTE: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR DAVIS. I ALSO THINK THAT WE SHOULD REJECT THE COMMITTEE AMENDMENTS IN ADDITION TO LB494. BUT I GOT TO SAY, I'VE HEARD SOME WHOPPERS OF FLOOR SPEECHES OVER THE SEVEN YEARS THAT I'VE BEEN...EIGHT, NOW, THAT I HAVE BEEN OBSERVING THIS LEGISLATURE ON A DAY-TO-DAY BASIS. SENATOR HARR'S FLOOR SPEECH MIGHT GO DOWN IN THE BOOKS AS ONE OF THE BIGGEST WHOPPERS; SPOKEN LIKE A PERSON WHO HAS ABSOLUTELY NO IDEA WHAT HE IS TALKING ABOUT, BECAUSE I GOT TO TELL YOU, COLLEAGUES, THE IDEA THAT LABOR COSTS ARE GOING DOWN IN THE RESTAURANT INDUSTRY IS ONE OF THE MOST LAUGHABLE ASSERTIONS THAT I HAVE HEARD. THE IDEA THAT MARGINS ON THE RESTAURANT INDUSTRY ARE GREAT...OH MAN, THESE RESTAURANT OWNERS...I GOT TO TELL YOU, FAR MORE RESTAURANTS GO OUT OF BUSINESS THAN STAY ALIVE FOR AN EXTENDED PERIOD OF TIME. THE IDEA THAT... YOU

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KNOW WHAT THE TIPPED EMPLOYEES WANT? YOU KNOW WHAT THEY WANT MORE THAN ANYTHING? THEY WANT THEIR TABLES FULL. THEY WANT THEIR SECTIONS TURNED. THEY WANT THEIR TICKET PRICES GOING UP BECAUSE THEY MAKE THEIR MONEY ON THE TIPS. [LB494]

SPEAKER HADLEY: ONE MINUTE. [LB494]

SENATOR MURANTE: GO ASK A RESTAURANT OWNER HOW MANY TIMES A WAITRESS HAS COME TO THEM AND ASKED FOR A RAISE ON THEIR HOURLY WAGE. GO TO YOUR FAVORITE RESTAURANT, JUST ASK THEM. I CAN GUARANTEE WHAT THE ANSWER IS GOING TO BE. LET'S BE A LITTLE...WE DON'T NEED TO DEMONIZE OTHER PEOPLE IN THIS DEBATE. IT'S A FAIR DEBATE. I WOULD SUBMIT TO YOU THAT LB494 WILL DO MORE HARM THAN GOOD TO THE TIPPED EMPLOYEES OF NEBRASKA. IF YOU WANT THE TIPPED EMPLOYEES TO MAKE MORE MONEY, HELP ENCOURAGE A NEBRASKA WHERE MORE PEOPLE HAVE DISPOSABLE INCOME, CAN GO OUT TO DINNER AND CAN FILL THOSE TABLES BECAUSE THAT'S WHERE THEY'RE MAKING THEIR MONEY. IT IS NOT ON THE \$2.13 AN HOUR. THANK YOU, MR. PRESIDENT. [LB494]

SPEAKER HADLEY: SENATOR CRAWFORD, YOU ARE RECOGNIZED. [LB494]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT. I RISE IN SUPPORT OF LB494. I HAVE TO ADMIT, I WASN'T CRAZY ABOUT THE COMMITTEE AMENDMENTS, BUT I DO RESPECT THE HARD WORK OF PEOPLE WHO CAME UP WITH THAT COMPRISE. AND SO I WILL SUPPORT THE COMMITTEE AMENDMENTS AS WELL. I JUST WANT TO PUT A LITTLE CONTEXT IN THIS DEBATE. AND THAT IS, WE HAVE, FOR A LONG TIME, IN FEDERAL LAW HAD A DIFFERENCE BETWEEN THE TIPPED WAGE AND THE REGULAR WAGE. AND WHAT IT USED TO BE WAS THE TIPPED WAGE, MINIMUM WAGE, WAS HALF OF WHAT THE OTHER WAGE WAS. AND AS WE'VE SAID BEFORE, IN...WHAT HAPPENED IS THAT WAS GOING ALONG AND THEN SOMETIME AFTER 1991, THE FEDERAL LAW KEPT CHANGING THE MINIMUM WAGE, BUT DID NOT CHANGE THAT TIPPED WAGE. SO...BUT THE POLICY OF REQUIRING THAT THE TIPS MAKE SOMEONE UP TO THE MINIMUM WAGE WAS IN PLACE BEFORE. AND SO THE IDEA WAS THE TIPPED WAGE WAS HALF OF THE MINIMUM WAGE, YOU MAKE SURE THEY MAKE UP TO THE MINIMUM WAGE AS PART OF THE POLICY. AGAIN, ASSUMING THAT THAT'S ACTUALLY HAPPENING AND WORKING WELL IN THOSE RESTAURANTS. SO IT REALLY IS AN ISSUE, I THINK, OF THE IMPORTANCE OF SHOWING THE VALUE OF THAT LABOR. WHAT'S HAPPENED IS THAT SINCE 1991, WE HAVE NOT INCREASED

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THE MINIMUM WAGE FOR THESE TIPPED WORKERS. SO WE HAVE REPEATEDLY, AT THE FEDERAL AND THE STATE LEVEL, PASSED POLICIES SAYING PEOPLE WHO WORK HARD SHOULD BE PAID MORE. AND THE PEOPLE WHO ARE IN THIS CLASS OF WORKERS FEEL THAT WE HAVE NOT ACKNOWLEDGED THE IMPORTANCE OF INCREASING THEIR WAGE. THE INCREASE IN LB494, AS AMENDED, IS PRETTY SMALL. AND I THINK IT'S AN IMPORTANT...THOUGH I THINK IT'S AN IMPORTANT MESSAGE FOR US TO SEND THAT THIS IS...THAT WE DO CARE ABOUT THE TIPPED WORKERS. AND WE DO CARE ABOUT THE IMPORTANCE OF HAVING A PORTION OF THEIR WAGES PAID AND THAT THE VALUE OF THEIR LABOR BEYOND WHAT THEY EARN FROM TIPS, THAT HAS VALUE AND NEEDS TO BE TREATED ACCORDINGLY. SO I WOULD LIKE TO RESPOND ALSO TO THE CONCERN ABOUT THE VERY LOW VOLUME RESTAURANTS. SO IF YOU HAVE A VERY LOW VOLUME RESTAURANT, THEN CHANCES ARE THAT YOU MAY BE IN THAT SITUATION WHERE THE TIPS ARE NOT GETTING YOU UP TO THE MINIMUM WAGE. SO THOSE SMALLEST, MOST LOW-VOLUME RESTAURANTS WOULD NOT BE IMPACTED BY THE INCREASE IN LB494 ANYWAY. THEY WOULD NEED TO MAKE SURE THEIR WORKERS EARN THE MINIMUM WAGE THAT WE'VE PASSED FOR ALL WORKERS. SO I DON'T THINK THAT TINY, STARTUP RESTAURANT OR REMOTE RURAL RESTAURANT WILL BE HARMED BY LB494. IF THE VOLUME IS SO LOW, THEY WOULD NEED TO BE PAID THE MINIMUM WAGE THROUGH OUR OTHER PROVISIONS. SO I THINK, AGAIN, THE POINT OF LB494 IS TO RECOGNIZE THAT THAT LABOR OF THE TIP WORKER HAS VALUE. AND WE WANT TO RECOGNIZE IN OUR POLICY THAT IT HAS VALUE. AND WE ARE DOING THAT WITH A MINIMAL INCREASE, BUT INSTEAD OF LEAVING THEM BEHIND, SINCE WE HAVE IN 1991, WE'RE RECOGNIZING THAT WE WANT TO GIVE THAT LABOR VALUE AND WE WANT TO RECOGNIZE THAT IN OUR POLICY BY RECOGNIZING THAT THEY ALSO DESERVE AN INCREASE IN THEIR MINIMUM WAGE. THANK YOU, MR. PRESIDENT. [LB494]

SPEAKER HADLEY: SEEING NO ONE IN THE QUEUE, SENATOR HARR, YOU'RE RECOGNIZED TO CLOSE ON THE COMMITTEE AMENDMENT. [LB494]

SENATOR HARR: THANK YOU, MR. SPEAKER. SO AM647 IS A VERY SIMPLE AMENDMENT. IT RAISES TIPPED WAGES FROM THE CURRENT \$2.13 AN HOUR, THAT WE SET IN 1991, TO \$2.64...WELL, \$2.35 THIS YEAR AND THEN \$2.64 NEXT YEAR. THIS IS THE SAME PERCENTAGE OF INCREASE THAT WE DID FOR MINIMUM WAGE. MY LAST SPEECH, I DON'T KNOW IF IT WAS A WHOPPER, I THOUGHT IT WAS MORE OF A BIG MAC, BUT THE PURPOSE OF IT IS TO TALK ABOUT THE FACT THAT WHILE WAGES MAY BE INCREASING IN RESTAURANTS FOR SOME EMPLOYEES, SINCE 1991 IT HASN'T MOVED ONE PENNY. THE OWNER

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OF A RESTAURANT, THE PRESIDENT OF A RESTAURANT DOES NOT PAY ONE PENNY MORE FOR THEIR EMPLOYEE--ASSUMING THEY HAVE NINE...THEY MAKE THE MINIMUM WAGE ON TIPS--THAN THEY DID IN 1991, '92, '93, '94, '95, AND SO ON. IN 23 YEARS, THERE HASN'T BEEN A CHANGE, A DIME. HAS THE EMPLOYEE MADE MORE MONEY? YES. THROUGH THE TIPS, YES. BUT IF YOU THINK ABOUT IT, IT'S BASED TIMES...LIKE PROPERTY TAX, FOLKS, IT IS THE BASE THAT YOU MAKE TIMES YOUR TIPPED SALARY EQUALS YOUR SALARY, THE AMOUNT YOU TAKE HOME. AND IF THE HOURLY WAGE HASN'T CHANGED, THEIR TAKE-HOME PAY HAS GONE DOWN IN REAL DOLLARS. YEAH, THEY ARE TAKING HOME MORE, BUT NOT WHEN YOU ADD IN INFLATION. WHAT WE'RE TRYING TO DO HERE IS...AND I HAVEN'T HEARD ANYONE CLAIM THAT THIS BUSINESS WILL GO OUT OF BUSINESS BECAUSE OF THIS INCREASE. I'VE HEARD CONJECTURE THAT MIGHT HAPPEN, BUT I DON'T KNOW ONE RESTAURANT THAT WILL GO OUT OF BUSINESS. AND SO, LET'S TRY TO DO SOMETHING HERE. THE BEST POLICY TO GET MORE TAXES IS TO PAY OUR WORKERS MORE. THAT'S WHY WALMARTS ARE DOING IT, McDONALD'S IS DOING IT. THAT'S WHY THE VOTERS VOTED BY 60 PERCENT TO INCREASE MINIMUM WAGE, BECAUSE WE SEE A VALUE IN INCREASING WAGES FOR OUR LOWEST WORKERS. THAT IS ALL WE'RE TRYING TO DO HERE. I WOULD ASK FOR YOUR SUPPORT ON AM647. THANK YOU. [LB494]

SPEAKER HADLEY: YOU'VE HEARD THE CLOSING ON AMENDMENT AM647. ALL THOSE IN FAVOR OF THE AMENDMENT SIGNIFY BY VOTING AYE; OPPOSED VOTE NAY. SENATOR HARR, FOR WHICH REASON... [LB494]

SENATOR HARR: YEAH, I WOULD REQUEST A CALL OF THE HOUSE. [LB494]

SPEAKER HADLEY: THERE HAS BEEN A REQUEST TO PLACE THE HOUSE UNDER CALL. THE QUESTION IS, SHALL THE HOUSE GO UNDER CALL? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD MR. CLERK. [LB494]

CLERK: 31 AYES, 0 NAYS TO PLACE THE HOUSE UNDER CALL. [LB494]

SPEAKER HADLEY: THE HOUSE IS UNDER CALL. SENATORS, PLEASE RECORD YOUR PRESENCE. THOSE UNEXCUSED SENATORS OUTSIDE THE CHAMBER PLEASE RETURN TO THE CHAMBER AND RECORD YOUR PRESENCE. ALL UNAUTHORIZED PERSONNEL PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. SENATOR SEILER, WILL YOU CHECK IN, PLEASE? SENATOR HOWARD, WOULD YOU CHECK IN, PLEASE? SENATOR HARR, HOW WOULD YOU LIKE TO PROCEED? [LB494]

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SENATOR HARR: ROLL CALL REVERSE ORDER, PLEASE. [LB494]

SPEAKER HADLEY: THERE'S BEEN A REQUEST FOR A ROLL CALL IN THE REVERSE ORDER, MR. CLERK. [LB494]

CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGES 1176-1177.) 20 AYES, 25 NAYS, MR. PRESIDENT, ON THE COMMITTEE AMENDMENTS. [LB494]

SPEAKER HADLEY: THE COMMITTEE AMENDMENT FAILS. SENATOR NORDQUIST, YOU'RE RECOGNIZED TO CLOSE ON YOUR BILL. [LB494]

SENATOR NORDQUIST: THANK YOU, MR. PRESIDENT AND MEMBERS. WE RETURN NOW TO THE UNDERLYING BILL OF LB494 WHICH WOULD TIE THE TIPPED MINIMUM WAGE TO 50 PERCENT OF THE STATE MINIMUM WAGE OVER A COURSE OF A COUPLE YEARS, SO BY 2018, WE WOULD GET TO \$4.50 AN HOUR. THAT VERY MUCH PUTS US IN ALIGNMENT WITH NEIGHBORING STATES: COLORADO IS \$5.21 AN HOUR; IOWA, \$4.35; SOUTH DAKOTA, \$4.25; AND IT WOULD RETURN US BACK TO A TIME WHEN COMMON SENSE PREVAILED THAT SAID, ESSENTIALLY, WORKERS SHOULD BE ENTITLED TO SOME BASE PAY. AND BACK IN 1991, WE GOT TO \$2.13 AN HOUR. AND THEN IN 1996, WHEN THEY PASSED THE FEDERAL LAW TO RAISE THE MINIMUM WAGE, UNFORTUNATELY, CONGRESS BOWED TO THE PRESSURE OF ONE INDUSTRY TO DECOUPLE THE MINIMUM WAGE, THE TIPPED WAGE FROM THE FEDERAL MINIMUM WAGE, AND THAT'S HOW WE HAVE SEEN THIS EROSION OVER TIME. IT'S TIME TO RESTORE COMMON SENSE. IT'S TIME TO RETURN SOME COMMON SENSE TO THIS POLICY AND SAY, EVERY WORKER IS ENTITLED TO A LEVEL OF BASE PAY. AND WE HEARD THE DISCUSSION ON THE FLOOR. AND, YES, A RESTAURANT THAT HAS PAID \$2.13 AN HOUR SINCE 1991, IT DOESN'T...HAS NEVER HAD TO MAKE UP THE DIFFERENTIAL, HAS NOT PAID AN ADDITIONAL DOLLAR IN LABOR COSTS SINCE 1991. THAT WAS SENATOR HARR'S POINT. AND WHETHER THAT POINT WAS A WHOPPER OR A BIG MAC, BOTH THOSE RESTAURANTS HAVE TO PAY THE FULL MINIMUM WAGE. LET'S RAISE THE MINIMUM WAGE FOR TIPPED WORKERS TO GIVE THEM SOME BASE PAY, SOME STABILITY. THESE ARE FAMILIES THAT COUNT ON THIS; STATISTICS SHOW THAT. THESE ARE WOMEN; THESE ARE MOTHERS WHO ARE TRYING TO SUPPORT THEIR FAMILIES. AND TO BE AT THE WHIM OF CUSTOMERS AND HAVING TO TURN TO GOVERNMENT BENEFITS SHOULDN'T BE THE LIFESTYLE THAT THEY HAVE TO LIVE. THEY SHOULD BE ABLE TO HAVE A BASE PAY THAT ALLOWS THEM TO MAKE ENDS MEET WITH THEIR TIPS. I'D APPRECIATE YOUR SUPPORT OF LB494. [LB494]

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SPEAKER HADLEY: YOU'VE HEARD THE CLOSING ON LB494. ALL THOSE IN FAVOR SIGNIFY BY VOTING AYE; THOSE OPPOSED VOTE NAY. HAVE ALL THOSE VOTED WHO WISH TO VOTE? THERE'S BEEN A REQUEST FOR A RECORD VOTE. MR. CLERK. [LB494]

CLERK: (RECORD VOTE READ, LEGISLATIVE JOURNAL PAGE 1177.) 18 AYES, 27 NAYS, MR. PRESIDENT, ON THE ADVANCEMENT. [LB494]

SPEAKER HADLEY: LB494 DOES NOT ADVANCE. MR. CLERK...RAISE THE CALL. MR. CLERK, ITEMS. [LB494]

CLERK: MR. PRESIDENT, YOUR COMMITTEE ON ENROLLMENT AND REVIEW REPORTS LB320, LB320A, LB347, LB347A, LB500, LB538, AND LB538A ALL CORRECTLY ENGROSSED. SENATOR KRIST A MOTION WITH RESPECT TO LB15; SENATOR CRAWFORD TO LB67. (LEGISLATIVE JOURNAL PAGE 1178.) [LB320 LB320A LB347 LB347A LB500 LB538 LB538A LB15 LB67]

MR. PRESIDENT, SENATOR CRAWFORD WOULD MOVE TO RECESS THE BODY UNTIL 1:30 P.M.

SPEAKER HADLEY: YOU'VE HEARD THE MOTION TO RECESS. ALL THOSE IN FAVOR SIGNIFY BY SAYING AYE. OPPOSED, NAY. MOTION IS CARRIED.

RECESS

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: GOOD AFTERNOON, LADIES AND GENTLEMEN. WELCOME TO GEORGE W. NORRIS LEGISLATIVE CHAMBER. THE AFTERNOON SESSION IS ABOUT TO RECONVENE. SENATORS, PLEASE RECORD YOUR PRESENCE. ROLL CALL. MR. CLERK, PLEASE RECORD.

CLERK: I HAVE A QUORUM PRESENT, MR. PRESIDENT.

PRESIDENT FOLEY: THANK YOU, MR. CLERK. DO YOU HAVE ANY ITEMS FOR THE RECORD?

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CLERK: MR. PRESIDENT, I HAVE THREE APPOINTMENT LETTERS FROM THE GOVERNOR. THOSE WILL BE REFERRED TO REFERENCE FOR REFERRAL TO STANDING COMMITTEE FOR A CONFIRMATION HEARING. THAT'S ALL THAT I HAVE. (LEGISLATIVE JOURNAL PAGES 1179-1180.)

PRESIDENT FOLEY: THANK YOU, MR. CLERK. WE'LL NOW PROCEED TO THE FIRST ITEM ON THIS AFTERNOON'S AGENDA. MR. CLERK.

CLERK: MR. PRESIDENT, LB605 IS A BILL BY SENATOR MELLO. (READ TITLE.) SENATOR MELLO INTRODUCED HIS BILL ON JANUARY 21, AT THAT TIME REFERRED TO THE JUDICIARY COMMITTEE. MR. PRESIDENT, I DO HAVE JUDICIARY COMMITTEE AMENDMENTS PENDING. (AM1010, LEGISLATIVE JOURNAL PAGE 1180.) [LB605]

PRESIDENT FOLEY: THANK YOU, MR. CLERK. (GAVEL) SENATORS WILL COME TO ORDER. SENATOR MELLO, YOU'RE WELCOME TO OPEN ON LB605. [LB605]

SENATOR MELLO: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE. LB605 IS A PART OF A BROAD EFFORT TO ENSURE THAT OUR STATE'S CRIMINAL JUSTICE AND CORRECTIONS SYSTEM HAVE THE PRISON SPACE AND OTHER VITAL TOOLS NEEDED TO PROTECT PUBLIC SAFETY AND HOLD OFFENDERS ACCOUNTABLE. BETWEEN 2004 AND 2013, EVEN THOUGH REPORTED CRIME AND ARREST RATES DECLINED, THE STATE'S PRISON POPULATION INCREASED 19 PERCENT AND NOW STANDS AT 159 PERCENT OF CAPACITY. IF GROWTH CONTINUES AT THIS RATE, NEBRASKA'S PRISONS WILL BE AT 170 PERCENT OF CAPACITY BY 2020. THE DEPARTMENT OF CORRECTIONAL SERVICES HAS PROPOSED SPENDING OVER \$260 MILLION TO INCREASE PRISON CAPACITY. HOWEVER, THE DEPARTMENT OF CORRECTIONS' PROPOSAL DOES NOT ADDRESS THE ROOT CAUSES OF THE GROWING PRISON POPULATION, INCLUDING THE REVOLVING DOOR OF RECIDIVISM AFFECTING OUR SYSTEM. AS A RESULT, THE PRISON SYSTEM WOULD STILL BE AT 128 PERCENT OF CAPACITY BY 2019. TEMPORARY MEASURES AND BAND-AID SOLUTIONS, COLLEAGUES, ARE NO LONGER A VIABLE OPTION. THE PROSPECT OF FEDERAL COURT INTERVENTION TO REDUCE OVERCROWDING IS VERY REAL. THE ACLU OF NEBRASKA HAS ALREADY MOVED FORWARD WITH DEVELOPING A PRISON LITIGATION ADVISORY PANEL TO EXPLORE THIS POSSIBILITY AND HAS WARNED LAWMAKERS OF THE POTENTIAL RAMIFICATIONS OF FAILING TO ADDRESS THIS VERY CRITICAL ISSUE. IF WE LOOK TO CALIFORNIA, WE SEE THAT A SERIES OF SIMILAR ACTIONS RESULTED IN FEDERAL COURT ORDERS TO DRAMATICALLY



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REDUCE PRISON POPULATIONS IN A VERY SHORT PERIOD OF TIME AND AT ENORMOUS COSTS. FORTUNATELY, NEBRASKA STILL HAS THE OPPORTUNITY TO ADDRESS THE CHALLENGES AND REACH SOLUTIONS ON OUR OWN TERMS AND DO SO WITHOUT INTERVENTION FROM THE FEDERAL GOVERNMENT. AND IT CAN BE DONE, COLLEAGUES, IN A CAREFUL AND FISCALLY RESPONSIBLE MANNER THAT PLACES PUBLIC SAFETY AT THE FOREFRONT. IN 2014, THE NEBRASKA LEGISLATURE PASSED LB907 WHICH ESTABLISHED THE JUSTICE REINVESTMENT WORKING GROUP TO DEVELOP POLICY OPTIONS TO INCREASE PUBLIC SAFETY AND AVERT GROWTH IN OUR PRISON POPULATION. THIS UNPRECEDENTED COLLABORATION OF ALL THREE BRANCHES IN GOVERNMENT INCLUDED THE GOVERNOR, THE CHIEF JUSTICE OF THE SUPREME COURT, THE STATE LAWMAKERS, INCLUDING THE SPEAKER OF THE LEGISLATURE, MEMBERS OF JUDICIARY, CORRECTIONS OFFICIALS, COUNTY ATTORNEYS, DEFENSE ATTORNEYS, AND LOCAL LAW ENFORCEMENT EXECUTIVES. THE COUNCIL OF STATE GOVERNMENT'S JUSTICE CENTER PROVIDED EXPERT ANALYSIS AND ASSISTANCE ON AN EXTENSIVE AMOUNT OF DATA FROM ACROSS OUR STATE'S CRIMINAL JUSTICE SYSTEM. LB605 IS A PRODUCT OF THIS COMPREHENSIVE CONSENSUS-DRIVEN PROCESS. THE FIRST STRATEGY IS TO FOCUS OUR PRISON RESOURCES ON THE MOST DANGEROUS OFFENDERS WHILE USING OTHER CAPACITY SUCH AS PROBATION AND DIVERSION TO HOLD LOWER LEVEL OFFENDERS ACCOUNTABLE. SENTENCING PEOPLE TO PRISON FOR RELATIVELY SHORT SENTENCES THAT PROVIDE LITTLE OR NO TREATMENT OR POSTRELEASE SUPERVISION FAILS TO PROVIDE THE ACCOUNTABILITY THAT LOWERS RECIDIVISM. TO THIS END, LB605 REORGANIZING FELONIES THAT DO NOT INVOLVE VIOLENCE OR SEX OFFENSES AS CLASS IV FELONIES AND CREATES A STATUTORY PRESUMPTION THAT A PERSON CONVICTED OF THESE LOW-LEVEL, NONVIOLENT OFFENSES WILL BE SENTENCED TO PROBATION. AT THEIR DISCRETION, THE SENTENCING JUDGE RETAINS THE ABILITY TO OVERCOME THIS PRESUMPTION. FOR EXAMPLE, IN A SITUATION WHERE THE DEFENDANT IS CONCURRENTLY SENTENCED TO A MORE SERIOUS FELONY OFFENSE OR FOR SOME OTHER SUBSTANTIAL OR COMPELLING REASON. CURRENT CLASS IV FELONIES THAT DO NOT INVOLVE VIOLENCE OR SEX OFFENSES WOULD BE UPGRADED UNDER...I'M SORRY, CURRENT CLASS IV FELONIES THAT DO INVOLVE VIOLENCE OR SEX OFFENSES WILL BE UPGRADED UNDER LB605 TO A CLASS IIIA FELONY. CURRENT CLASS III FELONIES INVOLVING VIOLENCE AND SEX OFFENSES ARE UPGRADED TO A NEW CATEGORY OF CLASS IIA FELONY. LB605 WOULD ALSO ADJUST THE FELONY THEFT THRESHOLD FROM \$500 TO \$1,500. NEBRASKA SENTENCES ABOUT 175 INDIVIDUALS TO PRISON EACH YEAR FOR THEFT OF GOODS IN THIS RANGE. CRIMES THAT WOULD HAVE BEEN CONSIDERED MISDEMEANORS BACK IN 1992, WHEN THE CURRENT THRESHOLD

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WAS SET, WOULD NOW BE CONSIDERED FELONIES. THIS CHANGE IS NEEDED SIMPLY TO KEEP UP WITH INFLATION. THIRTY-THREE OTHER STATES HAVE MODERNIZED THEIR FELONY THEFT THRESHOLD LEVEL. AND IT'S TIME NEBRASKA DOES THE SAME. BECAUSE OUR PRISONS ARE ALREADY OVER CAPACITY, RESOURCES MUST BE PRIORITIZED TO ENSURE THEY DELIVER THE BEST RETURN ON OUR INVESTMENT IN PUBLIC SAFETY. UNDER LB605, ALL MISDEMEANOR SENTENCES TO IMPRISONMENT WOULD BE SERVED IN JAIL. THIS CHANGE HELPS TO ENSURE THAT OUR LIMITED PRISON RESOURCES ARE DEVOTED TO THE MOST SERIOUS OFFENDERS WHILE ENDING THE HARMFUL PRACTICE OF EXPOSING MISDEMEANOR OFFENDERS TO HIGHER RISK INDIVIDUALS SENTENCED TO PRISON FOR MORE SEVERE OFFENSES, A PRACTICE THAT IS SHOWN TO INCREASE THE LIKELIHOOD OF FUTURE CRIMINAL BEHAVIOR IN LOWER RISK INDIVIDUALS. THE SECOND STRATEGY ENSURES PERIODS OF SUPERVISION AFTER RELEASE FROM PRISON. CURRENTLY, ONE IN THREE INDIVIDUALS RELEASED FROM PRISON RETURN TO THE COMMUNITY WITHOUT SUPERVISION. THIS IS BECAUSE THEY SERVE THEIR ENTIRE SENTENCE BEHIND BARS BEFORE THE PAROLE BOARD CAN ACT AND THEY JAM OUT WITH NO SUPERVISION. COURTS FREQUENTLY IMPOSE SENTENCE STRUCTURES THAT ALLOWS NO OPPORTUNITY FOR PAROLE OR IS SO SHORT OF A PERIOD THAT IT PROVIDES LITTLE CHANCE TO PROVIDE A MEANINGFUL POSTRELEASE PAROLE SUPERVISION. OTHER TIMES THE PAROLE BOARD EITHER CANNOT GRANT PAROLE, DOES NOT GRANT PAROLE IN TIME, OR THE INMATE REFUSES PAROLE. REGARDLESS OF THE FACTORS THAT LEAD TO THE JAMMING OUT PROCESS, LB605 WOULD STRUCTURE PRISON SENTENCES FOR CLASS III, CLASS IIIA, AND CLASS IV FELONIES TO INCLUDE PERIODS OF INCARCERATION SET BY THE JUDGE FOLLOWED BY MANDATORY POSTSUPERVISION RELEASE. THIS SENTENCE STRUCTURE ERASES THE ABILITY FOR THE PERSON TO JAM OUT OF PRISON. WITH POSTRELEASE SUPERVISION DECIDED AT THE TIME OF SENTENCING, VICTIMS AS WELL AS THE PUBLIC WILL KNOW THAT SUCH OFFENDERS WILL ONLY LEAVE PRISON AND RETURN TO THE COMMUNITY IF THEY ARE SUPERVISED. ALTHOUGH HIGHER FELONY CLASSES SUCH AS CLASS I, CLASS II, AND CLASS IIA WILL NOT BE SUBJECT TO THE SAME DETERMINATE SENTENCING STRUCTURE, LB605 DIRECTS THE BOARD OF PAROLE TO ADOPT GUIDELINES ENSURING THAT PEOPLE SENTENCED TO PRISON FOR THESE FELONY CLASSES ARE SUPERVISED AFTER PRISON. THE THIRD STRATEGY IMPROVES PAROLE SUPERVISION POLICIES AND PRACTICES BY REQUIRING THE PAROLE SUPERVISION SYSTEM TO ADOPT EVIDENCE-BASED PRACTICES AND PROVIDES TOOLS FOR THE SYSTEM TO RESPOND MORE EFFECTIVELY TO PAROLE VIOLATIONS. PAROLE OFFICERS WILL RECEIVE TRAINING TO APPLY THE SUPERVISION PRACTICES THAT HOLD PAROLEES ACCOUNTABLE IN VERY

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MEANINGFUL WAYS. PAROLEES PLACED ON SUPERVISION WILL BE ASSESSED FOR RISK OF REOFFENDING AND THEN BE ASSIGNED A PAROLE OFFICER BASED ON THEIR SPECIFIC RISK LEVEL AND THE PAROLE OFFICER'S CASE LOAD. THIS ENSURES THE LEVEL OF SUPERVISION THEY RECEIVE MATCHES THE LEVEL OF RISK THAT THEY POSE. WE'VE WORKED, COLLEAGUES, WITH COUNTLESS STAKEHOLDERS TO DRAFT LB605, AND THAT PROCESS STILL CONTINUES TODAY. SOME OF THE CHANGES YOU WILL SEE IN THE COMMITTEE AMENDMENT AS WELL AS THE AMENDMENTS THAT FOLLOW, A NUMBER OF THESE PROVISIONS CREATE WIN-WINS FOR BOTH THE STATE AND COUNTY GOVERNMENTS. INCLUDED IS THE CREATION OF THE COUNTY JUSTICE REINVESTMENT FUND TO ASSIST WITH ANY INCREASES IN COUNTY JAIL POPULATIONS OR COSTS SHIFTED TO THE COUNTIES. SENATOR SEILER AND MEMBERS OF THE JUDICIARY COMMITTEE CAN SPEAK TO THE SPECIFIC CHANGES THAT WERE INCLUDED IN THE COMMITTEE AMENDMENT AND SUBSEQUENT AMENDMENTS. IT'S IMPERATIVE THAT THE LEGISLATURE ENACT THESE PROPOSED CHANGES TO IMPROVE OUR CORRECTIONS SYSTEM AND MAKE OUR COMMUNITIES SAFER. THIS IS A NEBRASKA-SPECIFIC SOLUTION THAT ADDRESSES THE CHALLENGES THAT HAVE PLAGUED OUR CORRECTIONAL SYSTEM FOR YEARS. LB605 IS A PRODUCT OF A PROCESS SUPPORTED BY DATA, EVIDENCE, AND EXPERIENCE FROM STATES ACROSS THE COUNTRY. REFORMS LIKE THOSE CONTAINED IN LB605 HAVE BEEN REPEATEDLY SHOWN TO INCREASE PUBLIC SAFETY, REDUCE CRIME AND RECIDIVISM, DECREASE PRISON POPULATION, SUPPORT VICTIMS, AND CONTROL SPENDING LONG TERM ON CORRECTIONS. ONCE AGAIN, COLLEAGUES, I'D LIKE TO THANK CHAIRMAN SEILER AND SENATOR KRIST FOR THEIR ONGOING LEADERSHIP, OF BEING COSPONSORS OF LB605, AND AS MEMBERS OF THE JUSTICE REINVESTMENT LB907 WORKING GROUP, AS WELL AS OUR FELLOW LEGISLATIVE COLLEAGUES AND EXECUTIVE AND JUDICIAL COLLEAGUES WHO WERE PART OF THAT LB907 PROCESS. I'D ALSO LIKE TO THANK THE STAFF OF THE COUNCIL OF STATE GOVERNMENT'S JUSTICE CENTER... [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR MELLO: ...FOR THEIR LEADERSHIP OVER THE PAST YEAR IN HELPING GUIDE OUR STATE THROUGH THIS PROCESS KNOWN AS THE JUSTICE REINVESTMENT PROCESS. IT'S TRULY BEEN AN EYE-OPENING EXPERIENCE AND A MODEL THAT POLICYMAKERS SHOULD CONSIDER REPLICATING IN FUTURE SIGNIFICANT ISSUES FACING OUR STATE, SUCH AS JUVENILE JUSTICE REFORM. WITH THAT, THANK YOU, MR. PRESIDENT. AND I'D BE HAPPY TO ANSWER ANY QUESTIONS. [LB605]

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PRESIDENT FOLEY: THANK YOU, SENATOR MELLO. (VISITORS INTRODUCED.) AS THE CLERK STATED, THERE ARE AMENDMENTS FROM THE JUDICIARY COMMITTEE. SENATOR SEILER, AS CHAIR OF THE COMMITTEE, YOU'RE RECOGNIZED TO OPEN ON THE COMMITTEE AMENDMENTS. SENATOR SEILER. [LB605]

SENATOR SEILER: THANK YOU, LIEUTENANT GOVERNOR. MEMBERS OF THE LEGISLATURE, LB605 ALONG WITH AM1010 ADVANCED FROM THE JUDICIARY COMMITTEE WITH A 6-0 VOTE, WITH 2 SENATORS ABSENT. AM1010 MAKES SEVERAL CHANGES TO ENSURE THAT LB605 IS CONSISTENT WITH THE RECOMMENDATIONS MADE BY THE COUNCIL OF STATE GOVERNMENTS' REPORT ON JUSTICE REINVESTMENT INITIATIVE WORKING GROUP. YOU NEED TO KNOW THAT WHAT HAPPENED IN AM1010 IS, AFTER THE COUNCIL OF STATE GOVERNMENTS' PEOPLE HAD A CHANCE TO LOOK AT IT THEY MADE A NUMBER OF RECOMMENDATIONS. THAT IS THE BEGINNING OF AM1010. SEVERAL SECTIONS CLARIFIED PROCEDURES FOR POSTRELEASE SUPERVISION UNDER PROBATION, WHO WILL NOW SUPERVISE SOME OFFENDERS AFTER THEIR RELEASE FROM PRISON. OTHERS SECTIONS INCREASE TRAINING REQUIREMENTS FOR PAROLE OFFICERS WHO ALREADY SUPERVISE OFFENDERS AFTER PRISON. WE WILL TALK AT LENGTH ABOUT SECTION 52. LET ME JUST STOP RIGHT HERE. LB605 AS AMENDED BY AM1010 HAS AN INDETERMINATE SENTENCING PARAGRAPH. TO MY KNOWLEDGE, AS OF THIS MORNING AT 8:00, VISITING WITH THE LOBBYISTS FOR THE COUNTY ATTORNEYS ASSOCIATION AND WITH A REPRESENTATIVE OF THE ATTORNEY GENERAL'S OFFICE, WE HAD ONE ISSUE LEFT TO RESOLVE. THAT ISSUE IS SECTION 52, THE INDETERMINATE SENTENCE. LET ME JUST VISIT JUST A SLIGHT BIT TO INTRODUCE YOU TO IT. WHAT IT IS, IS IT'S A SENTENCE WHICH WE WANT TO SET PAROLE ELIGIBILITY. THE KEY IS ELIGIBILITY. IT DOESN'T GRANT THEM PAROLE IMMEDIATELY. ONLY THE PAROLE BOARD CAN DO THAT. THE OTHER END OF THE SPECTRUM IS EVERY DAY OF THEIR SENTENCE BEING SERVED. AND LOCALISM IS JAM OUT. SOMEWHERE BETWEEN THOSE TWO GAPS AND HOW WE GET THERE, WE NEED TO SHOW THAT THE PRISONER HAS AN INCENTIVE, A REAL INCENTIVE TO APPLY FOR PAROLE, HAVE A PLAN LAID OUT FOR HIM OF HE TAKES, LET'S SAY, ANGER MANAGEMENT PROGRAMS, ALCOHOL ABUSE PROGRAM, FAMILY MANAGEMENT, AND PERSONAL FINANCE. I'M JUST PULLING THOSE OFF THE TOP OF MY HEAD. BUT ANYWAY, HE GETS TRAINING IN THOSE AREAS SO THAT WHEN HE GETS TO THE POINT WHERE HE'S ELIGIBLE AND THEY PAROLE HIM, HE'S PAROLED UNDER SUPERVISION, BUT HE HAS THE BACKGROUND ALREADY TO LIVE IN THE COMMUNITIES. I WILL TELL YOU THAT FROM THE HEARINGS THAT I ATTENDED, AND SOME OF YOU HAVE HEARD ME SAY I EARN \$2.25 AN HOUR ALL SUMMER

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WORKING FOR THE STATE. THEY DON'T EVEN PAY MINIMUM WAGE AND WE HEARD SENATOR NORDQUIST WANTING TO HAVE MORE WAGES. BUT ANYWAY, THE KEY IS, WE'VE GOT TO GET THOSE PEOPLE READY FOR LIVING OUTSIDE OF THE PRISON BECAUSE THE RECIDIVISM RATE, I THINK THE LAST ONE I SAW WAS 32 PERCENT. IT DOESN'T SOUND LIKE MUCH, BUT TAKE 32 PERCENT OF 5,213 PRISONERS, AND YOU'VE GOT A PRETTY GOOD SIZE GROUP OF PEOPLE GOING OUT, MAKING A U-TURN, AND COMING BACK IN. AND WHEN THEY COME BACK IN, I WILL GUARANTEE YOU THE JUDGE IS GOING TO HIT THEM A LOT HARDER THAN JUST THE FIRST GO-AROUND. SECTION 53 CLARIFIES THE SENTENCING PROCESS FOR DETERMINATE SENTENCE, WHICH APPLY TO THE LOWER LEVEL FELONIES. THE INDETERMINATE SENTENCE ONLY APPLIES TO THE UPPER FELONIES, THE TOP FELONIES. ALL OF THE CHANGES ARE CONSISTENT WITH THE RECOMMENDATIONS, FURTHER CLARIFICATION AND CLEANUP IS NEEDED. AND I HAVE INTRODUCED ANOTHER AMENDMENT WHICH IS AM1242, WHICH INCORPORATES AN AGREEMENT THAT SENATOR MELLO MADE WITH THE COUNTY ATTORNEYS ASSOCIATION. IT DID NOT GET PUT INTO AM1010. I PUT IT INTO THIS NEW AMENDMENT SO THAT WE CAN LIVE UP TO OUR WORD THAT WE HAVE AN AGREEMENT. AND IT IS THERE, AND IT'S BEEN INTRODUCED. AND I WILL INTRODUCE IT SHORTLY. FOR THE PEOPLE THAT ARE CONCERNED ABOUT SALARIES...PUSHING DOWN ON THE COUNTIES AND TAXES, WE HAVE A SECTION 73 THROUGH 76 CALLED THE NEW JUSTICE REINVESTMENT INITIATIVE GRANT PROGRAM IN WHICH COUNTIES CAN APPLY FOR REIMBURSEMENT FOR EXPENSES THEY HAVE INCURRED AS A RESULT OF PRISONERS BEING PLACED IN THE COUNTY FACILITIES UNDER THE ZERO PRISON SENTENCES. WE HAVE CHANGED A NUMBER OF CRIMES TO ZERO. AND THAT MEANS A JUDGE CAN PUT THEM IN THERE FOR SIX MONTHS IN THE COUNTY JAIL. COUNTIES WOULD BE RESPONSIBLE FOR THAT. THEY CAN APPLY FOR THIS REIMBURSEMENT UNDER THIS PARTICULAR SECTION. LET'S DON'T GET THAT MIXED UP WITH THE COUNTY JAILS THAT ARE NOW HOLDING STATE PRISONERS, BECAUSE THEY ARE ALREADY GETTING PAID FOR THAT. I BELIEVE THAT PRETTY WELL COVERS THE AMENDMENT, AM1010. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR SEILER. MR. CLERK. [LB605]

CLERK: MR. PRESIDENT, SENATOR SEILER WOULD OFFER AS AN AMENDMENT TO THE COMMITTEE AMENDMENTS, AM1242. (LEGISLATIVE JOURNAL PAGE 1180.) [LB605]

PRESIDENT FOLEY: SENATOR SEILER, YOU'RE WELCOME TO OPEN ON AM1242. [LB605]

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SENATOR SEILER: THANK YOU, LIEUTENANT GOVERNOR, MEMBERS. I WILL CONTINUE ON WITH THIS AMENDMENT. THIS IS THE EMBODIMENT, EXCEPT FOR TWO PARTS THAT I'M GOING TO TALK ABOUT, OF THE AGREEMENT THAT SENATOR MELLO MADE WITH THE COUNTY ATTORNEYS ASSOCIATION AND WAS ACCIDENTALLY LEFT OFF OF AM1010. THE FIRST SECTION THAT WASN'T PART OF THE AGREEMENT WAS THE CHANGE TO ENSURE POSSIBILITY OF PAROLE SUPERVISION FOR INDIVIDUALS CONVICTED OF A CLASS IIA FELONY OR HIGHER. WE WANT THOSE PEOPLE UNDER SUPERVISION WHEN THEY GO OUT. THE WAY WE HAD IT WAS IT WAS STACKING ON THE END OF THEIR SENTENCE, AND THAT WASN'T GOING TO MAKE IT. SO WE CAME BACK AND THE LAST PART OF THEIR SENTENCE WILL BE UNDER SUPERVISED RELEASE. THE OTHER ONE, ENSURE THE MINIMUM OF NINE-MONTH PAROLE SUPERVISION IN CLASS II FELONIES. THE REST OF THIS AM1242 IS A LIST OF THE PENALTIES AND CRIMES THAT WAS AGREED TO BY SENATOR MELLO WITH THE COUNTY ATTORNEYS ASSOCIATION. AND WE HAVE NOW LIVED UP TO OUR AGREEMENT. THAT CONCLUDES THE CHANGES IN THAT AMENDMENT. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR SEILER. DEBATE IS NOW OPEN ON LB605 AND RELATED AMENDMENTS. SENATOR KRIST, YOU'RE RECOGNIZED. [LB605]

SENATOR KRIST: THANK YOU, MR. PRESIDENT. GOOD AFTERNOON, COLLEAGUES, AND GOOD AFTERNOON, NEBRASKA. I'M SURE MANY OF YOU HAVE ALREADY HAD A PLEASURE TRIP TO DISNEY WORLD OUTSIDE THE GLASS HERE, AND THEY'VE TOLD YOU HOW MUCH THEY HATE LB605. I DON'T WANT TO MAKE THIS AFTERNOON CONTENTIOUS. AND I CERTAINLY DON'T WANT TO GET INTO A HE-SAID, SHE-SAID TYPE SITUATION. I WANT TO BRING TO YOUR ATTENTION AN ACLU LETTER THAT YOU WERE ALL DELIVERED, AND I WANT YOU TO READ THAT BECAUSE I WANT YOU TO UNDERSTAND HOW I UNDERSTOOD IN THIS PAST YEAR BEING INVOLVED WITH LR424. AND THE LR424 REPORT, THE CSG REPORT ARE BACK HERE IF YOU'D LIKE TO SCAN THROUGH IT, OR YOU CAN GET THEM ONLINE. THIS IS AN EXTREMELY SERIOUS MATTER. THE PRISON OVERCROWDING SITUATION HAS TAKEN US TO A POINT WHERE WE ARE 159 PERCENT OF CAPACITY AND, AS SENATOR MELLO SAID IN HIS OPENING, WE'LL GET TO 170 PERCENT IF WE DON'T DO SOMETHING. WHAT HAPPENS IF WE GET TO THAT POINT? THE ACLU SUES OR DOJ COMES IN AND TRIES TO TELL US HOW TO SOLVE OUR PROBLEMS. WHAT HAPPENED IN CALIFORNIA WAS INDISCRIMINATE RELEASE OF PRISONERS TO GET THE POPULATION DOWN. THEY TOOK THINGS INTO THEIR OWN HANDS. THE STATE HAD NO CHOICE. THE STATE ENTERED INTO A VERY EXPENSIVE PROPOSITION OF DOING WHAT DOJ TOLD THEM TO DO. AND

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THE ACLU INFLUENCED HOW THEY WOULD SOLVE THEIR PROBLEM. IT HASN'T JUST HAPPENED IN CALIFORNIA, BUT IT'S PROBABLY THE WORST CASE OF WHAT'S HAPPENED. NOW YOU'RE GOING TO HEAR WHEN YOU GO OUT THERE THAT THEY HAVEN'T HAD AN OPPORTUNITY TO WEIGH IN. AND IN THE PRESS CONFERENCE THIS MORNING THAT I ATTENDED IN THE AG'S OFFICE, THE AG WAS VERY SPECIFIC. THERE'S TWO BILLS. THEY ARE NOT VERY GOOD. WE HAVEN'T HAD TIME TO WEIGH INTO THEM. THEY'RE LB605 AND LB173. SO I WANT TO INJECT SOME FACTS INTO THIS CONVERSATION FOR YOU BEFORE YOU GO OUT THERE, OR AFTER IF THEY'VE ALREADY ASKED FOR YOUR ATTENTION. FACT: LB173 WAS KICKED OUT OF THE JUDICIARY COMMITTEE ON THE 20th OF FEBRUARY. YOU DO THE MATH. IF YOU WERE SERIOUS ABOUT LB173 AND YOU WERE IN THE AG'S OFFICE OR ANYBODY ELSE'S OFFICE, INCLUDING OUR NEW GOVERNOR'S OFFICE, WOULD YOU NOT HAVE HAD A CONVERSATION WITH ONE OR MANY OF US ABOUT LB173? WE'LL HEAR THAT LATER. LET'S TALK ABOUT LB605. LB605 WE WERE ASSURED TWO MONTHS AGO THERE WERE ONLY A COUPLE OF ISSUES. AND THEN ONE MONTH AND 22 DAYS LATER, THERE'S ONLY A COUPLE OF ISSUES. AND WE PAID PARTICULAR ATTENTION TO THE COUNTY ATTORNEYS. I HAVE PERSONALLY IN MY OFFICE IN ROUNDTABLE DISCUSSIONS ON TUESDAY, JANUARY 21, 2014; FRIDAY, JANUARY 31, 2014; TUESDAY, SEPTEMBER 16, 2014; TUESDAY, FEBRUARY 10, 2015; AND IN THE LOBBY ON FEBRUARY 16; ON MARCH 27; IN THE LOBBY ON THE 29th. I'VE HAD MEETINGS IN MY OFFICE ON APRIL 1, 2, 7, AND 10, MOSTLY WITH COUNTY ATTORNEYS. EACH TIME, THERE WAS AN ISSUE. EACH TIME, THEY WENT TO THE CHAIR, THEY WENT TO SENATOR MELLO, OR THEY CAME TO ME AND SAID, HERE'S AN ISSUE. EACH TIME, WE CAME TO A REASONABLE DISCUSSION, AND ONLY THE LAST TIME DID I WALK OUT IN FURY, AS IT WAS DESCRIBED, BECAUSE THEY WERE TRYING TO TELL ME THAT THE THIRD RULE TO PROVIDE SUPERVISION THAT YOU'VE HEARD DISCUSSED... [LB605 LB173]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR KRIST: ...WOULD NOT HAVE KEPT NIKKO JENKINS FROM JAMMING OUT AND KILLING FOUR PEOPLE IN DOUGLAS COUNTY. I SAT ACROSS FROM AN AG WHO TOLD ME IT WOULDN'T HAVE HELPED, AT WHICH I SAID, THAT OR COMMITMENT, ONE OR THE OTHER. SO I'M DESCRIBING A SITUATION TO YOU THAT WE NEED TO TAKE CONTROL OF IN HERE. WE NEED TO HAVE A DISCUSSION AND A CAREFULLY ORCHESTRATED DISCUSSION ON GENERAL AND BETWEEN GENERAL AND SELECT, ALLOW THESE PEOPLE WHO SAY WE'RE NOT LISTENING TO COME BACK IN AND TALK TO US AGAIN AND AGAIN AND AGAIN. AND BETWEEN GENERAL, SELECT, AND FINAL READING, WE'LL HAVE SOMETHING WE

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CAN BE PROUD OF, AND WE WILL KEEP THE ACLU AND DOJ OUT OF NEBRASKA. THANK YOU FOR YOUR ATTENTION. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR KRIST. (VISITORS INTRODUCED.) SENATOR McCOY, YOU'RE RECOGNIZED. [LB605]

SENATOR McCOY: THANK YOU, MR. PRESIDENT AND MEMBERS. WOULD SENATOR SEILER YIELD TO A QUESTION, PLEASE? [LB605]

PRESIDENT FOLEY: SENATOR SEILER, WOULD YOU YIELD, PLEASE? [LB605]

SENATOR SEILER: I WILL. [LB605]

SENATOR McCOY: THANK YOU, SENATOR. CAN YOU HELP ME UNDERSTAND WHAT...IT'S MY UNDERSTANDING THAT THE COUNTY ATTORNEYS DO NOT SUPPORT AM1242. IS THAT CORRECT? [LB605]

SENATOR SEILER: NO. AM1242 IS THE AGREEMENT THAT THEY HAD WITH SENATOR MELLO. IT ACCIDENTALLY GOT LEFT OUT OF AM1010. [LB605]

SENATOR McCOY: I'M NOT SURE THAT'S THE CASE, SENATOR. I JUST HAD A NOTE IN FROM THE LOBBY. AND IT'S MY UNDERSTANDING THE COUNTY ATTORNEYS DO NOT SUPPORT AM1242. AND I JUST WANTED A CLARIFICATION ON THAT TO SEE IF YOU WERE AWARE OF THAT. [LB605]

SENATOR SEILER: I WAS NOT AWARE OF IT. AS OF 8:00 THIS MORNING, THE COUNTY ATTORNEYS' LOBBYIST AND I AND A REPRESENTATIVE OF THE ATTORNEY GENERAL'S OFFICE HAD A PRETTY CLEAR UNDERSTANDING THERE WAS ONLY ONE ISSUE LEFT. AND THAT WAS THE INDETERMINATE SENTENCE. [LB605]

SENATOR McCOY: WELL, I APPRECIATE THAT, SENATOR. I THINK THOUGH THAT AM1242 WAS INTRODUCED AFTER 8:00 THIS MORNING, CORRECT? [LB605]

SENATOR SEILER: WE GAVE THEM A ROUGH DRAFT OF THE PROGRAM, I THINK, LAST FRIDAY. [LB605]



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SENATOR McCOY: OKAY, THANK YOU, SENATOR. I APPRECIATE IT AND... [LB605]

SENATOR SEILER: OR IT MAY HAVE BEEN MONDAY. I CAN'T QUITE REMEMBER NOW, BUT THEY GOT A ROUGH DRAFT FROM DIANE, MY LEGAL COUNSEL. [LB605]

SENATOR McCOY: OKAY. I APPRECIATE THAT. THANK YOU, SENATOR SEILER. AND WOULD SENATOR MELLO YIELD TO A QUESTION, PLEASE? [LB605]

PRESIDENT FOLEY: SENATOR MELLO, WOULD YOU YIELD, PLEASE? [LB605]

SENATOR MELLO: OF COURSE. [LB605]

SENATOR McCOY: THANK YOU, SENATOR. I KNOW YOU AND I HAVE BEEN VERY INVOLVED OVER THE YEARS WITH THE COUNCIL OF STATE GOVERNMENTS. YOU HAVE CHAIRED AND BEEN AN INSTRUMENTAL PART OF MANY OF THE COUNCIL OF STATE GOVERNMENTS' ACTIVITIES BOTH AT THE REGIONAL AND NATIONAL LEVEL, AS I HAVE AS WELL. AND OF COURSE, I'M THE INCOMING NATIONAL CHAIRMAN OF THE COUNCIL OF STATE GOVERNMENTS. CAN YOU HELP ME UNDERSTAND WHAT PARTS...I'M HAVING A HARD TIME UNDERSTANDING WHERE THE RECOMMENDATIONS IN THE CSG REPORT--WHICH I HAVE RIGHT HERE-- WHERE THE WATER'S EDGE IS, IF YOU WILL, BETWEEN THE CSG RECOMMENDATIONS, AND THEN EVERYTHING THAT'S BEEN ATTACHED TO THIS BILL WITH THE UNDERLYING AMENDMENTS SINCE THAT POINT. CAN YOU HELP ME UNDERSTAND WHERE THAT WATER'S EDGE IS? [LB605]

SENATOR MELLO: I WILL DO MY BEST, SENATOR McCOY, IN THE SENSE THAT BETWEEN AM1242 AND THE COMMITTEE AMENDMENT AM1010, PROBABLY THERE'S A...PROBABLY THREE MAIN...I SHOULD SAY FOUR KEY AREAS OF THOSE TWO AMENDMENTS THAT WERE NOT, IN THEORY, INCLUDED IN THE GREEN COPY OF THE BILL, WHICH THE GREEN COPY OF THE BILL WAS IN THEORY THE ENTIRE CSG RECOMMENDATION AS THE WAY SENATOR KRIST, SENATOR SEILER, MYSELF, AND OUR OFFICES DRAFTED IT WITH CSG. FIRST COMPONENT IS AN AMENDMENT THAT SENATOR SEILER HAS IN FRONT OF YOU, AM1242, THAT INCORPORATES ABOUT...KEEPS ABOUT TEN OFFENSES AT THE SAME LEVEL THAT THEY CURRENTLY ARE IN STATUTE. THAT WAS REQUESTED BY THE COUNTY ATTORNEYS. I BROUGHT THAT AMENDMENT TO THE JUDICIARY COMMITTEE HEARING ON LB605. SOME OF THEM WERE INCLUDED IN AM1010. THE OTHER REMAINING OFFENSES ARE IN THE AMENDMENT, AM1242. THAT IS, IN THEORY,

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INCONSISTENT WITH WHAT WAS RECOMMENDED, BUT THE COUNTY ATTORNEYS MADE A COMPELLING CASE TO BOTH SENATOR KRIST, SEILER, AND MYSELF AS WELL AS CSG THAT THOSE SPECIFIC OFFENSES NEED TO STAY AT THE SIMILAR LEVEL THEY WERE AT. AND IN A SPIRIT OF COMPROMISE, WE INSTEAD CHANGED IT FROM 1 TO 20 FOR THOSE TIME FRAMES FOR THOSE OFFENSES... [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR MELLO: ...TO 0 TO 20. THE OTHER COMPONENT THAT IS A LITTLE OFF OF THE CSG RECOMMENDATION IS THE CREATION OF THE COUNTY JUSTICE REINVESTMENT FUND. WE HAD DISCUSSED THAT WITH BOTH THE COUNTY GOVERNMENTS AND CSG IN RESPECTS TO WHAT I BELIEVE IS SOME UNSUBSTANTIATED FEARS THAT MAY BE COMING FROM COUNTIES. BUT I DO WANT TO BE COGNIZANT AND BE SENSITIVE OF THEIR CONCERNS BASED ON PAST RELATIONSHIPS WITH THE STATE, THAT WHILE CSG'S ANALYSIS SAYS OVER A FIVE-YEAR PERIOD, WE'LL ONLY SEE AN INCREASE OF 32 COUNTY JAIL BEDS ACROSS THE STATE BASED ON THE UNDERLYING LEGISLATION. WE CREATED A \$250,000 A YEAR FUND TO REIMBURSE COUNTIES IF FOR SOME REASON THEY CAN PROVE THEY'VE SEEN AN INCREASE IN THEIR JAIL POPULATION BASED ON THE COMPREHENSIVE CHANGES IN LB605. THE THIRD COMPONENT OF LB605, IT INCORPORATES LB12. IT'S A SMALL CHANGE THAT ALLOWS... [LB605 LB12]

PRESIDENT FOLEY: TIME, SENATOR. [LB605]

SENATOR MELLO: THANK YOU, MR. PRESIDENT. WE'LL JUST CONTINUE. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATORS McCOY AND MELLO. (VISITORS INTRODUCED.) SENATOR BURKE HARR, YOU'RE RECOGNIZED. [LB605]

SENATOR HARR: MR. LIEUTENANT GOVERNOR, MEMBERS OF THE BODY, COLLEAGUES, NEBRASKANS, SO THIS IS AN INTERESTING SITUATION WE FIND OURSELVES IN. WE HAD LR424 LAST SUMMER, AND WE FOUND WE HAVE A VERY FLAWED PRISON SYSTEM. WE HAVE INDIVIDUALS WHO CHOSE NOT TO FOLLOW THE LAW, WHO LOOKED AT SUPREME COURT DECISIONS AND SAID, NAH, THAT DOESN'T APPLY TO ME. WE HAVE INDIVIDUALS WHO SAID THE SUPREME COURT IS WRONG. YOU HAVE INDIVIDUALS WHO MADE UP PROGRAMS WHOLE CLOTH. THEN YOU HAVE SOME PROGRAMS THAT WE DIDN'T FOLLOW, THEY DIDN'T FOLLOW THE APA, THE PROCEDURES ACT. YOU HAD JUDGES WHO WERE SENTENCING INDIVIDUALS WHAT THEY THOUGHT WAS FOR CERTAIN TIMES

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WHO ARE GETTING FURLOUGHED BEFORE THEY ARE ELIGIBLE FOR PAROLE. IT WAS A MESS. IT WAS HORRIBLE. WHAT WAS GOING ON IN OUR PRISONS WAS AN ABSOLUTE EMBARRASSMENT TO THIS STATE AND I DON'T THINK ANYONE WILL DENY THAT. WE ALSO HAD A SITUATION WITH AN INDIVIDUAL, NIKKO JENKINS, WHO DIDN'T RECEIVE THE SERVICES HE SHOULD HAVE IN PRISON. YOU HAD A SITUATION WHERE HE...DOCTORS WERE NOT...THEIR REPORTS WEREN'T FORWARDED TO THE PROPER COUNTY ATTORNEYS. HE BEGGED, BEGGED TO BE COMMITTED. AND YET THE PRISON SYSTEM TURNED A BLIND EYE, PROVIDED NO SERVICES, ACTUALLY EXASPERATED, I WOULD CONTEND, HIS SITUATION BY KEEPING HIM IN SOLITARY. SO THAT'S SITUATION TWO. AND THEN WE HAVE THE THIRD SITUATION, WHICH IS PRISON OVERCROWDING. AND I THINK ONE AND TWO WERE DRIVEN TO A CERTAIN DEGREE BECAUSE OF PRISON OVERCROWDING. SO WE BRING IN CSG, A GOOD ORGANIZATION, TO LOOK AT OUR PRISON OVERCROWDING. AND THEY DID A REPORT AND I HAVE IT HERE AND I'VE READ IT. I'VE READ IT A COUPLE OF TIMES, ACTUALLY. AND I LOOK AT THEIR FINDINGS AND THEIR POLICY OPTIONS. AND I AGREE WITH SOME, I DISAGREE WITH SOME. BUT LB605 IS NOT PRISON REFORM. IT IS SENTENCING REFORM. A LOT OF THE ISSUES THAT CAME UP IN LR424, WE CAN'T REALLY DO MUCH ABOUT LEGISLATIVELY BECAUSE THERE WERE ALREADY LAWS ON THE BOOKS THAT THEY JUST CHOSE NOT TO FOLLOW. SO I THINK WE HAVE TO BE VERY CAREFUL TO THINK ABOUT WHAT WE'RE ACTUALLY DOING TODAY. THIS IS SENTENCING REFORM. THIS IS ADDRESSING THE ISSUE OF PRISON OVERCROWDING, PERIOD. WE'VE GOT A LOT OF WORK TO DO ON THE OTHER STUFF AND WE CAN REALLY ONLY DO IT THROUGH AN OVERSIGHT MECHANISM. SO WHAT DOES THIS BILL DO? WELL, WE TAKE CLASS IV FELONIES AND WE SAY THERE IS A PRESUMPTION OF PROBATION. A LARGE DEGREE, THAT ALREADY HAPPENS. [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR HARR: THANK YOU. WHAT WE'RE DOING AT THE END OF THE DAY IS WE'RE LOOKING AT NONVIOLENT CRIMES. AND FOR THE MOST PART, THAT'S PROPERTY CRIMES. THAT'S FORGERIES, THAT'S THEFT OF...UNLAWFUL POSSESSION OF STOLEN GOODS, THEFT BY UNLAWFUL TAKING, STEALING A CAR, YOU NAME IT. AND WE'RE RAISING THE DOLLAR AMOUNTS. NOW, WE SET THEM IN 1992. WE HAD A SIMILAR BILL THIS MORNING WE DECIDED WE DIDN'T WANT TO RAISE, BUT NOW WE'RE GOING TO ADJUST IT FOR INFLATION AND WE'RE GOING TO ADJUST IT A LITTLE MORE THAN INFLATION. AND I'M RUNNING OUT OF TIME. I WANT TO TALK ABOUT THIS SOME MORE. BUT I THINK THIS IS A GOOD FIRST STEP, BUT A FIRST STEP ONLY. THANK YOU. [LB605]

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PRESIDENT FOLEY: THANK YOU, SENATOR HARR. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB605]

SENATOR CHAMBERS: MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, THERE HAS BEEN A LOT OF WORK DONE BY THOSE GROUPS ALREADY MENTIONED WHO STUDIED THESE ISSUES. AND AT LEAST ONE OF THEM HAS EXPERIENCE WITH WORKING WITH OTHER STATES AND PRISON SYSTEMS AROUND THE COUNTRY. I AND SOME OF YOUR COLLEAGUES SERVED ON THE LR424 INVESTIGATIVE COMMITTEE LOOKING AT THE PROBLEM OF CORRECTIONS. WITH ALL OF THE HOURS AND DAYS AND WEEKS THAT WE SPENT, THE THOUSANDS OF PAGES OF DOCUMENTS AND INFORMATION THAT WE COMBED THROUGH, THE STATEMENTS THAT WE HEARD FROM VARIOUS OFFICIALS, AND UNDER QUESTIONING, THEY WERE COMPELLED TO ADMIT THAT THEY HAD NOT DONE THEIR JOB. THE LR424 COMMITTEE RECOMMENDED VERY STRONGLY THAT THE ONES WHO WERE MOST CULPABLE SHOULD BE GOTTEN RID OF IN THE UPPER LEVELS. AND THEY WERE. THERE NOW IS A NEW DIRECTOR OF CORRECTIONS WHO, FROM WHAT LITTLE I HAVE SEEN OF HIM AND HEARD FROM HIM AND CONSIDERING HIS BACKGROUND IN THE PRISON SYSTEM IN WASHINGTON STATE, PLUS RECOMMENDATIONS HE GOT FROM FORMER NEBRASKA DEPARTMENT OF CORRECTIONS DIRECTOR HAROLD CLARKE, I THINK...NO, I BELIEVE THAT HE IS GOING TO MAKE SURE, WITH OUR HELP, THAT THE KIND OF MESS THAT WAS CREATED OVER A PERIOD OF YEARS BY VIRTUE OF THE GOVERNORS WHO WERE IN OFFICE IGNORING A GROWING PROBLEM, TELLING THE DEPARTMENT OF CORRECTIONS DON'T ASK FOR ADDITIONAL MONEY, EVEN WHEN THERE WERE MEMBERS OF THE APPROPRIATIONS COMMITTEE WHO WANTED TO MAKE THAT MONEY AVAILABLE FOR PROGRAMMING. THE DEPARTMENT, GIVEN THE DIRECTIVE ON OCCASION, CUT 10 PERCENT. THE DEPARTMENT OF CORRECTIONS IS NOT ONE OF THOSE AGENCIES WHICH HAS A HIGH PUBLIC PROFILE, SO MONEY COULD BE TAKEN FROM THEM. AND THE NOTION THAT EVERYBODY WHO IS IN PRISON IS A VICIOUS, VILE PERSON WHO COMMITTED ATROCIOUS CRIMES AND DESERVES WHAT HE OR SHE IS GETTING, WHICH IS NOT TRUE. BUT THAT'S THE ATTITUDE THAT COULD BE PUT OUT THERE TO JUSTIFY THE GOVERNOR IN SAYING THAT EVEN THOUGH WE HAVE REACHED THAT LEVEL OF 140 PERCENT OF CAPACITY, WHICH CONSTITUTES A CRISIS SITUATION, AN EMERGENCY SHOULD BE DECLARED. NO GOVERNOR WANTED TO DO THAT AND THE CURRENT GOVERNOR DOES NOT EITHER. THEY CAN IGNORE THE LEGISLATURE. THEY CAN IGNORE CALLING OR DECLARING AN EMERGENCY. BUT IF AND WHEN A FEDERAL LAWSUIT IS FILED, THEY CAN SAY WHAT THEY WANT TO, BUT THE FEDERAL COURTS, WHICH HAVE HAD MUCH EXPERIENCE IN DEALING WITH RECALCITRANT, INSENSITIVE GOVERNORS,

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INCOMPETENT PRISON ADMINISTRATORS, HAVE ORDERED, ORDERED THESE PRISONS TO START RELEASING PEOPLE, ORDERED THEM TO DO IT AND THEY HAD TO DO IT. CALIFORNIA WAS GIVEN ALMOST A DECADE TO GET THINGS IN ORDER. AND THEIR OFFICIALS FELT THAT BECAUSE THEY WERE GIVEN ALL THAT TIME, THEY NEED NOT DO ANYTHING BECAUSE THE FEDERAL GOVERNMENT WOULD NOT ACT. AND WHEN THEY ACTED, THEY ACTED WITH WHAT SOME PEOPLE CALL A VENGEANCE. SO PEOPLE HAD TO BE RELEASED. AND THAT'S WHAT WILL HAPPEN IN THIS STATE. THEY HAVE--THESE ARE NOT TECHNICAL TERMS... [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR CHAMBERS: ...COMMON AREAS, LIKE A DAY ROOM IN THE MILITARY, WHERE ALL THESE PEOPLE ARE STAYING. YOU ARE THERE, WHAT BELONGINGS YOU HAVE ARE THERE, THERE IS NOISE ALL THE TIME, THERE ARE THE THINGS THAT HAPPEN WHEN YOU HAVE TOO MANY PEOPLE IN A LIMITED AMOUNT OF SPACE. SOME PEOPLE CREATE CIRCUMSTANCES WHERE THEY CAN GET PUT IN SOLITARY FOR A SHORT PERIOD OF TIME TO GET AWAY FROM WHAT THE DAY-TO-DAY ACTIVITY AND OPERATIONS ARE. THEY HAVE HAD SEMILOCKDOWN FOR YEARS. AND DESPITE COMPLAINTS AND PLEAS TO THE GOVERNORS, NOTHING WAS DONE. THIS BILL--I'M GOING TO SPEAK AGAIN SO I WON'T TRY TO GO INTO ANOTHER ASPECT OF IT--BUT IT IS NOT EVERYTHING THAT I WOULD WANT HAD I WRITTEN IT. WE'LL NEVER GET ALL THAT WE WANT IN A BILL OF THIS MAGNITUDE. BUT IT IS A VERY SUBSTANTIVE FIRST STEP. THANK YOU, MR. PRESIDENT. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. SENATOR SEILER, YOU ARE RECOGNIZED. SENATOR SEILER WAIVES THIS OPPORTUNITY. SENATOR KRIST, YOU'RE NEXT IN THE QUEUE. SENATOR KRIST WAIVES THE OPPORTUNITY. SENATOR KINTNER, YOU'RE RECOGNIZED. [LB605]

SENATOR KINTNER: WELL, THANK YOU, MR. PRESIDENT. I'VE GOT TO TELL YOU, THIS IS PRETTY FAR OUTSIDE MY COMFORT ZONE. THIS IS NOT SOMETHING I SPEND A LOT OF TIME ON. IT'S NOT SOMETHING THAT I...IT'S JUST OUTSIDE MY COMFORT ZONE. I'M NOT AN ATTORNEY. I MARRIED ONE, BUT I'M CERTAINLY NOT AN ATTORNEY. BUT THESE ARE ISSUES THAT WE HAVE TO DEAL WITH. AND YOU KNOW, THIS IS A COMPLICATED BILL. IT'S GOT A LOT OF THINGS IN IT. IT REMINDS ME A LITTLE BIT OF A NANCY PELOSI BILL. YOU'VE GOT TO PASS IT SO WE CAN FIND OUT EXACTLY WHAT IT DOES. I LOOK AROUND THE ROOM AND I

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LOOK AT THE FACES OF MY COLLEAGUES AND I DON'T THINK ANYONE IS PARTICULARLY CAREFUL...OR ANYONE IS PARTICULARLY COMFORTABLE WITH THIS BILL RIGHT NOW. I LOOK TO MY LEFT AND THERE'S SENATOR SCHUMACHER, A FORMER COUNTY ATTORNEY, HE SEEMS A LITTLE PERPLEXED ABOUT THE TOTALITY OF THIS BILL. SO, YEAH, THIS IS AN AWFUL LOT. I'VE GOT TO TELL YOU I'M NOT COMFORTABLE AT ALL WHEN I HAVE MY COUNTY ATTORNEYS COME IN AND TELL ME THEY'VE GOT PROBLEMS WITH IT. WHEN THEY HAVE PROBLEMS WITH IT, I GENERALLY HAVE PROBLEMS WITH IT. AS I LOOK AT IT, THERE ARE THINGS IN HERE WHICH I THINK WE'RE DOING THAT AREN'T GOING TO PARTICULARLY UNCROWD OUR PRISONS. SO SOME OF THIS SENTENCING REFORM, WHICH I THINK GOES BEYOND WHAT CSG RECOMMENDED, WOULD EVEN HAVE AN EFFECT FOR TWO OR THREE YEARS. I THINK SOME OF THIS STUFF IN HERE MAY LEAD TO A PROPERTY TAX INCREASE TO PAY FOR SOME OF IT BECAUSE I DON'T THINK WE'RE PAYING IT ALL. AS I LOOK THROUGH IT, CERTAINLY THERE'S PARTS IN HERE THAT STRIKE ME AS SOFT ON CRIME. AS I CONTINUE TO LOOK THROUGH IT, I DON'T THINK THIS THING HAS BEEN STUDIED OUT FOUR, FIVE, EIGHT, TEN YEARS. I THINK IF WE PASS THIS AS IS, WE MAY BE VERY WELL PLAYING WITH THIS BILL FOR THE REST OF MY TIME HERE TO TRY TO GET IT RIGHT. SO I GUESS WHAT I'M DOING IS I'M PUTTING DOWN MY MARKER AND SAYING, I THINK BILL CONCERNS ME. IT CONCERNS AN AWFUL LOT OF PEOPLE. AND I DON'T THINK ANYONE IN THIS ROOM IS PARTICULARLY COMFORTABLE WITH IT AS IT IS. AND TO TRY TO FLESH THIS OUT IN AN AFTERNOON AND PASS IT I THINK IS ASKING AN AWFUL LOT OF THIS BODY. SO I GUESS THE POINT I'M MAKING IS I'M NOT COMFORTABLE WITH IT. I'M GOING TO LISTEN. I'M GOING TO TALK TO MY COLLEAGUES AND LET'S SEE WHAT WE COME UP WITH. BUT TO THINK WE'RE GOING TO DO SOMETHING OF THIS MAGNITUDE IN AN AFTERNOON, I THINK, IS A FOOL'S ERRAND. THANK YOU, MR. PRESIDENT. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR KINTNER. SENATOR McCOY. YOU'RE RECOGNIZED. [LB605]

SENATOR McCOY: THANK YOU, MR. PRESIDENT. WOULD SENATOR MELLO YIELD, PLEASE? [LB605]

PRESIDENT FOLEY: SENATOR MELLO, WOULD YOU YIELD, PLEASE? [LB605]

SENATOR MELLO: OF COURSE. [LB605]

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SENATOR McCOY: THANK YOU, SENATOR. I THINK YOU RAN OUT OF TIME THERE. I WANTED TO SEE IF YOU WOULD CONCLUDE WHERE YOU WERE GOING. AND I'M SURE YOU RECALL, BUT FOR THE BENEFIT OF THE MEMBERS, I THINK I WAS ASKING YOU TO ARTICULATE WHAT THE DIFFERENCES WERE AT A HIGH LEVEL, WHICH YOU WERE PRESENTING TO THE BODY, BETWEEN THE CSG, THE COUNCIL OF STATE GOVERNMENTS' REPORT, WHICH THEIR RECOMMENDATIONS ESSENTIALLY BECAME THE GREEN COPY OF LB605, AT LEAST IN MY UNDERSTANDING AND MY READING OF IT, AND WHERE WE'VE NOW ADDED SOME THINGS WITH AM1010 AND AM1242. [LB605]

SENATOR MELLO: I WILL DO MY BEST, SENATOR McCOY. AS I MENTIONED THE FIRST TWO, ONE WAS KEEPING ROUGHLY ABOUT 12 SENTENCES AT A SIMILAR STRUCTURE AS THEY ARE RIGHT NOW. THAT WAS AN ISSUE THAT WAS NEGOTIATED WITH THE COUNTY ATTORNEYS. AND IT FELL OUTSIDE OF THE INITIAL CSG RECOMMENDATION, BUT IT WAS DONE IN A SPIRIT OF GOOD FAITH IN REGARDS TO TRYING TO BRING THOSE IN OPPOSITION TO THE BILL TO A NEUTRAL CAPACITY. THE CREATION OF THE COUNTY JUSTICE REINVESTMENT FUND, ONCE AGAIN, THE COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER REPORT SAID THAT ONLY 32 BEDS WOULD BE NEEDED OR ADDITIONAL BEDS WOULD BE CREATED, SO TO SPEAK, STATEWIDE OVER A FIVE-YEAR PERIOD WITH THE CHANGES IN LB605 ON THE COUNTY LEVEL. BUT WE CREATED A FUND AS MORE OF A SAFEGUARD AGAINST ANY POSSIBLE CHANGES THAT WE MAY NOT HAVE SEEN IN REGARDS TO THE ANALYSIS UNDER LB605. THE THIRD COMPONENT WAS THE ADOPTION AND INCORPORATION OF LB12 WHICH WAS A BILL THAT WAS KICKED OUT OF THE HEALTH AND HUMAN SERVICES COMMITTEE THAT SUSPENDED MEDICAID FOR INDIVIDUALS AS THEY GO INTO A CORRECTIONAL FACILITY OR AT THE STATE LEVEL OR AT THE COUNTY LEVEL. AND WHEN THEY LEAVE, THEY ARE ABLE TO REGAIN THEIR MEDICAID ELIGIBILITY, OR I SHOULD SAY REINSTATES THEIR MEDICAID. IT WAS A BIG...THE COUNTIES SUPPORTED THAT COMPONENT. IT KIND OF FALLS IN LINE WITH SOME OF THE RECIDIVISM RECOMMENDATIONS OF CSG, BUT IT WASN'T SPECIFICALLY RECOMMENDED BY THE COUNCIL OF STATE GOVERNMENTS IN THE REPORT. AND THE LAST COMPONENT WHICH IS DEALING WITH INDETERMINATE SENTENCING, CSG HAD MADE A RECOMMENDATION THAT WE NEED, AS A STATE, TO CONSIDER POLICIES THAT ELIMINATE FLAT SENTENCES AND ELIMINATES THE POSSIBILITY OF INDIVIDUALS JAMMING OUT OF THE SYSTEM. AND INDETERMINATE SENTENCING WAS NOT A RECOMMENDATION IN THE REPORT SPECIFICALLY BECAUSE IT WAS NOT A POLICY THAT CSG COULD BUILD CONSENSUS AROUND. BUT THE GENERAL FRAMEWORK THAT THEY URGED THE LEGISLATURE TO

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CONSIDER WAS TRYING TO END JAM OUTS AND ENSURING SOME KIND OF SUPERVISION AFTER SOMEONE LEAVES CORRECTIONS. [LB605 LB12]

SENATOR McCOY: BUT IT'S MY UNDERSTANDING, SENATOR MELLO, AND CORRECT ME IF I'M WRONG, THAT WITH THAT ADDITION OF THE INDETERMINATE SENTENCING, ONE-THIRD RULE, CSG REALLY DOESN'T HAVE THE ABILITY TO MODEL THE OVERARCHING ISSUE FOR US TO FIND OUT IF WHAT WE'RE PROPOSING TO DO UNDER THIS BILL AND OTHERS, WHETHER THAT IS ACTUALLY GOING TO WORK FOR US. AND THAT IS AT HEART OF WHAT THE COUNCIL OF STATE GOVERNMENTS AND THE JUSTICE CENTER HAS BEEN ABLE TO DO FOR A MYRIAD OF OTHER STATES ACROSS THE COUNTRY. IS THAT RIGHT? [LB605]

SENATOR MELLO: THAT WAS ONE OF THE TWO MAIN REASONS THAT THE COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER DID NOT INCLUDE THAT AS PART OF THE RECOMMENDATION REPORT IS BECAUSE, ONE, THEY COULDN'T DO AN ANALYSIS OR MODEL THE IMPACTS OF INDETERMINATE SENTENCING IN RESPECTS TO THE OVERALL CRIMINAL JUSTICE SYSTEM, THE IMPACT ON PRISON POPULATION. AND THE SECOND COMPONENT IS THEY COULDN'T GENERATE CONSENSUS AMONGST THE STAKEHOLDERS OF THE CSG PROCESS. [LB605]

SENATOR McCOY: WELL, I APPRECIATE THAT, SENATOR MELLO. AND, MEMBERS, I FEEL PARTICULARLY TIED TO THIS. THERE'S BEEN AN AWFUL LOT OF WORK THAT'S BEEN DONE BECAUSE I'VE SEEN FIRSTHAND AND I HEAR FIRSTHAND FROM LAWMAKERS ACROSS THE COUNTRY... [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR McCOY: ...THE VALUE--THANK YOU, MR. PRESIDENT--THE VALUE OF THE CSG JUSTICE CENTER'S RECOMMENDATIONS TO STATES WITH JUDICIAL REINVESTMENT, REDUCING THE RECIDIVISM RATE, EVERYTHING THAT WE HOPE THAT COULD BE DONE WITH THIS INFORMATION. AND I FIND IT TROUBLING AT THE LEAST THAT WE WOULD BUY INTO WHAT CSG HAS RECOMMENDED TO US UNTIL WE GET TO THIS POINT, AND WE'RE NOW ADDING SOMETHING TO THE BILL THAT THEY CAN'T EVEN MODEL FOR US BEYOND THIS POINT WITH THIS IN IT. HOW DOES THAT REALLY SERVE THE PEOPLE OF NEBRASKA THE BEST WAY POSSIBLE WITH THE UTILIZATION OF THIS DATA? THANK YOU, MR. PRESIDENT. [LB605]



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PRESIDENT FOLEY: THANK YOU, SENATOR McCOY. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB605]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, WHAT YOU'RE HEARING IS THE PROBLEM WITH TERM LIMITS. THERE ARE PEOPLE WHO HAVEN'T BEEN HERE VERY LONG. THEY DON'T KNOW THE HISTORY OF WHAT HAS HAPPENED WITH CORRECTIONS. I DON'T KNOW WHAT...IF SENATOR McCOY IS REFERRING TO WHEN HE SAYS THIS ONE-THIRD RULE. WHAT THE LAW HAD SAID FOR DECADES WAS WHEN A COURT, A JUDGE SETS A SENTENCE, THE STATUTE DECLARES WHAT THE MINIMUM IS AND THE MAXIMUM. THE JUDGE CANNOT IMPOSE A MINIMUM LESS THAN WHAT THE STATUTE SAID. BUT THE MAXIMUM WILL DETERMINE THAT THE MINIMUM WILL BE NO MORE THAN ONE-THIRD OF THE MAXIMUM. THE PURPOSE OF DOING THAT IS TO CREATE A PAROLE ELIGIBILITY DATE. THAT DOESN'T MEAN A PERSON GETS OUT. IT MEANS THAT PERSON CAN BE CONSIDERED FOR PAROLE. WHEN THROUGH...AND I WON'T GO THROUGH THE SHENANIGANS THAT LED TO IT, THAT PROVISION WAS INADVERTENTLY LEFT FROM THE STATUTE. THERE WAS A MODEL FOR IT IN THIS STATE. WHAT HAPPENED WHEN THAT ONE-THIRD RULE WAS ERASED, A JUDGE COULD GIVE A SENTENCE THAT SAID TEN YEARS FLAT. THERE IS NO MINIMUM. SO THERE IS NO PAROLE DATE AS WOULD BE THE CASE IF YOU HAD THE ONE-THIRD. SO IF THE PERSON DOES GET GOOD TIME, THEN THE TIME THAT THE PERSON GETS OUT, BECAUSE PAROLE WON'T MEAN ANYTHING, THE PERSON SAYS I WILL SERVE THE REST OF MY TEN YEARS, THEN I'M OUT OF HERE. AND THERE IS NO SUPERVISION WHATSOEVER. CSG CAN MAKE RECOMMENDATIONS, BUT IT DOES NOT WRITE LEGISLATION. YOU KNOW WHAT FRUSTRATES ME? I HAVE BEEN HERE. I HAVE PARTICIPATED IN DRAFTING AND HELPING TO PASS LEGISLATION THAT OTHERS DRAFTED THAT TRIED TO DEAL WITH THE ISSUES OF GOOD TIME. THESE MANDATORY MINIMUMS CAME IN LATE IN THE GAME BECAUSE CALIFORNIA DID IT. THEN ALL STATES...NOT ALL OF THEM, A LOT OF THEM ACCEPTED THAT, THIS SO-CALLED ENHANCEMENT KNOWN AS THE HABITUAL CRIMINAL LAW CAME IN CALIFORNIA. OTHER STATES AND THE FEDERAL GOVERNMENT WENT FOR IT. AND NOW THOSE STATES THAT HAVE MORE SENSE THAN EXISTS IN NEBRASKA ARE WITHDRAWING FROM IT. THEY'VE HAD TO BUILD MORE PRISONS. THEY HAVE NO PAROLE SUPERVISION, THEIR BUDGETS ARE SKYROCKETING, AND THEY CAN DO NOTHING ABOUT IT. THE FEDERAL GOVERNMENT DID AWAY WITH PAROLE BECAUSE THEY WERE TRYING TO BE TOUGH ON CRIME--WHICH IS SOMETHING SENATOR KINTNER, I BELIEVE, IS THE ONE WHO MENTIONED IT, WITHOUT HAVING ANY UNDERSTANDING OF WHERE THAT CAME FROM, THE POLITICAL ENVIRONMENT THAT LED TO IT--THE VERY PRESIDENT WHO INSISTED ON IT FOR POLITICAL

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REASONS. AND NOW WHAT THE FEDERAL GOVERNMENT IS TRYING TO DO ALONG WITH FEDERAL JUDGES, IS TO CREATE A SUPERVISED RELEASE PROGRAM SINCE YOU CANNOT GET PAROLE. UNDER THIS SUPERVISED RELEASE PROGRAM, A CERTAIN AMOUNT OF TIME BEFORE THAT PERSON IS DUE TO BE RELEASED, THAT PERSON WILL BE RELEASED UNDER SUPERVISION, NOT PAROLE. THEY CAN'T CALL IT WHAT IT IS. AND THAT'S HOW THEY ARE TRYING TO CORRECT THE BLUNDERS THAT THEY MADE WHEN THESE SO-CALLED TOUGH-ON-CRIME PEOPLE... [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR CHAMBERS: ...PUSHED CONGRESS TO DO SOMETHING THEY DIDN'T UNDERSTAND. DID YOU SAY TIME? OH, ONE MINUTE. THE JUDGES HAVE PLEADED WITH CONGRESS TO AT LEAST ALLOW THEM, IN THE EXERCISE OF THEIR DISCRETION AND THEIR KNOWLEDGE OF THE FACTS OF INDIVIDUAL CASES AND THE PARTICULAR DEFENDANT, TO DEPART FROM THE SENTENCING GUIDELINES THAT CONGRESS PUT IN PLACE, PROVIDED THE JUDGE PUTS IN WRITING THE RATIONALIZATION OR REASONS FOR IT. THEY'RE TRYING TO FIND ALL KIND OF WAYS TO CORRECT WHAT SOME PEOPLE IN THIS BODY, DUE TO IGNORANCE OF WHAT HAS HAPPENED, ARE SAYING NEBRASKA OUGHT TO RUN TO AND EMBRACE. WHEN WILL THEY EVER LEARN? ONE OF THESE DAYS I'M JUST GOING TO SIT BACK AND LET YOU ALL DO WHATEVER YOU WANT TO DO. I'M WASTING MY TIME. IN FACT, I MIGHT TAKE PRESIDENT OBAMA AND LEAVE. SEE, SOME PEOPLE WILL KNOCK HIM OFF A FENCE POST WHEN HE'S ON HIS OWN. BUT I DARE ANYBODY TO... [LB605]

PRESIDENT FOLEY: TIME, SENATOR. [LB605]

SENATOR CHAMBERS: ...KNOCK HIM OFF MY DESK WITH A SENATOR HERE. THANK YOU. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. SENATOR BURKE HARR, YOU'RE RECOGNIZED. [LB605]

SENATOR HARR: THANK YOU, MR. LIEUTENANT GOVERNOR. SO WHERE LAST WE LEFT I SAID THIS IS NOT PRISON REFORM, THIS IS SENTENCING REFORM. AND I THINK THAT'S TRUE. THE KIND OF SENTENCING REFORM WE'RE DOING IS WE'RE LOOKING AT CHANGING THE TRADITIONAL TYPES OF FELONIES THAT ARE BASICALLY I, II, III, AND IVs, AND WE'RE CREATING SOME NEW CLASSES. AND

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WE'RE CREATING A SEPARATE CLASS FOR VIOLENT VERSUS NONVIOLENT TO...MORE OR LESS EXTENT, THERE ARE SOME DIFFERENTIALS. BUT THAT IS GENERALLY WHAT WE'RE DOING. AND WE'RE TAKING CRIMES THAT USED TO BE FELONIES AND WE'RE MAKING THEM MISDEMEANORS. AND THEN WE'RE TAKING THOSE CRIMES AND WE'RE LOWERING THE SENTENCES. THAT'S THE LARGE PORTION OF THIS BILL. AND LET ME JUST START WITH THE SENTENCING PART. AGAIN, I'VE PROBABLY WORN MY WELCOME OUT WITH THIS LINE, BUT I DID USED TO PROSECUTE FELONIES. SO I HAVE SOMEWHAT OF AN IDEA. I'M A LITTLE RUSTY. IT'S BEEN ABOUT TEN YEARS SINCE I'VE DONE IT. BUT I HAVE A GOOD IDEA, AND I HAVE FRIENDS WHO STILL DO IT. THOSE SENTENCINGS ARE LARGELY CODIFYING WHAT'S ALREADY DONE, OKAY? THE VAST MAJORITY OF THE PEOPLE WHO ARE CONVICTED OF PROPERTY CRIMES ARE PROBABLY GETTING THESE SENTENCES THAT WE'RE TALKING ABOUT NOW. BUT WHAT WE ARE DOING IS WE'RE TAKING INDIVIDUALS...IF YOU STEAL, RIGHT NOW IT'S A \$500 CAR. THAT MEANS IT'S A CAR THAT DRIVES. IF YOUR CAR DRIVES, IT'S WORTH \$500. AND WE'RE SAYING THAT CAR NEEDS TO BE WORTH A LITTLE BIT MORE. IT NEEDS TO BE WORTH \$1,500. YOU WRITE A CHECK RIGHT NOW FOR \$500, IT'S A FELONY. IT'S GOING TO GO UP TO \$1,500. AND THEN TO BE THE NEXT LEVEL, WHAT WE CURRENTLY CALL CLASS III, WOULD GO FROM \$1,500 TO \$5,000. AND YOU KNOW, THAT'S ADJUSTING FOR INFLATION. AND I DON'T THINK THAT'S ALL BAD. AGAIN, I SUPPORT IT THIS MORNING, I'LL SUPPORT IT TODAY, THIS AFTERNOON. BUT THINK ABOUT WHAT THE CONSEQUENCES OF THIS ARE. AND THAT IS, PEOPLE WHO WERE, BEFORE, SENT TO PRISON MAY BE SENT TO COUNTY JAIL AND THE COUNTIES PICK UP THAT CHARGE. NOW, I DON'T KNOW HOW MUCH OF A CHANGE THAT WILL REALLY BE BECAUSE IF YOU DO A CLASS IV FELONY RIGHT NOW--AND I CAN SPEAK TO DOUGLAS COUNTY--THE FIRST TIME YOU COMMIT A CLASS IV FELONY, YOU'RE NOT GOING TO GO TO PRISON. THE FIRST TIME YOU COMMIT A FELONY, OUR PROSECUTORS WORK AS HARD OR HARDER THAN DEFENSE ATTORNEYS TO MAKE SURE THAT WE DON'T RUIN SOMEBODY'S LIFE. BY THAT, I MEAN WE GIVE SOMEONE AN OPPORTUNITY FOR DIVERSION. AND MOST PROPERTY CRIMES, YOU'D BE GIVEN A CHANCE AT DIVERSION. IF YOU'RE UNDER 18, YOU'D BE GIVEN A CHANCE AT...TO GO TO JUVENILE COURT. YOU DON'T GET A RECORD. THERE'S DIVERSION. THERE'S ALSO YOUTH-ADULT COURT. THERE'S MENTAL HEALTH COURT. AND THERE'S DRUG COURT. AND THESE ARE ALL GREAT PROGRAMS, AND THEY ALL WORK AT ADDRESSING THE ISSUE OF WHY THIS PERSON IS DOING WHAT THEY ARE DOING. YOUR AVERAGE CRIMINAL IS NOT AN EVIL PERSON. THEY ARE PROBABLY SOMEBODY WHO HAS LOST FAITH. THEY NO LONGER THINK TOMORROW IS GOING TO BE BETTER THAN TODAY, SO THEY GO AND DO SOMETHING STUPID.

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NOT ONLY DO THEY DO SOMETHING STUPID, THEY DO IT IN A STUPID WAY BECAUSE THEY GET CAUGHT. AND THEY DON'T CARE... [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR HARR: THANK YOU...BECAUSE TOMORROW IS NOT BETTER THAN TODAY, GO AHEAD, THROW ME IN THERE. SO YOU HAVE TO ADDRESS THE UNDERLYING ISSUE. I'M GOING TO SPEAK AGAIN. BUT I WANT TO TALK ON THIS ONE. THE EMPHASIS IS WHAT WE DO ALREADY FOR THESE PEOPLE, WE PROVIDE A LOT OF PROGRAMMING TO ADDRESS THAT UNDERLYING ISSUE, IF THAT'S MENTAL HEALTH, IF THAT'S A DRUG ADDICTION. AND SO YOU ARE NOT GOING TO GO TO PRISON YOUR FIRST TIME YOU COMMIT A IV OR III AND IF YOU REALLY WANT TO ADDRESS YOUR ISSUE. MAYBE OCCASIONALLY, BUT THE VAST MAJORITY, 90-PLUS PERCENT DO NOT--I'LL GO AS HIGH AS 95 PERCENT--DO NOT GO TO PRISON THE FIRST TIME THEY COMMIT A FELONY. THANK YOU. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR HARR. SENATOR KRIST, YOU'RE RECOGNIZED. [LB605]

SENATOR KRIST: THANK YOU, MR. PRESIDENT. AND GOOD AFTERNOON AGAIN, COLLEAGUES AND NEBRASKA. MY FIRST TIME ON THE MIKE I TALKED TO YOU IN GENERALITIES ABOUT MY EXPERIENCE OVER THE INTERIM AND WHAT I FEEL IS VERY CRUCIAL IN TERMS OF OUR OBLIGATION TO DOING SOMETHING WITH LB605. NOW I'M GOING TO SAY ON THE RECORD RIGHT NOW, AND I'VE SAID IT OUT THERE IN "DISNEY WORLD" AND HERE NOW ON THE MIKE, I'M NOT MARRIED...WE'RE NOT MARRIED TO THE ONE-THIRD RULE. WHAT I'M MARRIED TO IS PROTECTING PEOPLE IN THE PUBLIC FROM THE PEOPLE WHO ARE CAPABLE OF JAMMING OUT. NOW I DON'T KNOW IF THAT TERM MEANS AS MUCH TO YOU AS IT DOES TO ME. BUT WHEN AN INDIVIDUAL, WHO HAS BEEN LOCKED UP FOR BETTER THAN TEN YEARS OF HIS ADULT LIFE, IS ALLOWED TO WALK OUT OF SOLITARY CONFINEMENT, ADMINISTRATIVE SEGREGATION, WHATEVER YOU WANT TO CALL IT, AND WALK RIGHT INTO NORTH OMAHA AND START KILLING PEOPLE...ACTUALLY, THAT'S NOT TRUE. HE WENT FROM ONE FACILITY TO PROTECT HIM FROM BEING COMMITTED BY ONE COUNTY ATTORNEY TO ANOTHER FACILITY WHERE THEY WOULD HAVE HAD TO START IT ALL OVER AGAIN, AND THEN WAS DIRECTLY...AND HE WENT IN SOLITARY AGAIN, AND THEN HE WAS EJECTED INTO THE POPULATION. FOLKS, THAT'S JUST WRONG. WE HAVE TO PRESERVE SOME TIME ON THE BACK END OF THE SENTENCES AND WE HAVE TO HAVE PEOPLE ACTUALLY EARN THE RIGHT TO BE PAROLED. THEY

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EARNED THAT RIGHT IN THE OLD DAYS BY DOING THINGS. CHECKING OFF SQUARES, GETTING TREATMENTS, DOING EDUCATION, LEARNING HOW TO WELD. OKAY, THAT'S PART OF THE BROKEN SYSTEM THAT SENATOR HARR DESCRIBED. WALKING DIRECTLY OUT OF SOLITARY CONFINEMENT INTO THE GENERAL PUBLIC, INTO YOUR BACKYARD: A YOUNG WOMAN DRIVING HOME FROM WORK ONE NIGHT AFTER BARTENDING, DEAD. TWO MEN DOWN, ARGUABLY DOING MISCHIEVOUS THINGS BUT NOT REALLY BREAKING THE LAW, DEAD, AND ONE OTHER MAN INDISCRIMINATELY DEAD. THAT HAPPENS BECAUSE WE DON'T HAVE A PROCESS ON THE BACK END TO ALLOW FOR SUPERVISION: SUPERVISED RELEASE, PROBATION. THERE'S A NUMBER OF DIFFERENT CATEGORIES, BUT WE HAVE TO GET THERE. NOW I'M GOING TO SAY IT AGAIN. I AM NOT A LAWYER, BUT I HAVE SPENT AN AWFUL LOT OF TIME WITH THEM IN THE LAST COUPLE OF YEARS. AND I'VE ASKED THEM, THE LOBBY, THE COUNTY ATTORNEYS, THE PROSECUTORS TO COME UP WITH A WAY TO DO THAT. I'M NOT TRYING TO JAM A PIECE OF LEGISLATION DOWN THEIR THROAT. I'M NOT TRYING TO TELL THEM HOW TO DO THEIR JOB. I'M ASKING THEM WHAT CAN WE DO, WHAT CAN WE PUT IN LEGISLATION THAT WILL KEEP US FROM HAVING ANOTHER MR. JENKINS. THAT'S WHAT THIS DISCUSSION IS REALLY ABOUT, BECAUSE ALMOST EVERYTHING ELSE IN HERE, TO A DOT AND TO A CROSSED T, THERE IS CONCURRENCE AND IT DIDN'T HAPPEN BY ACCIDENT. IT HAPPENED THROUGH A LOT OF HARD WORK OVER THE LAST COUPLE OF YEARS. SO I'VE ASKED THEM TO GIVE ME AN AMENDMENT THAT MAKES THEM HAPPY AND THEN TO PROMISE THEM THAT WE'RE BRINGING BACK SENATOR PANSING BROOKS'S LB483, I BELIEVE, AND WE'LL TALK ABOUT INDISCRIMINATE...OR INDETERMINATE SENTENCING AND ALL THE REST OF THE THINGS THAT WE NEED TO TALK ABOUT IN ORDER TO ENSURE THAT WE DON'T LET PEOPLE JAM OUT. [LB605 LB483]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR KRIST: IT'S A SERIOUS MATTER. AND I SEE SENATOR CHAMBERS HAS HIT HIS LIGHT AGAIN, SO I MUST HAVE DRAWN HIS IRE BACK UP HERE. I WILL DO ANYTHING THAT I CAN TO GET LB605 OVER THE FINISH LINE TO A CERTAIN EXTENT, BECAUSE I DO NOT WANT THE ACLU AND THE DEPARTMENT OF JUSTICE TO TELL US HOW TO HANDLE OUR PROBLEMS HERE IN THE STATE OF NEBRASKA. THAT IS THE GRAVITY OF THE SITUATION. AND I HAVE SOME TIME LEFT IN THIS LEGISLATURE AND I AM PATIENT ENOUGH TO MAKE SURE THAT WE WALK THROUGH THE REST OF IT, BUT NOT WITHOUT THE HELP OF THE OCCUPANTS OF "DISNEY WORLD." THEY NEED TO ROLL UP THEIR SLEEVES AND HELP US DO THIS. THANK YOU, MR. PRESIDENT. [LB605]

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PRESIDENT FOLEY: THANK YOU, SENATOR KRIST. SENATOR McCOY, YOU'RE RECOGNIZED. THIS IS YOUR THIRD OPPORTUNITY ON THIS AMENDMENT, SENATOR. [LB605]

SENATOR McCOY: THANK YOU, MR. PRESIDENT. YOU'VE HEARD A LOT OF TALK AND I THINK WE'VE HEARD A LOT OF TALK ALREADY ABOUT THE ONE-THIRD RULE, THE INDETERMINATE SENTENCING ASPECT OF THIS, WHICH WAS SENATOR PANSING BROOKS'S LB483. NOW WHAT YOU HAVE BEFORE US IN AM1242--AND IT ACTUALLY BLEEDS INTO AM1010 AS I READ IT--AND I THINK AS THOSE THAT HAVE BEEN WORKING ON THIS LEGISLATION WILL PROFESS TO BE THE CASE, IF YOU GO BACK AND LOOK AT LB483, AND I HAVE A THE TRANSCRIPT RIGHT HERE. HERE IS ONE OF MY CHIEF CONCERNS WITH THIS LEGISLATION AND WHY I REMAIN VERY TROUBLED BY THE FACT THAT WE'RE ENTERING INTO UNCHARTED WATERS IN THAT WE HAVE THE JUSTICE CENTER AT CSG WHO I THINK, BY ALL ACCOUNTS, I CERTAINLY HAVEN'T HEARD ANY CRITICISM, I DON'T BELIEVE, OF THEIR EFFORTS TO HELP US HERE IN NEBRASKA, AS THEY'VE HELPED A NUMBER OF OTHER STATES AROUND THE COUNTRY. WE'RE ENTERING INTO AN AREA THAT DOESN'T ALLOW THEM TO MODEL WHAT WE ARE DOING GOING FORWARD. AND HERE'S ONE OF THE REASONS WHY. NOW THEY RECOGNIZE THE ISSUE, AS SENATOR KRIST AND SENATOR SEILER AND SENATOR MELLO HAVE ARTICULATED, OF THE JAMMING OUT. BUT LET ME JUST READ A PORTION OF DON KLEINE'S TESTIMONY ON LB483, WHICH IS THE UNDERLYING BILL WHICH IS THE...PROBABLY THE BIGGEST ISSUE IN QUESTION HERE IN AM1242. DON KLEINE'S TESTIMONY ON LB483 BACK IN FEBRUARY OF THIS YEAR, AND I'LL QUOTE, "I CAN GIVE YOU SOME ANECDOTAL EXAMPLES." OF COURSE, HE'S TALKING ABOUT THE ONE-THIRD RULE. "ERICA JENKINS JUST GOT SENTENCED TO 30 TO 50 YEARS CONSECUTIVE FOR TWO COUNTS OF ROBBERY IN HER ROLE IN HELPING HER BROTHER NIKKO MURDER TWO HISPANIC MALES IN SOUTH OMAHA. AND SO BY THIS LAW, THE MAXIMUM SENTENCE THE JUDGE WOULD HAVE BEEN ABLE TO GIVE IS 18 AND TWO-THIRDS TO 50, AND SHE WOULD HAVE BEEN ELIGIBLE FOR PAROLE IN 9 YEARS." NOW I HAD A CONVERSATION OFF THE MICROPHONE A MOMENT AGO WITH A MEMBER OF THE JUDICIARY COMMITTEE. UNDER THE CURRENT LAW, AS IT STANDS, SHE IN ALL LIKELIHOOD WOULD HAVE BEEN ELIGIBLE FOR PAROLE SOMEWHERE AROUND 13 YEARS. NOW THAT'S A...YOU COULD SAY, WELL, WHAT'S THE DIFFERENCE BETWEEN 9 AND 13? WELL, COULD BE SIGNIFICANT. IT'S FOUR YEARS, MATHEMATICALLY SPEAKING. BUT THAT MEANS THAT YOU COULD HAVE AN INDIVIDUAL--BY ALL ACCOUNTS I DON'T THINK MOST NEBRASKANS WOULD WANT OUT AND ABOUT ON THE STREETS--ELIGIBLE CONSIDERABLY EARLIER FOR PAROLE. I THINK WE HAVE A REAL SITUATION HERE. THIS, IN MY MIND, THIS

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PORTION OF THIS AMENDMENT REALLY NEEDS TO BE REMOVED. I HOPE THAT THOSE THAT REALLY WOULD LIKE TO SEE THIS LEGISLATION MOVE FORWARD, REMOVE THIS SECTION OF THE BILL...OR OF THE AMENDMENT, I SHOULD SAY, WHICH IS LB483, THE BILL, AND GET BACK TO THE TENETS OF THIS LEGISLATION THAT WERE THE RECOMMENDATIONS OF THE COUNCIL OF STATE GOVERNMENTS JUSTICE CENTER AND GET US BACK TO WHERE WE NEED TO BE AND FOCUSED IN ON THE ISSUE AT HAND. THAT'S WHERE I THINK THIS NEEDS TO GO. THANK YOU, MR. PRESIDENT. [LB605 LB483]

PRESIDENT FOLEY: THANK YOU, SENATOR McCOY. SENATOR COASH, YOU'RE RECOGNIZED. [LB605]

SENATOR COASH: THANK YOU, MR. PRESIDENT. WELL, GOOD AFTERNOON, COLLEAGUES. I WANT TO GIVE YOU SOME OF MY OBSERVATIONS OF HOW THIS PROCESS HAS GOT US TO LB605 AND THE UNDERLYING AMENDMENTS. AS I SAT THROUGH THE HEARINGS ON THESE BILLS, AS I SAT THROUGH NUMEROUS MEETINGS WITH DIFFERENT STAKEHOLDERS, I CAN TELL YOU THAT THERE'S SOME DISTRUST OUT THERE, AND THAT DISTRUST IS LEADING TO FEAR, AND FEAR IS WHAT WE ARE BEING ASKED TO ACT ON TODAY. AND THE FEAR IS THIS: THE FEAR IS THAT A JUDGE, GIVEN THE OPPORTUNITY, IS GOING TO GO LIGHT; THAT IF YOU GIVE JUDGES ANY MORE LATITUDE, THEY ARE GOING TO GIVE THE LEAST AMOUNT OF SENTENCE THAT'S POSSIBLE, ACCESSIBLE TO THEM. AND SO BY BROADENING THIS SENTENCING RANGE, SENTENCES ARE ALL OF A SUDDEN GOING TO GO DOWN. WELL, I THINK THAT'S INCREDIBLY UNFAIR TO OUR JUDICIARY. IF WE DON'T TRUST THEM TO LOOK AT THE FACTS OF THE CASE, TO CONSIDER THE VICTIMS, TO CONSIDER THE DEFENDANTS AND THEIR HISTORY, AND TO SENTENCE ACCORDINGLY, THEN WE SHOULD NOT BE INCREASING THEIR SALARY BY 5 PERCENT EVERY OTHER YEAR. WE ARE PAYING THEM TO JUDGE AND THAT'S WHAT THEY DO. THERE'S A FEAR THAT A PAROLE BOARD WILL LOOK AT A DEFENDANT AND SAY, WELL, THIS IS YOUR FIRST TIME UP, WE BETTER LET YOU OUT. THAT'S A FEAR. I WANT TO MAKE SURE YOU UNDERSTAND SOME CONTEXT OF WHAT SENATOR McCOY WAS TALKING ABOUT, BECAUSE SOME OF THE E-MAILS THAT I HAVE SEEN COME THROUGH ARE CONFUSING ELIGIBILITY WITH RELEASE, AND THEY ARE NOT THE SAME. BEING PAROLE ELIGIBLE AND BEING RELEASED ON PAROLE DON'T HAPPEN TOGETHER ALL THE TIME. THEY HAPPEN RARELY TOGETHER. WE SPEND A LOT OF MONEY ON OUR PAROLE BOARD, COLLEAGUES, AND WE PUT THEM UNDER IMMENSE PRESSURE. AND I UNDERSTAND SOME SKEPTICISM, GIVEN WHAT WE'VE SEEN. BUT THIS IS THEIR JOB. THIS IS WHAT THEY DO. SENATOR HARR TALKED ABOUT THIS BEING A SENTENCING REFORM. WELL, THIS IS A PRISON REFORM BILL. WE'VE GOT THE

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OVERCROWDING SITUATION, WHICH THIS BODY HAS TO DEAL WITH, COLLEAGUES. BY THE WAY, THIS IS SOMETHING WE HAVE TO DEAL WITH. COUNTY ATTORNEYS DON'T HAVE TO WORRY ABOUT HOW FULL THE PRISONS ARE GETTING. THAT'S NOT THEIR JOB. I DON'T WANT THEM WORRIED ABOUT WHETHER THERE'S ROOM AT THE INN. I WANT THEM WORRIED ABOUT GETTING CONVICTIONS WHEN THEY'RE WARRANTED. BUT THEY'RE NOT IN HERE WORRYING ABOUT, ARE WE GOING TO BUILD A NEW PRISON? AND SO IF WE'RE GOING TO AFFECT OVERCROWDING AND GOING TO REFORM PRISONS, SENTENCING HAS GOT TO BE PART OF THE SITUATION. IT WAS SENTENCES THAT GOT US TO THE OVERCROWDING IN THE FIRST PLACE. REDUCING THE JAM OUTS, THEREBY REDUCING RECIDIVISM, HAS GOT TO BE PART OF THE EQUATION. AND I UNDERSTAND THE CONCERNS THAT ARE BEING BROUGHT WITH THE ONE-THIRD RULE, BUT I KEEP GOING BACK TO, WITHOUT THAT, YOU WILL HAVE MORE PEOPLE JAMMING OUT. THEY WILL SERVE LONGER SENTENCES. JUSTICE WILL BE SERVED, BUT THEY WILL JAM OUT. SENTENCE...EXCUSE ME, PAROLE ELIGIBILITY IS NOT THE SAME AS PAROLE RELEASE. FINALLY, I WANT TO TALK ABOUT SOMETHING IN THE AMENDMENT THAT IS ONE OF THE BEST PARTS OF THIS BILL. [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR COASH: IT'S THE CUSTODIAL SANCTIONS. AND I'LL TELL YOU A STORY ABOUT MY FIVE-YEAR-OLD. IF MY FIVE-YEAR-OLD IS RUNNING OUT IN THE MIDDLE OF THE STREET AND I YELL AT HIM TO STOP RUNNING OUT IN THE STREET AND THEN I LOOK AT HIM AND I SAY, COLE, IN ABOUT TWO MONTHS WE'RE GOING TO HAVE A DISCUSSION ABOUT THIS SO THAT YOU REMEMBER NOT TO GO ACROSS THE STREET WITHOUT YOUR DAD WITH YOU, AND IF YOU DO IT AGAIN TWO MONTHS LATER YOU'RE NOT GOING TO HAVE YOUR FAVORITE TOY TO PLAY WITH FOR A DAY, IT WOULDN'T WORK. AND WE HAVE TO TREAT THESE INMATES, AND I'M SORRY, WE HAVE TO TREAT THEM LIKE FIVE-YEAR-OLDS. WE HAVE TO GIVE THE TOOLS SO THAT THE PROBATION OFFICER CAN SAY, UH-UH, YOU ARE MESSING UP; YOU'RE GOING TO GO SPEND THE WEEKEND IN JAIL. THINK ABOUT IT. WE'VE HAD PROBATIONERS FAIL ON PROBATION, HAVE DIRTY URINALYSIS, VIOLATE THE CONDITIONS OF THEIR PROBATION, AND THE BEST THE PROBATION OFFICER CAN SAY IS, YOU KNOW WHAT, IN ABOUT TWO MONTHS WE'RE GOING TO GO TALK TO THE JUDGE. [LB605]

PRESIDENT FOLEY: TIME, SENATOR. [LB605]



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SENATOR COASH: THANK (MICROPHONE MALFUNCTION). [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR COASH. SENATOR SEILER, YOU'RE RECOGNIZED. [LB605]

SENATOR SEILER: THANK YOU, LIEUTENANT GOVERNOR. MEMBERS, I THINK IT'S BEEN EXPLAINED A NUMBER OF TIMES WHAT WE'RE TALKING ABOUT HERE, BUT I WANT TO PUT IT IN THE RECORD ONE MORE TIME THAT IT IS IN PART OF THE REPORT OF THE COUNCIL OF STATE GOVERNMENTS THAT WE FIGURE OUT A WAY TO STOP JAM OUTS. THIS IS WHAT THE ONE-THIRD RULE WAS THROWN IN FOR. I'M WORKING RIGHT NOW WITH SENATOR BURKE HARR TO SEE IF WE'VE GOT AN ALTERNATIVE METHOD AND WHAT IT IS, IS TO GO FROM THE SIMPLE PART OF PAROLE ELIGIBILITY TO JAM OUT TIME, THERE'S A GAP, WHATEVER THAT NUMBER HAPPENS TO BE. AND WHAT WE'RE TALKING ABOUT IS PUTTING IN A DECISION THAT THE JUDGE WOULD MAKE AT TIME OF SENTENCING WHAT THAT GAP WOULD BE. IT APPEARS TO ME THAT THAT SOLVES THE PROBLEM. WHAT DO WE DO IN THAT GAP? THIS IS WHY I WANTED TO COME BACK ON THE MIKE: ANGER MANAGEMENT, PERSONAL FINANCIALS COURSE, THE DRUG ABUSE. I WAS JUST INFORMED THAT MOST OF THESE PEOPLE ARE "DRUGGERS." IF THAT'S TRUE, WHO ELSE NEEDS THAT MORE THAN THEY DO? THE OTHER ONE IS ALCOHOL ABUSE, AND THEN WE HAVE THE OVERALL MENTAL ILLNESS. THOSE PROGRAMS ARE A MUST AND I BELIEVE THE CURRENT DIRECTOR AGREES WITH ME, THOUGH WE'VE TALKED ABOUT IT IN GENERAL TERMS AND I WON'T HOLD HIM TO IT. BUT I BELIEVE HE BELIEVES IN PROGRAMS BOTH FOR CAREER AND FOR MENTAL HEALTH. AND IF WE CAN GET THAT...HE MUST BELIEVE IN IT BECAUSE HE'S BRINGING BACK A PSYCHIATRIST FROM WASHINGTON TO GO THROUGH THE WHOLE SYSTEM AND MAKE RECOMMENDATIONS. SO BY DOING THAT, WE CAN STOP THE JAM OUTS AND TRY AND GET THESE PEOPLE BACK ON THE MAIN LINE BEFORE THEY GO TO BECOME YOUR NEIGHBORS. THAT'S WHAT IT'S ALL ABOUT. AND WE USE THE ONE-THIRD RULE, IT CREATES TOO BIG OF A...IN MY OPINION AND I'VE TOLD SENATOR BROOKS THIS, THAT IT'S TOO BIG OF AN AREA. WE NEED TO BRING IT DOWN A LITTLE BIT. BUT WE STILL NEED TO BE ABLE TO DO ALL THOSE PROGRAMS IN THAT AREA BEFORE WE TURN THEM BACK OUT ON SUPERVISED RELEASE. THANK YOU VERY MUCH. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR SEILER. SENATOR BLOOMFIELD, YOU'RE RECOGNIZED. [LB605]

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SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. COLLEAGUES, I'M LISTENING TO DEBATE HERE AND I'M NOT GOING TO PRETEND TO TOTALLY UNDERSTAND WHAT'S GOING ON. I'VE GOT ONE SENATOR RUNNING AROUND TELLING ME WE NEED TO KILL THIS. HE CAN'T EXPLAIN WHY. I'M TRYING TO LISTEN TO THE PEOPLE IN THE BACK OF THE ROOM AND I'M KIND OF PICKING UP WHERE THEY'RE GOING. BUT THERE'S ONE OF OUR ATTORNEY SENATORS HERE THAT HASN'T SPOKEN UP YET, SO I WONDER IF SENATOR SCHUMACHER WOULD YIELD TO A QUESTION. [LB605]

PRESIDENT FOLEY: SENATOR SCHUMACHER, WOULD YOU YIELD, PLEASE?  
[LB605]

SENATOR SCHUMACHER: YES, I WILL. [LB605]

SENATOR BLOOMFIELD: THANK YOU, SENATOR SCHUMACHER. YOU'VE BEEN ENTIRELY TOO QUIET ON THIS. I WISH YOU WOULD EXPOUND A LITTLE BIT.  
[LB605]

SENATOR SCHUMACHER: CAN I BE QUIET? (LAUGHTER) THIS IS A TERRIBLY COMPLEX ISSUE, FOLKS. AND I HAVEN'T SPOKE UP BECAUSE I DON'T WANT TO SCREW UP THE WORK THAT THE JUDICIARY COMMITTEE HAS DONE BECAUSE THERE'S BEEN A TERRIFIC EFFORT. DO I THINK WE'RE EVEN WARM ON SOLVING THE PROBLEM? NO. DO I HAVE TERRIBLY CONCRETE ANSWERS TO THE PROBLEM? NOT REALLY. AND I MEAN THIS IS THE PROBLEM, AND IT'S PERVASIVE HERE. I SAT IN ON SOME OF THESE VARIOUS COMMITTEES AND LISTENED TO THE NIKKO JENKINS STORY AND THE MESS AT THE PENITENTIARY. IN THE BACK OF MY MIND I CALCULATED OUT THAT WE WERE LOOKING AT A PROBLEM THAT WAS AT LEAST \$100 MILLION, IF NOT MORE, TO ADDRESS; THAT WE NEEDED TO LOOK AT THE MENTAL HEALTH FACILITIES IN THE...THROUGHOUT THE STATE WHERE YOU CAN PARK PEOPLE WHO REALLY DON'T NEED TO BE INCARCERATED BUT WHO ARE EITHER ON DRUGS OR WHO ARE SUFFERING FROM SOME MENTAL ISSUE. WE DON'T HAVE THOSE. WE AREN'T ADDRESSING THOSE. WE NEEDED TO HAVE SOMETHING WHERE YOU COULD PUT MENTALLY ILL FOLKS WHO WERE IN THE PENITENTIARY, OFF TO THE SIDE. WE MAYBE WOULD NEED SOME EXTRA ROOMS FOR THE LOW-GRADE OFFENDERS. WE NEEDED TO SERIOUSLY EXAMINE OUR CONSCIENCE WHETHER OR NOT WE NEEDED TO MAKE EVERYTHING THE HIGHEST POSSIBLE FELONY OR NEEDED TO GIVE JUDGES THE LATITUDE IT TAKES IN ORDER TO BE ABLE TO HAVE SOME SENTENCING DISCRETION. AND THEN I COME IN HERE AND WHAT I HEAR ABOUT IS CUT MY TAXES, CUT MY

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TAXES. CAN'T DO IT ALL. CAN'T DO IT ALL, AND THAT'S THE FRUSTRATION, WHY I'M SITTING THERE TRYING TO FIGURE IT OUT AND TRYING TO READ STEP BY STEP EXACTLY WHAT WE ARE DOING AND TRYING TO FOCUS ON IT, BECAUSE THIS IS A BIG PIECE RIGHT HERE. THE CURRENT AM, WHAT THAT DOES IS THAT FOR A HALF A DOZEN DIFFERENT CRIMES, IT JACKS UP THE MAXIMUM PENALTY. NOBODY HAS TALKED ABOUT THAT, WHETHER OR NOT THAT'S THE SMART THING TO DO. SOMETHING THE COUNTY ATTORNEYS WANT DONE. WHY? PROBABLY TO GIVE THEM LEVERAGING, BARGAINING POWER IN PLEA BARGAINING TO SAY WE WILL... YOU KNOW, YOU COULD FACE A REALLY HIGH PENALTY UNLESS YOU ROLL OVER AND PLEAD GUILTY, WHICH IS A LEGITIMATE PART OF THEIR FUNCTION TO GET PEOPLE TO PLEAD GUILTY AND SAVE THE TAXPAYERS MONEY. AND SO I THINK THEY'RE CONCERNED ON SOME OF THOSE LEVELS. I, SENATOR, HAVEN'T SPOKEN UP BECAUSE THIS IS REALLY COMPLEX HERE AND I'M SCARED WE'RE GOING TO SCREW SOMETHING UP HERE. [LB605]

SENATOR BLOOMFIELD: THANK YOU, SENATOR. YOU THINK IT'S COMPLEX FOR YOU, TRY IT WITH A TRUCKDRIVER'S MIND. COLLEAGUES, I DON'T KNOW HOW LONG THIS DEBATE IS GOING TO GO ON. I HOPE IT GOES ON A WHILE. MAYBE THOSE OF US WHO DO NOT HAVE ATTORNEY'S MINDS WILL BE ABLE TO PICK UP A GRASP OF WHAT WE'RE ATTEMPTING TO DO HERE. THANK YOU, MR. PRESIDENT. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR BLOOMFIELD AND SENATOR SCHUMACHER. SENATOR BURKE HARR, YOU'RE RECOGNIZED. DON'T KNOW IF HE'S ON THE FLOOR. SENATOR BURKE HARR WAIVES THIS OPPORTUNITY. SENATOR CHAMBERS, YOU'RE RECOGNIZED. THIS IS YOUR THIRD TIME ON THIS AMENDMENT, SENATOR. [LB605]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, YIELDING TO THE TATTLETALES WHO WENT TO THE SPEAKER AND ARE SO OFFENDED, I HAVE TO TELL PRESIDENT OBAMA, YOU'RE NO MORE WELCOME HERE THAN YOU ARE IN WASHINGTON, D.C., BECAUSE THEY SAY IT'S A PROP. SO I'M GOING TO WALK AROUND AND IF I SEE ANYBODY WITH A CUP THAT HAS A SLOGAN THAT I DON'T LIKE, I WANT TO TATTLETALE AND HAVE THAT CUP TAKEN OFF THE DESK. I WANT YOU ALL TO SEE WHAT WE'RE DEALING WITH HERE. AND I ASKED THE SPEAKER, WHAT WOULD HAPPEN IF I DIDN'T TAKE IT OFF. HE SAID, WELL, NOTHING, I'D JUST TELL THEM THAT I TOLD YOU TO DO IT. WELL, THE ISSUE THAT WE'RE DEALING WITH HERE TODAY IS TOO SERIOUS TO BE SIDETRACKED LIKE THAT, BUT THOSE ARE SOME OF THE PETTY, CHILDISH THINGS THAT I DEAL WITH HERE. AND I WOULD MATCH MY KNOWLEDGE ON THIS SUBJECT WITH

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ANYBODY IN HERE. WHAT MADE ME COME BACK UP HERE WAS LISTENING TO SENATOR KRIST. NO ONE PERSON, NO TWO PEOPLE, NO THREE SHOULD HAVE TO TRY TO CARRY THIS BURDEN. AND ALL OF US, ALL OF US WHO HAVE BEEN SPEAKING WHO SERVED ON THESE COMMITTEES AND DID THE STUDYING HAVE INFORMATION THAT YOU'RE NOT GOING TO ACCEPT. SENATOR KINTNER STOOD UP AND TALKED THE WHOLE TIME ABOUT HAVING DIFFICULTY, BUT HE COULDN'T MENTION ONE THING HE HAD DIFFICULTY WITH. HE THOUGHT IT MIGHT RAISE PROPERTY TAX. SO ALL OF THESE SLOGANS, ALL OF THESE MODELS ARE GOING TO BE THROWN OUT HERE. AND THAT'S WHY I SAY I KNOW I'M WASTING MY TIME. I KNOW THAT I'M WASTING IT. BUT SENATOR KRIST IS CONTINUING TO TRY, SENATOR SEILER, SENATOR SCHUMACHER. WE WENT THROUGH A LOT OF HEARINGS, AND THEY KNOW THE EFFORT THAT I PUT FORTH TO TRY TO GET THE DEPARTMENT OF CORRECTIONS TO DO SOMETHING FOR NIKKO JENKINS BEFORE HE GOT OUT. I WROTE THEM LETTERS. I WAS ASSURED THAT HE WOULD GET MENTAL HEALTH TREATMENT, AND HE GOT NONE. I WASN'T IN THE LEGISLATURE THEN, I HAD BEEN TERM LIMITED OUT, SO I HAD TO DO IT FROM AFAR. THEY DIDN'T GIVE HIM THAT TREATMENT THAT THEY PROMISED ME THEY WERE GOING TO GIVE. A PSYCHIATRIST MADE A DIAGNOSIS THAT WOULD HAVE BEEN SUFFICIENT TO CONVENE A MENTAL HEALTH PANEL IN JOHNSON COUNTY WHERE TEKAMAH...WHERE THAT OTHER PRISON IS LOCATED, TECUMSEH. BEFORE ANYTHING COULD BE DONE, THEY SHIPPED HIM UP TO LANCASTER COUNTY WHERE THE PENITENTIARY IS. THE PAPERWORK DID NOT ACCOMPANY HIM. IN JOHNSON COUNTY, THERE WAS ENOUGH EVIDENCE THERE TO CONVENE A MENTAL HEALTH BOARD AND SEE IF HE SHOULD BE COMMITTED. AND ON AT LEAST 32 DOCUMENTED OCCASIONS, BECAUSE I READ THE DOCUMENTATION, I READ IT, I'M NOT GOING BY WHAT I HEARD, I READ THE DOCUMENTS PREPARED BY THE OFFICIALS. ON AT LEAST 31 OCCASIONS HE BEGGED THEM TO GIVE HIM MENTAL HEALTH TREATMENT. HE FILED A GRIEVANCE WITH THE BAR ASSOCIATION...NOT THE BAR ASSOCIATION, THE COUNCIL FOR DISCIPLINE WHICH DISCIPLINES LAWYERS TO HAVE ACTION TAKEN AGAINST THE JOHNSON COUNTY ATTORNEY FOR NOT HAVING HIM COMMITTED. HIS MOTHER WROTE TO THE JOHNSON COUNTY ATTORNEY, BEGGING THAT HE BE COMMITTED, AND THEY DID NOTHING, NOTHING. WE ARE AWARE OF IT; YOU ALL ARE NOT. AND YOU'RE GOING TO LET THE SAME SITUATIONS GROW AGAIN. THE WORLD-HERALD, BECAUSE THE SENATORS DON'T CARE, WILL HAVE TO DO AN EXPOSE'. EVERYBODY IS GOING TO BE OOHING AND AAHING, AND BEATING THEIR BREASTS AND PUTTING ON THE SACKCLOTH AND SITTING IN ASHES, ABOUT HOW HORRIBLE THE SCANDAL IS, AND THEN GO RIGHT BACK TO THE VERY THING THAT CREATED IT, LIKE THE DOG RETURNING TO HIS VOMIT. I'VE BEEN OVER THIS PATHWAY TOO MANY TIMES. YOU CAN DO

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WHATEVER YOU WANT TO DO AND YOU'RE GOING TO DO IT ANYWAY. AND THESE COUNTY ATTORNEYS, I HAVE CONTEMPT FOR THEM. THEY DON'T COME AND GIVE THEIR INPUT. BUT NOW YOU'VE SHOWN THEM... [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR CHAMBERS: ...WITH THESE NEW PEOPLE HERE, WHO ARE SHALLOW AND DON'T UNDERSTAND AND GO FOR THE COUNTY ATTORNEY'S LABEL TO TELL THEM DON'T DO IT, AND YOU WON'T DO IT. SO HERE THEY'RE GOING TO COME ON EVERY BILL THEY DON'T LIKE NOW WHEN IT'S BEFORE US ON THE FLOOR. AND THEY HAD MANY OPPORTUNITIES TO DISCUSS IT IF THEY CARED, BUT NOW THE ATTORNEY GENERAL IS GOING TO SHOW HIS POWER, THE COUNTY ATTORNEYS ARE GOING TO SHOW THEIRS. AND IF THAT'S THE WAY THE SESSION IS TO GO, WE'RE ALL WASTING OUR TIME. ALL THAT SENATOR KINTNER CAN SAY IS, WELL, MY COUNTY ATTORNEY IS CONCERNED SO I HAVE TO BE CONCERNED TOO. SENATOR GARRETT CAN TELL YOU SOMETHING ABOUT THIS COUNTY...THIS ATTORNEY GENERAL AND OTHERS CAN, TOO, ABOUT WHAT I CONSIDER THE UNETHICAL, UNDERHANDED, AMBUSH-LIKE WAY HE FUNCTIONS. YOU ALL WON'T SAY IT BECAUSE YOU DON'T PAY ATTENTION OR IF YOU'VE PAID ATTENTION YOU'RE AFRAID TO SAY IT. HE'S NOTHING BUT A MAN. AND A MAN AIN'T NOTHING BUT A MAN TO ME. [LB605]

PRESIDENT FOLEY: TIME, SENATOR. [LB605]

SENATOR CHAMBERS: (MICROPHONE MALFUNCTION)...PRESIDENT. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. (VISITORS INTRODUCED.) SENATOR WILLIAMS, YOU'RE RECOGNIZED. [LB605]

SENATOR WILLIAMS: THANK YOU, MR. PRESIDENT. IT IS ALWAYS GOOD TO BE REMINDED OF THOSE YOUNG KIDS UP HERE, AND IT IS A PRIVILEGE FOR ALL OF US TO BE HERE TO REPRESENT THEM AND THE OTHER PEOPLE. I'M ONE OF THE NEW SENATORS HERE AND I'M ONE OF THE FOUR NEW SENATORS THAT HAS THE OPPORTUNITY TO SERVE ON THE JUDICIARY COMMITTEE. IF YOU TOLD ME A YEAR AGO THAT I WAS GOING TO BE INTO THE DETAILS OF REFORMING OUR CRIMINAL JUSTICE SYSTEM TO THIS LEVEL, I WOULD HAVE QUESTIONED WHETHER I WAS THE RIGHT PERSON FOR THAT JOB. BUT THAT'S THE JOB I GOT, AND I'M PROUD TO BE PART OF THAT GROUP. BUT I'M EVEN MORE PROUD OF THE LEADERSHIP THAT HAS COME OUT OF THIS LEGISLATURE AND THIS STATE,

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RECOGNIZING THAT WE HAVE A SERIOUS PROBLEM, IN FACT, A PROBLEM THAT IS BEYOND SERIOUS IN REFORMING OUR CRIMINAL JUSTICE SYSTEM, AS POINTED OUT BY THE LETTER THAT EACH ONE OF US RECEIVED FROM THE ACLU. WE HAVE AN OPPORTUNITY HERE TO TRUST. AND THERE'S BEEN SOME DISCUSSION AT THE MICROPHONE ABOUT TRUST AND PEOPLE'S WILLINGNESS TO TRUST, WHETHER WE TRUST THE AG'S OFFICE, WHETHER WE TRUST THE COUNTY ATTORNEYS, WHETHER WE TRUST THE GOVERNOR'S OFFICE, WHETHER WE TRUST OURSELVES. BUT WHAT I WOULD ASK US TO CONSIDER IS TO REALLY TRUST OURSELVES. AND WHAT I MEAN BY THAT IS WE HAVE A PROCESS IN OUR LEGISLATURE THAT WORKS IF WE ALLOW IT TO WORK. OVER A YEAR AGO, THE LR424 COMMITTEE WAS PUT TOGETHER, AND THERE ARE SENATORS IN THIS BODY TODAY THAT SPENT UNTOLD HOURS LISTENING TO TESTIMONY, RESEARCHING, FIGURING OUT WHAT TO DO. THROUGH THE WORK WITH CSG AND COMBINING THE EXPERTISE THAT WE HAD FROM THE EXECUTIVE BRANCH, FROM THE JUDICIAL BRANCH, AND FROM THE LEGISLATIVE BRANCH, THEY CAME TOGETHER WITH THE RESULTS OF A STUDY THAT EVERY ONE OF US HAS HAD THE OPPORTUNITY TO SEE. AND IN SHORT ORDER, LB605 IN ITS ORIGINAL FORM WAS THE CSG REPORT. FOLLOWING THAT, SOME SENATORS THAT HAVE GREAT EXPERTISE AND INSIGHT INTO THESE ISSUES TOOK AM1010 AND AM1242 TO FIX AND FINE-TUNE A COUPLE OF OTHER AREAS. AND THIS IS WHERE I ASK MYSELF, AM I WILLING TO TRUST THIS GROUP? AND THEN I ASK YOU, ARE YOU WILLING TO TRUST THIS GROUP? BECAUSE, AS SENATOR SCHUMACHER MENTIONED, THIS IS A HIGHLY COMPLICATED AREA, ONE THAT VERY FEW IN THIS GROUP HAVE THE PERSONAL EXPERTISE TO ANSWER ALL THE QUESTIONS. SO WE HAVE TO BASE OUR DECISIONS ON TRUSTING THESE GROUPS AND LEADING BY THEIR INSTINCTS TO MOVE US FORWARD. WILL LB605 AS AMENDED BE THE PERFECT LAW GOING FORWARD? ABSOLUTELY NOT. BUT IT IS OUR JOB TO FACE THE ISSUE THAT WE HAVE TODAY WITH THE BEST SOLUTION WE CAN AND THEN RECOGNIZE IT'S OUR FURTHER RESPONSIBILITY TO FINE-TUNE IT GOING FORWARD. AND THAT'S WHAT WE HAVE THE OPPORTUNITY TO DO. AND, YES, WE WILL BE CRITICIZED BY SOME FOR WHAT WE DO, WE WILL BE PRAISED BY OTHERS FOR WHAT WE DO. [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR WILLIAMS: BUT AT THE END OF THE DAY, TAKING NO ACTION IS NOT SOLVING THIS PROBLEM. WE'VE HEARD BEFORE THE DEFINITION OF A COMPROMISE, AND THAT'S WHAT WE'RE REALLY TALKING ABOUT TODAY, IS FINDING THAT AREA OF SOLUTION WHERE WE CAN ALL FEEL OKAY. AND I'M REMINDED OF THAT WISE MAN THAT WROTE, "BELOW UNFOLDS BEFORE YOUR

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EYES IN FOUR WORDS THE IDEAL COMPROMISE: NEITHER SIDE IS SATISFIED."  
THANK YOU, MR. PRESIDENT. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR WILLIAMS. SENATOR PANSING  
BROOKS, YOU'RE RECOGNIZED. [LB605]

SENATOR PANSING BROOKS: THANK YOU VERY MUCH, MR. PRESIDENT. I RISE IN  
SUPPORT OF LB605 AND AM1010 AND AM1242. AGAIN, AS NEW PEOPLE, SENATOR  
WILLIAMS WISELY STATED THAT FOUR OF US ARE NEW ON THAT JUDICIARY  
COMMITTEE AND A LOT OF WORK HAD BEEN DONE PRIOR TO OUR  
INVOLVEMENT ON THE COMMITTEE. BUT, AGAIN, I AGREE WITH SENATOR  
WILLIAMS THAT WE NEED TO TRUST SOME OF THE PROCESS. I JUST TALKED TO  
SOME OF THE PEOPLE WITH CSG, AND WHAT THEY WERE REQUESTED TO DO  
WAS TO IDENTIFY THE DRIVERS OF GROWTH IN OUR CORRECTIONS SYSTEM,  
AND TO LOOK AT POLICY OPTIONS TO AVERT THAT GROWTH, AND TO REINVEST  
IN PUBLIC POLICY STRATEGIES. AND YOU WILL SEE PART OF THAT ON THE  
BOTTOM, UNDERNEATH, IN THE FIRST PARAGRAPH UNDER "BACKGROUND" ON  
THE "JUSTICE REINVESTMENT IN NEBRASKA" FLIER THAT YOU EACH RECEIVED.  
AND AGAIN, IT SAYS TO DEVELOP A FRAMEWORK OF POLICIES TO OVERCOME  
NEBRASKA'S PUBLIC SAFETY CHALLENGES. SO LET'S BE CLEAR, LB605 MAY NOT  
BE EXACTLY PERFECT, BUT LB605 IS IMPORTANT. WE NEED TO DO SOMETHING IN  
OUR STATE TO DEAL WITH THE OVERWHELMING ISSUES OF OVERCROWDING,  
THE PUBLIC SAFETY ISSUES OF JAMMING PEOPLE OUT, THE PUBLIC SAFETY  
ISSUES OF NOT TRAINING PEOPLE TO BE ABLE TO BE READY TO ENGAGE IN  
ACTIVITIES WITHIN OUR COMMUNITIES ONCE THEY ARE RELEASED. THE  
STATISTIC IS THAT ABOUT 90 PERCENT OF INMATES WILL BE RELEASED WHOM  
WE HAVE IN OUR CORRECTIONS SYSTEM. WE HAVE A CHOICE. WE CAN LEAVE  
THEM IN AS LONG AS POSSIBLE, TURN THE KEY AND THROW IT AWAY AS LONG  
AS POSSIBLE OR WE CAN TAKE SOME ACTIVE STEPS. AND SOME OF THOSE STEPS  
THAT CAME THROUGH LB605 AND SOME CAME FROM SOME OTHER IDEAS THAT  
CAME FROM COMMUNITY MEMBERS. YES, THE ONE-THIRD RULE I BELIEVE IS A  
POSITIVE RULE. YOU WILL SEE THAT CSG ADDRESSED THIS ISSUE ON A SHEET OF  
PAPER THAT WAS...THAT SENATOR KRIST SENT OUT THAT TALKS ABOUT, WHILE  
SOME SENTENCE LENGTHS DROP, MINIMUM SENTENCES GREW IN PROPORTION  
TO THE MAXIMUMS AND NARROWED THE PAROLE WINDOW. AND YOU'LL SEE ON  
THAT SHEET OF PAPER AT THE BOTTOM, IT SHOWS AS THE MINIMUM SENTENCE  
INCREASES IN PROPORTION TO THE MAXIMUM SENTENCE, THE PAROLE WINDOW  
AND POTENTIAL PAROLE SUPERVISION POWER...OR PERIOD SHRINKS. THAT'S THE  
PROBLEM. WHAT'S HAPPENING IS WHEN WE HAVE DETERMINATE SENTENCES, A  
DETERMINATE SENTENCE IS A DETERMINED SET OF YEARS. IF WE TELL

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SOMEBODY THEY'RE IN FOR TEN TO TEN YEARS, GUESS WHAT HAPPENS ON TEN YEARS AND ONE DAY? THEY'RE OUT. AND BEFORE THAT, WE DON'T GET TO SUGGEST ANY FORMS OF REHABILITATION. THEY DON'T HAVE TO DO A THING. THE IDEA ABOUT THE ONE-THIRD RULE IS IT INJECTS THE PAROLE BOARD IMMEDIATELY INTO THE SITUATION AT ONE-THIRD OF THE TIME. AT ONE-THIRD OF THE TIME, THE PRISONER COMES BEFORE THE PAROLE BOARD AND THE PAROLE BOARD SAYS, ARE YOU KIDDING ME; THERE IS NO WAY YOU'RE GOING TO BE RELEASED. YOU HAVE DRUG AND ALCOHOL PROBLEMS, YOU HAVE ANGER MANAGEMENT PROBLEMS, YOU HAVE PROBLEMS DEALING WITH PEOPLE IN CLOSE PROXIMITY TO YOU. YOU NEED TO GO THROUGH ALL OF THESE STEPS BEFORE WE EVEN CONSIDER RELEASING YOU. THAT'S WHAT THE POWER OF THE ONE-THIRD RULE CREATES. AND UP UNTIL 1991, WE HAD THAT ONE-THIRD SENTENCE AS PART OF OUR LAWS FOR A LONG TIME. AND THERE ARE MANY PEOPLE WHO BELIEVE THAT THIS PROVIDES A HAMMER FOR THE PAROLE BOARD TO SAY, YOU NEED TO DO X, Y, AND Z BEFORE YOU ARE RELEASED. [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR PANSING BROOKS: THANK YOU, MR. PRESIDENT. AGAIN, IT HAS THE ABILITY OF REDUCING JAM OUTS DUE TO FLAT SENTENCES. IT HELPS THE PAROLE BOARD PLACE REQUIREMENTS AND MANDATES ON THESE PRISONERS TO BE ABLE TO BE RELEASED AND ALSO AS A REMINDER THAT PAROLE ELIGIBILITY DOES NOT CONSTITUTE RELEASE. IF ANYBODY THINKS THAT IF NIKKO JENKINS CAME TO THAT PAROLE BOARD IN SHACKLES AND CLAIMING WHAT HE WAS CLAIMING AT THAT TIME THAT HE WOULD HAVE BEEN IMMEDIATELY RELEASED, YOU'RE JUST...WE'RE JUST ALL WRONG. SO, AGAIN, THIS WAS PART OF THE ORIGINAL CSG RECOMMENDATIONS, YOU HAVE THAT SHEET IN FRONT OF YOU, THE ONE-THIRD RULE, AND WHAT IT DOES IS GIVES ANOTHER HAMMER FOR PEOPLE TO BE ABLE TO TREAT AND CREATE PROGRAMMING. AND WITH THE DISTANCE OF THE SENTENCING, IT ALLOWS THAT PRISONER... [LB605]

PRESIDENT FOLEY: TIME, SENATOR. [LB605]

SENATOR PANSING BROOKS: THANK YOU. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR PANSING BROOKS. SENATOR HILKEMANN, YOU'RE RECOGNIZED. [LB605]



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SENATOR HILKEMANN: THANK YOU, MR. SPEAKER. I'M REMINDED OF EARLIER THIS MORNING WE TALKED ABOUT A DENTAL BILL AND THE VALUE OF THE LB407 PROCESS. WELL, I'M NOT AN ATTORNEY. I'M NOT REALLY COMFORTABLE WITH THE LEGAL ISSUES THAT ARE INVOLVED IN HERE. I DO KNOW THAT ONE OF THE ADVANTAGES THAT WE HAVE WHEN WE PUT IN THE LB407 PROCESSES WERE THAT ALL PARTIES CAME TOGETHER TO WORK TOGETHER ON THAT LEGISLATION SO THAT THEY COULD HELP THIS BODY WORK. AND I DID OVERHEAR THE CONVERSATION THAT THE PARTIES SHOULD BE...THAT WHEN NO ONE IS EXACTLY SATISFIED WITH IT, IT MUST BE GOOD LEGISLATION. WELL, I KNOW THAT RIGHT NOW THERE'S A GROUP OF COUNTY ATTORNEYS THAT ARE NOT COMFORTABLE WITH THIS BILL. AND I THINK THAT...I WOULD HOPE THAT WE CAN REACH AN AGREEMENT OR AN AMENDMENT SO THAT THE CONCERNS THAT THE COUNTY ATTORNEYS HAVE CAN BE ADDRESSED SO THAT THIS CAN BE LEGISLATION THAT CAN BE MOVED FORWARD THAT'S GOOD LEGISLATION. I KNOW THEY'RE PARTICULARLY CONCERNED ABOUT THE INDETERMINATE SENTENCES THAT ARE HERE CANNOT BE ADDRESSED. SO I WOULD ASK THE MAKER OF THIS BILL, SENATOR MELLO, WOULD YOU ANSWER A QUESTION? [LB605]

PRESIDENT FOLEY: SENATOR MELLO, WOULD YOU YIELD, PLEASE? [LB605]

SENATOR MELLO: YES. [LB605]

SENATOR HILKEMANN: SENATOR MELLO, DO YOU THINK THAT THIS BILL OR THIS AMENDMENT CAN BE MODIFIED TO ELIMINATE THE INDETERMINATE SENTENCES? [LB605]

SENATOR MELLO: SENATOR HILKEMANN, THAT'S A GREAT QUESTION. AND IN JUST THE CONVERSATIONS THAT WE WERE HAVING WITH SENATOR KRIST, SENATOR SEILER, SENATOR HARR AND OTHERS, THE INTENT IS FOR US TO BE ABLE TO MOVE...RIGHT NOW TODAY, IS TO MOVE AM1242 TO AM1010 INTO LB605, TO MOVE IT FROM GENERAL TO SELECT FILE, WITH THE INTENT AND TO SOME EXTENT AN AGREEMENT THAT HAS BEEN MADE WITH THE OPPONENTS RIGHT NOW OF THE UNDERLYING COMMITTEE AMENDMENT AND SENATOR SEILER'S AMENDMENT, TO STRIKE THE INDETERMINATE SENTENCING AND REPLACE IT WITH A SIMILAR POLICY THAT WOULD ENSURE, SO TO SPEAK, THERE WILL BE A WINDOW FOR INDIVIDUALS TO BE PAROLE ELIGIBLE. ROUGHLY, RIGHT NOW THE IDEA THAT'S BEEN ROUGHLY AGREED TO IS BETWEEN A THREE- TO SIX-YEAR WINDOW TO ENSURE THAT YOU HAVE A SIMILAR KIND OF POLICY THAT'S BEEN

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PUT FORWARD. BUT AS YOU HEARD SENATOR PANSING BROOKS AND SENATOR SEILER, IT'S JUST A LITTLE BIT OF KIND OF NARROWING THAT FRAMEWORK A LITTLE BIT. [LB605]

SENATOR HILKEMANN: SO, SENATOR, IF THIS CAN BE WORKED OUT, WOULD YOU STILL BE COMFORTABLE WITH YOUR BILL? [LB605]

SENATOR MELLO: OH, SENATOR HILKEMANN, I THINK I'VE ALWAYS BEEN GENERALLY COMFORTABLE WITH ABOUT 99 PERCENT OF MY BILL. AND I THINK IN THE CONVERSATIONS WE'VE HAD TODAY OFF AND ON THE MIKE WITH MEMBERS OF THE JUDICIARY COMMITTEE AND A VARIETY OF MEMBERS ON THE FLOOR, I THINK WE'RE GOING TO GET TO A COMPROMISE WHERE I THINK THE OPPONENTS RIGHT NOW OF AM1010 WILL BE ABLE TO COME INTO SOME KIND OF AN AGREEMENT OF THE UNDERSTANDING THAT WE WANT TO SEE A WINDOW CREATED TO HELP MITIGATE INDIVIDUALS JAMMING OUT OF THE DEPARTMENT OF CORRECTIONS, IN A SENSE, THAT ENSURING THERE IS SOME PAROLE WINDOW FOR INDIVIDUALS BUT NOT THE WAY IT'S CURRENTLY STRUCTURED IN AM1010. [LB605]

SENATOR HILKEMANN: OKAY. THANK YOU VERY MUCH. WOULD YOU...SENATOR, WOULD YOU SAY THAT THIS BILL PASSED, IF WE PASSED IT JUST IN ITS PRESENT FORM, WOULD YOU SAY THAT IT COULD BE SAID THAT WE ARE SOFT ON CRIME WITH THIS LEGISLATION? [LB605]

SENATOR MELLO: YOU MEAN THE GREEN COPY OF LB605 OR THE AMENDMENTS WE HAVE IN FRONT OF US ON LB605? [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR HILKEMANN: THE AMENDMENTS. [LB605]

SENATOR MELLO: YOU KNOW, SENATOR HILKEMANN, I GUESS I KIND OF DON'T BUY INTO THAT MONIKER IN THE SENSE OF TRYING TO PLAY AN ISSUE THAT WAS MORE PREVALENT IN THE MID-'90s IN REGARDS TO SEEING HOW TOUGH ON CRIME INDIVIDUALS CAN BE. I THINK THE REALITY...SENATOR McCOY RAISED PROBABLY THE MOST VALID ISSUE IN RESPECTS TO WHAT WE HAVE IN THE COMMITTEE AMENDMENT ISSUE, WHICH IS THE COUNCIL OF STATE GOVERNMENTS COULD NOT MODEL INDETERMINATE SENTENCING. AND

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EVERYTHING THAT WE DID IN THE JUSTICE REINVESTMENT WORKING GROUP PROCESS WITH THE REMODELING PROCESS TO EVALUATE WHAT THE IMPACTS WERE GOING TO BE ON THE STATE'S PRISON POPULATION, THAT FIRST AND FOREMOST IS THE ISSUE THAT HAS BEEN RAISED TO ME. THAT HAS BEEN AN ISSUE THAT I'VE HAD SOME PAUSE WITH. I THINK SENATOR KRIST, SEILER, AND PANSING BROOKS KNOWS I HAVE SOME PAUSE WITH THAT. IT WAS NOT INCLUDED IN THE GREEN COPY OF THE AMENDMENT FOR THAT REASON, AS WELL AS IT WAS NOT ABLE TO GENERATE SOME CONSENSUS AROUND INDETERMINATE SENTENCING. [LB605]

PRESIDENT FOLEY: TIME, SENATOR. [LB605]

SENATOR MELLO: BUT THERE IS WORK THAT NEEDS TO BE DONE. [LB605]

PRESIDENT FOLEY: TIME, SENATOR. [LB605]

SENATOR HILKEMANN: THANK YOU, SENATOR. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR HILKEMANN AND SENATOR MELLO. SENATOR COASH, YOU'RE RECOGNIZED. [LB605]

SENATOR COASH: THANK YOU, MR. PRESIDENT. I WAS ASKED BY A FEW MEMBERS TO FINISH MY FIVE-YEAR-OLD'S STORY AND HOW MY FIVE-YEAR-OLD TENDS TO ACT LIKE SOME OF THESE DEFENDANTS FROM TIME TO TIME. SO I'M GOING TO FINISH THAT STORY. SO WHEN MY SON GOES AND TRIES TO CROSS THE STREET WITHOUT HIS MOM OR DAD THERE, AND IF I WENT TO HIM AND I SAID, YOU KNOW WHAT, DON'T DO THAT. BUT I'M GOING TO TALK TO YOU ABOUT THAT IN ABOUT TWO MONTHS. AND IF YOU DO IT AGAIN, ABOUT TWO MONTHS AFTER THAT YOU'RE NOT GOING TO BE ABLE TO SLEEP WITH YOUR FAVORITE TOY, BECAUSE I WANT YOU TO LEARN A LESSON. WELL, THAT'S WHAT HAPPENS WITH THESE INMATES. THEY GET OUT ON PAROLE, THEY VIOLATE THE CONDITIONS OF THEIR PAROLE, AND THE BEST THE PAROLE OFFICER CAN SAY IS...OR THE PROBATION OFFICER, EXCUSE ME, IS, YOU KNOW WHAT, YOU VIOLATED A CONDITION OF YOUR PROBATION, YOU'VE BEEN USING DRUGS, YOU'RE HANGING AROUND PEOPLE THAT YOU'RE NOT SUPPOSED TO BE HANGING AROUND ANYMORE. AND IN ABOUT TWO MONTHS WE'RE GOING TO GO SEE THE JUDGE, AND I'M GOING TO TELL THE JUDGE WHAT YOU'VE BEEN DOING. WELL, WITHIN THAT TWO MONTHS WHAT HAPPENS TO THAT PROBATIONER IS HE CONTINUES ON A DOWNWARD SPIRAL. HE USES DRUGS

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AGAIN, COMMITS ANOTHER CRIME. AND BY THE TIME HE GETS TO THE JUDGE TO TALK ABOUT THE ORIGINAL PROBATION VIOLATION, HE'S COMMITTED TWO MORE. AND THEN THE JUDGE HAS TO SIT THERE AND LOOK AT THIS GUY AND SAY, YOU KNOW WHAT, I CAN'T DO ANYTHING ABOUT THIS, YOU'VE GOT TO GO SIT IN JAIL. WELL, WITH THE PROVISIONS THAT WE HAVE IN LB605, WE'RE GOING TO GIVE SOME TEETH INTO THE PROBATION OFFICERS WHO SAY, YOU KNOW WHAT, WE'RE GOING TO GIVE YOU A LITTLE REALITY CHECK AND WE'RE GOING TO GIVE YOU SOME IMMEDIATE CONSEQUENCES FOR YOUR IMMEDIATE ACTIONS. AND, COLLEAGUES, THAT IS WHAT IS GOING TO KEEP THEM ON THE STRAIGHT AND NARROW AND THAT'S WHAT IS GOING TO KEEP THEM FROM COMING TO PRISON. I WANT TO GO BACK TO THE SENTENCING PARTS OF THIS BILL. WHEN WE PUT PEOPLE AWAY, AND THAT'S THE PROSECUTOR'S JOB, AND THEY GO AWAY AND THEY SIT IN PRISON THAT INCREASES PUBLIC SAFETY, BECAUSE AS LONG AS THEY'RE IN JAIL THEY'RE NOT GOING TO HURT ANYBODY ELSE AND THEY'RE NOT GOING TO COMMIT ANY CRIMES. BUT, COLLEAGUES, WE HAVE TO REMEMBER SOMETHING. THEY'RE COMING BACK OUT. SOMEWHERE IN THE NEIGHBORHOOD OF 85 PERCENT OF THEM WILL COME BACK OUT. WHETHER THEY SERVE A YEAR, 15, OR 50, THEY'RE GOING TO BE OUT AND THEY'RE GOING TO LIVE IN ONE OF OUR NEIGHBORHOODS. AND IF WE DON'T ADDRESS HOW THE END OF THEIR SENTENCE LOOKS, BECAUSE MOST OF THEM HAVE AN END OF THE SENTENCE, AND IF WE OPEN THE DOORS AND SAY, GOOD LUCK, YOU'VE DONE YOUR TIME, THAT PUTS US AT MORE RISK. THAT DOES NOT INCREASE PUBLIC SAFETY. AND THAT'S WHAT WE'RE TRYING TO DO IN LB605. WE'RE TRYING TO MAKE SURE THAT PEOPLE HAVE, AT THE END OF THEIR SENTENCES, SOME SUPERVISION SO THAT THEY DON'T RECOMMIT A CRIME. THAT'S THE PURPOSE OF LB605. WE'VE GOT SOME FISCAL WATCHERS IN THIS BODY AND I'M GLAD THAT WE DO. SO LET'S TALK A LITTLE BIT ABOUT COST. I INTRODUCED A BILL IN APPROPRIATIONS THIS YEAR TO BUILD NEW BEDS FOR OUR PRISONS AT THE COST OF \$260-SOME MILLION. AND I DIDN'T PULL THAT NUMBER OUT OF THE AIR. THAT WAS THE NUMBER FROM A STUDY ASKED FOR BY GOVERNOR HEINEMAN THAT SAID, WHAT WILL IT COST? AND PHASE ONE WAS OVER A QUARTER OF A BILLION DOLLARS. WELL, THAT DIDN'T SIT WELL WITH THE GOVERNOR, AND I DON'T BLAME HIM. DIDN'T SIT WELL WITH THE APPROPRIATIONS COMMITTEE. THEY DIDN'T... [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR COASH: ...ASK TO DO IT. BUT THAT'S THE COST. AND IT WON'T BE A CHOICE, BY THE WAY, COLLEAGUES. WE DON'T GET TO CHOOSE WHETHER OR NOT WE BUILD MORE BEDS. AT SOME POINT A LAWSUIT IS GOING TO MAKE SURE

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THAT WE DO. AND THAT SAME LAWSUIT COULD RELEASE A LOT OF PEOPLE WITHOUT ANY SUPERVISION AND THAT'S GOING TO COST. ARIZONA, IT COST \$150 MILLION. THEIR INACTION COST THEM \$150 MILLION. TEN MILLION OF THAT WENT TO THE ATTORNEYS. THAT'S THE STAKES WE'RE PLAYING WITH HERE. THAT'S THE COST. KEEPING PEOPLE SAFE COSTS MONEY. PUTTING PEOPLE AWAY COSTS MONEY. AND I CAN'T THINK OF A BETTER WAY TO SPEND MONEY THAN TO KEEP CITIZENS SAFE, BUT WE SHOULD DO IT IN A SMART WAY. [LB605]

PRESIDENT FOLEY: TIME, SENATOR. [LB605]

SENATOR COASH: THANK YOU. [LB605]

PRESIDENT FOLEY: THANKS, SENATOR COASH. SENATOR KINTNER, YOU'RE RECOGNIZED. [LB605]

SENATOR KINTNER: THANK YOU, MR. PRESIDENT. YOU KNOW, WE'RE ALL IN THIS TOGETHER. I DON'T THINK DEMONIZING THE COUNTY ATTORNEYS AND, YOU KNOW, I DON'T THINK THAT HELPS US. THAT'S NOT HELPING US ONE BIT. WE GOT TO WORK ON THIS TOGETHER. COUNTY ATTORNEY IS NOT GOING ANYWHERE. THEY'RE GOING TO BE THERE. THEY'RE GOING TO HAVE TO LIVE UNDER THE THINGS WE DO AND I JUST DON'T THINK THAT DEMONIZING THEM HELPS IN THIS EFFORT THAT WE'RE MAKING TO TRY TO GET TO THE BOTTOM OF WHAT WE'RE DOING HERE IN ANY WAY, SHAPE, OR FORM. I THINK WE ALL WORK TOGETHER, I THINK WE GET SOMEWHERE. WELL, LET'S TALK A LITTLE BIT ABOUT SOME OF THE THINGS IN AM1010 THAT DON'T SEEM TO WORK ALL THAT WELL. YOU KNOW, WE TALKED A LITTLE BIT ABOUT INDETERMINATE SENTENCING, AND WHAT IT DOES IS IT ADDS THAT LANGUAGE INTO THE ORIGINAL BILL. IT PROVIDES A SENTENCE IMPOSED FOR CLASS IC, ID, II, AND IIA FELONIES, THE SENTENCING COURT MAY NOT IMPOSE A MINIMUM SENTENCE THAT EXCEEDS ONE-THIRD OF THE SENTENCE IMPOSED BY THE COURT, NOT ONE-THIRD OF THE MANDATORY MAXIMUM, WHICH IS PROPOSED IN LB483, WHICH WE HAVEN'T SEEN BECAUSE IT HASN'T COME OUT OF COMMITTEE. YOU KNOW, THIS ADDITION TO THE BILL BY THE COMMITTEE WAS NOT A PROPOSAL BROUGHT FORWARD BY CSG AND THEY'RE NOT ADVOCATING FOR THIS ADDITION. THE COMMITTEE STATED THAT THIS WAS THE ONLY WAY THEY COULD GAIN ADDITIONAL TIME BETWEEN PAROLE AND JAM OUT TO AFFECT OFFENDER REHABILITATION. NOW I'M USING THE TERM JAM OUT BUT I'M NOT AN EXPERT ON IT. I DON'T USE THE INDUSTRY LINGO AND ALL THAT STUFF. AS A MATTER OF FACT, I'D RATHER SOMEONE ELSE BE DOING THIS, BUT THERE'S NOT A WHOLE

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LOT OF PEOPLE RIGHT NOW THAT ARE COMFORTABLE STANDING UP AND TALKING ABOUT THIS. YOU KNOW, THE ATTORNEY GENERAL'S OFFICE OFFERED AN ALTERNATIVE SOLUTION I THINK THAT WOULD PROVIDE POSTRELEASE SUPERVISION FOR THESE FELONIES THAT DOES NOT FURTHER REDUCE THE MINIMUM SENTENCE. AS THEY TALKED TO ME, I KIND OF LIKED THEIR IDEA. THE COMMITTEE'S PROPOSAL WILL FURTHER REDUCE PRISON TIME FOR OFFENDERS THAT COMMIT SOME OF THE WORST CRIMES, THE HIGHER LEVEL FELONIES, AT THE RISK OF PUBLIC SAFETY. AND I TRULY BELIEVE THAT. AND LET ME JUST DIGRESS FOR JUST A SECOND. WE'VE TALKED ABOUT NIKKO JENKINS AND, YOU KNOW, THERE ARE JUST SOME PEOPLE THAT ARE PLAIN EVIL. THEY ARE ABSOLUTELY PLAIN EVIL. AND TO TRY TO TELL ME THAT IF WE GOT HIM, NIKKO JENKINS, SOME COUNSELING AND SOME HELP THAT HE WOULDN'T BE EVIL, SOME EVIL PEOPLE NEED TO EITHER SPEND IN JAIL OR BE EXECUTED. AND TO THINK THAT WE'RE GOING TO REHABILITATE THEM OUT OF JAIL OR FIX THEIR PROBLEM, IT'S JUST NOT GOING TO WORK. I'VE HEARD THAT TALKED ABOUT A COUPLE OF TIMES TODAY AND I JUST COULDN'T DISAGREE WITH THAT MORE. YOU JUST GOT TO ACCEPT THAT SOME PEOPLE ARE EVIL. ANYWAY, SO AS I WAS TALKING ABOUT, YOU KNOW, LOOKING AT WHAT I THINK MIGHT BE A RISK TO PUBLIC SAFETY, EXAMPLE, A 40-, 50-YEAR SENTENCE ON SECOND-DEGREE SEXUAL ASSAULT OF A CHILD CAN...MOLESTER WOULD ONLY BE A MAX OF 16.5 TO 50 WITH PAROLE ELIGIBILITY STARTING AT ONE-HALF THE MINIMUM SENTENCE. THE OFFENDER WOULD BE ELIGIBLE FOR PAROLE IN 8.5 YEARS RATHER THAN 20. YES, THAT DOES BOTHER ME. NOW, WHEN WE DO THESE BIG BILLS, THERE'S ALWAYS THINGS THAT GET LEFT OUT AND FALL BY THE WAYSIDE. WE HAVE TO FIX IT, BUT I DON'T THINK WE SHOULD RUSH TO DO THIS. YOU KNOW, THIS ISN'T SOMETHING WE'RE GOING TO DO, I THINK, IN TWO HOURS. NOW I'VE TALKED ABOUT THE BILL, ABOUT HOW BIG IT IS. AND LET ME JUST SHOW YOU WHAT WE'RE TALKING ABOUT. SO THE ORIGINAL BILL... [LB605 LB483]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR KINTNER: ...IS 80 PAGES RIGHT HERE. I THINK I COULD LIVE WITH SENATOR MELLO'S BILL. NOW IF WE COME OUT WITH AM1010, IT'S THIS. SO NOW WE'RE TALKING ABOUT THIS MUCH THAT WE'RE LOOKING THROUGH, ALTHOUGH THIS IS GOING TO REPLACE THIS. AND NOW WE'VE GOT AM1242, WHICH IS THIS. SO NOW THE ENTIRE THING THAT WE'VE STARTED TALKING ABOUT IS THIS MUCH. THAT'S A LOT TO READ, IT'S A LOT TO UNDERSTAND. IT'S NOT LIKE READING A SPORTS ILLUSTRATED. THIS IS LEGAL, TECHNICAL LANGUAGE, AND THIS STUFF IS NOT EASY TO UNDERSTAND. AND TO ASK US TO

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TRY TO PASS THIS ON THE FLY LIKE WE'RE DOING, I THINK, IS A BIT MUCH. AND I THINK WE DO NEED TO WORK TOGETHER. THERE ARE PROBLEMS HERE AND...  
[LB605]

PRESIDENT FOLEY: TIME, SENATOR. [LB605]

SENATOR KINTNER: THANK YOU, MR. PRESIDENT. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR KINTNER. SENATOR GROENE, YOU'RE RECOGNIZED. [LB605]

SENATOR GROENE: I KNOW VERY LITTLE ABOUT THIS SUBJECT. I'VE HEARD ABOUT IT. I'VE TALKED TO OUR LOCAL JUDGES BACK HOME WHO MET WITH US. I'VE TALKED TO SENATOR MELLO AND SEILER AND THOSE OVER TIME. THIS IS A HECK OF A BIG DECISION TO ALL OF A SUDDEN JUST MAKE A VOTE ON IT, TAKE A VOTE ON IT. I BELIEVE EVERY ONE OF THOSE SENATORS INVOLVED IS NOT SOFT ON CRIME. WE HAVE A MAJOR PROBLEM. THEY'VE PUT AN AWFUL LOT OF TIME IN THIS SO I RESPECT WHAT THEY'VE DONE, AND I WANT TO, AT THE END OF THE DAY, AGREE WITH WHAT THEY'VE DONE. BUT I, YOU KNOW, THERE'S A LOT HERE. I FIND IT HARD TO BELIEVE THAT IF WE GO FROM 1 TO 20 SENTENCE TO ZERO TO 20 THAT IT'S ONLY GOING TO AFFECT THE COUNTIES WITH 32 BEDS. THAT TELLS ME A LOT MORE PEOPLE THAT GENERATION OF SENATORS BEFORE US THOUGHT OUGHT TO HAVE BEEN IN JAIL ARE NOW GOING TO BE ON PROBATION. AND I BELIEVE THAT'S THE WHOLE GIST OF THIS WHOLE BILL. WE'RE GOING TO PUT AN AWFUL LOT OF CRIMINALS ON PROBATION, WE'RE GOING TO BEEF-UP THE PROBATION STAFF. AND I'M NOT A TOUGH ON CRIME, THROW THE KEY AWAY TYPE OF PERSON, BECAUSE I'M A FISCAL CONSERVATIVE, AS SENATOR COASH SAYS. AND I DO KNOW THAT VENGEANCE IS VERY EXPENSIVE, AND WE'D BE A LOT BETTER OFF IF WE COULD REHABILITATE PEOPLE WHO MAKE ERRORS IN THEIR LIVES. AND WE ALL KNOW, I TALKED TO MY LOCAL SHERIFF, ABOUT 90 PERCENT OF THE PEOPLE HE ARRESTS IS EITHER UNDER THE INFLUENCE OF DRUGS OR ALCOHOL. GET THEM SOBERED UP AND THEY'RE PRETTY NORMAL PEOPLE, BUT THEY DID A BAD THING, SO WE THROW THE KEY AWAY FOR TEN YEARS. I ALSO UNDERSTAND THAT. DO I WANT PROBATION TO WORK? DO I REALLY WANT FOLKS TO GET THEIR LIVES TURNED AROUND AND NOT HAVE TO THROW THE KEY AWAY AND COST ME MORE TAX DOLLARS? YES. BUT I'M ALSO A REALIST. SO WHERE DO I STAND? WHO DO I BELIEVE? I UNDERSTAND, I SYMPATHIZE WITH COUNTY ATTORNEYS. THEY LIVE IT EVERY DAY, JUST LIKE THE COUNTY SHERIFFS DO. THEY LIVE IN COUNTIES

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WHERE THEY SEE THE REPEAT OFFENDERS OVER AND OVER AGAIN. AND THEN THEY SEE, WHEN THAT REPEAT OFFENDER NEVER WAS REHABILITATED, HE REALLY DID THE REALLY BAD THING, AND THEY HAVE TO LIVE WITH THAT BECAUSE WHAT COULD THEY HAVE DONE? SHOULD THEY HAVE THREW THE KEY AWAY ONE TIME WHEN THEY ACTUALLY WERE... FELT LIKE GIVING THEM A BREAK? BECAUSE YOU TALK TO THE COUNTY SHERIFFS, YOU TALK TO THE COUNTY ATTORNEYS, IT'S THE SAME PEOPLE OVER AND OVER AGAIN. THEY SEE THEM ALL THE TIME, AND THEY KNOW IF THEY CAN THROW THE KEY AWAY THEY AREN'T GOING TO SEE THEM AS OFTEN. SO WHAT DO WE DO? DO WE HOPE THAT REHABILITATION, PROBATION METHODS HAVE COME TO THE POINT WHERE WE CAN TURN THESE FOLKS AROUND? I WANT TO BELIEVE THAT. SO REALLY, I DON'T KNOW WHAT TO DO. I DON'T KNOW HOW TO VOTE ON THIS. I DON'T WANT TO BUILD A PRISON. I DON'T WANT TO CREATE HARDENED CRIMINALS. AND I SYMPATHIZE WITH THOSE FOLKS THAT WERE ON THIS JAIL COMMITTEE. SO I'M GOING TO SIT AND LISTEN, AND I HOPE I DON'T GOT TO VOTE ON IT TODAY, TO BE THE DECIDING VOTE WHICH WAY. BUT THAT'S WHY THEY SENT ME HERE. I'D SURE LIKE A LOT OF THINGS CLEARED UP. SENATOR MELLO, I WENT OVER AND ASKED HIM A FEW QUESTIONS ABOUT AM1242. I WONDERED IF, WELL, IF YOU'RE GOING TO MAKE THE SENTENCES HARDER AGAIN, HOW MANY MORE BEDS DID THAT FILL UP AGAIN? WELL, ORIGINALLY THEY TOLD US 170 PERCENT TO 138 PERCENT. SENATOR MELLO SAYS THE ESTIMATE IS-- YOU KNOW, THIS IS ALL ESTIMATES, ALL GUESSES-- WILL PUSH IT BACK TO 140 PERCENT OF BEDS BEING FILLED. AND I STILL HAVE A HARD TIME BELIEVING OUR COUNTIES ARE ONLY GOING TO BE AFFECTED BY 32 BEDS. YOU'RE TELLING ME A JUDGE WHO KNOWS HE'S SEEING THE SAME GUY OVER AND OVER AGAIN, AND NOW HE HAS THAT OPPORTUNITY TO GO ZERO TO 20 INSTEAD OF 1 TO 20, THAT HE'S GOING TO GIVE HIM PROBATION WHEN HE KNOWS? AND HE KNOWS THE CRIME ISN'T THAT BAD YET BUT, BY GOLLY, HE'D LIKE TO STICK HIM IN JAIL FOR AT LEAST SIX MONTHS. I DON'T KNOW IF HE'S MANDATED TO GIVE THE GUY PROBATION OR THE CRIMINAL PROBATION, OR IF... [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR GROENE: ...HE'S GOING TO DO THE RIGHT THING FOR THE COMMUNITY AND STICK HIM IN JAIL FOR SIX MONTHS. BUT TO ESTIMATE IT'S ONLY 32 BEDS, I FIND THAT HARD TO BELIEVE. I, LIKE I SAID, I WANT TO SUPPORT IT. I'M GOING TO YIELD THE REST OF MY TIME TO SENATOR McCOY, IF HE WISHES IT. [LB605]

PRESIDENT FOLEY: SENATOR McCOY, ABOUT 45 SECONDS. COULD YOU USE IT?  
[LB605]



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SENATOR McCOY: THANK YOU, SENATOR GROENE. YOU HAVE, IN THE SHORT LITTLE TIME I HAVE, YOU HAVE A HANDOUT THAT'S JUST BEEN HANDED TO YOU THAT CAME FROM CSG. I'D RECOMMEND YOU TO LOOK THROUGH THAT. WITH THE RECOMMENDATIONS ON THIS PAGE, WHICH SENATOR SEILER HAS SEEN AND OTHERS, CSG WOULD BE ABLE TO MODEL WHAT WE'RE DOING, AND THAT IS MY UNDERSTANDING OF WHAT SENATOR HARR IS WORKING ON AT THE MOMENT. THANK YOU, MR. PRESIDENT. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR McCOY. THANK YOU, SENATOR GROENE. SENATOR KRIST, YOU'RE RECOGNIZED, AND THIS IS YOUR THIRD OPPORTUNITY ON THIS AMENDMENT, SENATOR. [LB605]

SENATOR KRIST: THANK YOU, MR. PRESIDENT. AND GOOD AFTERNOON AGAIN, COLLEAGUES AND NEBRASKA. THERE ARE SEVERAL THINGS THAT I'D LIKE TO TALK TO. ONE IS SENATOR GROENE HAD JUST MENTIONED THE POPULATION IN COUNTIES, AND HE IS ABSOLUTELY RIGHT. IT IS A STATISTICAL OR METRICS ANALYSIS THAT LED US TO A POINT TO SAY THIS IS WHERE WE THINK WE CAN BE, NOT WE, CSG. THAT'S WHY SENATOR MELLO HEDGED OUR BET BY PUTTING IN THE SECTION ON THIS THAT ALLOWS FOR THE COUNTY ATTORNEYS TO DOCUMENT THOSE INCREASES IN THEIR BED SPACE, BECAUSE OF THIS BILL, AND TO APPLY TO THE CRIME COMMISSION UNDER THAT GRANT TO MAKE THAT HAPPEN. THE SECOND THING I'D LIKE TO TALK TO YOU IS SENATOR McCOY, RIGHTFULLY SO, BROUGHT UP EARLY ON THAT FROM MR. PELKA, WHO'S HERE FROM CSG, THAT THE REASON THAT THEY DID NOT GO INTO INDISCRIMINATE SENTENCING AS A SUGGESTION IS THAT THEY COULD NOT PROVIDE THE BACKUP AND METRICS TO SUPPORT THAT SUGGESTION. NOW IF YOU LOOK AT THE REPORT, IT DOES SAY THAT WE HAVE A PROBLEM IN THIS AREA WITH SUPERVISED RELEASE OR NOT BEING ABLE TO PUT SOMEBODY ON PROBATION, BUT THEY HAD NO SOLUTION. AND THAT TABLE OF PEOPLE, AS SENATOR HILKEMANN HAD POINTED OUT, THE LB407 PROCESS, YOU HAD ONE THIS SUMMER. YOU HAD EVERYBODY FROM EVERY DISCIPLINE REPRESENTED AROUND THE TABLE: THE GOVERNOR, THE SUPREME COURT AND THE CHIEF JUSTICE, JUDGES FROM AROUND THE STATE, LAW ENFORCEMENT, SHERIFFS, COUNTY ATTORNEYS. IF WE COULDN'T REACH A CONSENSUS ON THE INFORMATION THAT WAS PRESENTED TO US FROM CSG, IT DID NOT GO IN THE FINAL FINDINGS. I THINK I'VE SAID THAT BEFORE, BUT I THINK, PLEASE, LET THAT SINK IN. THIS IS NOT AN UNCALCULATED, LET'S THROW TOGETHER A BILL. IT'S THE CULMINATION ON THE GREEN COPY OF LB605 OF ALL THE CSG REQUIREMENTS. SO AGAIN, SENATOR McCOY IS CORRECT. THIS WAS NOT DIRECTLY ONE OF THE RECOMMENDATIONS, BECAUSE THEY COULD NOT

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SUPPORT THE FINDING AS A COURSE OF ACTION WITH THE METRICS TO BACK IT UP. WHAT I WOULD SUGGEST TO YOU IS THAT WE, JUST AS IN THE PAST IN MY EXPERIENCE HERE IN THIS BODY, WE HAVE TO DO SOMETHING AND WE KNOW THAT. WE NEED TO VOTE AM1242...WE NEED TO PUT A FLOOR AMENDMENT ON AM1242 THAT REMOVES SECTION 52 FROM THIS BILL. THEN WE NEED TO MOVE AM1242, AM1010, AND LB605. I DON'T OFTEN GO OUT THERE AND NEGOTIATE WITH "DISNEY WORLD," BUT I TALKED WITH THE COUNTY ATTORNEYS, THE AG'S OFFICE, AND THE CHAIR OF JUDICIARY WHO HAS ALLOWED ME TO SAY THIS, IN BETWEEN GENERAL AND SELECT WE HAVE A LOT OF WORK YET TO DO. EVEN SOME OF THE THOSE THINGS THAT WERE AGREED UPON BY THE COUNTY ATTORNEYS THAT ARE IN AM1242, NOW THEY'RE ASKING US TO REEXAMINE THAT LEVEL. AND WE'LL DO THAT. THAT'S OUR PROMISE TO YOU, THE JUDICIARY COMMITTEE'S PROMISE TO YOU. AS SOON AS SENATOR MELLO CAN FILE HIS FLOOR AMENDMENT, MY SUGGESTION IS WE MOVE THE FLOOR, REMOVE SECTION 52, WE MOVE AM1242, WE MOVE AM1010, AND WE TAKE LB605 AND MOVE IT TO SELECT. IF ANY OF YOU HAVE ANY QUESTIONS ABOUT WHY THAT MIGHT NOT BE A GOOD IDEA, I'D INVITE YOU TO COME BACK AND TALK TO THE CHAIR OF THE JUDICIARY, SENATOR MELLO, OR MYSELF. IT IS THE BEST COURSE OF ACTION AT THIS TIME. [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR KRIST: THE OTHER THING I WILL SAY IS THAT WHEN I WAS JUST OUT THERE, AND I SAID AGAIN TO THEM, I AM NOT MARRIED, WE ARE NOT MARRIED TO ONE CONCEPT IN TERMS OF HOW TO PREVENT JAM OUTS, BUT WE ARE COMMITTED TO, AS MUCH AS POSSIBLE, GIVING PEOPLE SERVICES WITHIN THEIR CONFINEMENT WHICH THE APPROPRIATIONS COMMITTEE HAS DONE THROUGH ADDITIONAL APPROPRIATIONS FOR THOSE SERVICES IN BEHAVIORAL AND MENTAL HEALTH. ALLOW THEM TO GET THE TRAINING AND/OR THE REHABILITATION THAT THEY NEED WHILE THEY'RE IN INCARCERATION, AND THEN MEET A PAROLE BOARD AND HAVE SOME KIND OF SUPERVISION ON A LOW-LEVEL PENALTY, AS IT'S SUGGESTED IN THE CSG REPORT, HAVE SOME KIND OF SUPERVISION WHEN THEY LEAVE. THINK ABOUT IT, COLLEAGUES. I ASK YOU TO FOLLOW THAT COURSE OF ACTION. THANK YOU. [LB605]

PRESIDENT FOLEY: THANK YOU, SENATOR KRIST. SENATOR SCHUMACHER, YOU'RE RECOGNIZED. [LB605]

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SENATOR SCHUMACHER: THANK YOU, MR. PRESIDENT, MEMBERS OF THE BODY. I WAS THINKING ABOUT MY REMARKS BEFORE SENATOR KRIST SUGGESTED A DIFFERENT COURSE OF ACTION. BUT I'LL SUGGEST WHERE AT LEAST I WAS THINKING UP TO THAT POINT. WE'RE TALKING ABOUT PENALTIES, PUNISHMENT, OKAY? WHAT ARE THE REASONS FOR PENALTIES, FOR PUNISHMENT? GENERALLY, I THINK THE GURUS IN THE CRIMINAL JUSTICE WORLD SAY IT'S DETERRENCE. PEOPLE...SCARE PEOPLE SO THEY DON'T DO THE CRIME. REHABILITATION: FIX THEM, MAKE THEM BETTER, MAKE THEM GOOD CITIZENS. RETRIBUTION: YOU'RE MAD AT THEM AND YOU JUST WANT TO FEEL GOOD BY STICKING THEM. PUNISHMENT: THEY SHOULD FEEL THE PAIN THAT SOMEBODY ELSE FELT THAT THEY CAUSED. AND SOCIAL PROTECTION: SO THAT THEY'RE NOT OUT ROAMING THE STREETS, HURTING PEOPLE. KEEPING THAT IN MIND, AND I TRIED TO THINK HOW CAN WE DIGEST THIS MONSTER, AND I SAW SOMETHING ON THE INTERNET A WHILE BACK WHERE THIS BIG SNAKE SWALLOWED THIS CALF AND YOU COULD SEE THE CALF MOVING THROUGH THE SNAKE. AND WE, UNFORTUNATELY, CAN'T DO THAT. I THINK WE MIGHT HAVE TO, WHETHER IT'S NOW OR BETWEEN NOW AND SELECT. AND BETWEEN NOW AND SELECT WE DON'T GET EDUCATED, AT LEAST MOST OF THE PEOPLE WHO AREN'T IN ON THE INSIDE DISCUSSIONS DON'T GET EDUCATED, AND SO NEXT YEAR OR FIVE YEARS FROM NOW WHEN THESE ISSUES COME UP, WE'RE EQUALLY IGNORANT. BUT TO TAKE THIS PARTICULAR SMALL BITE, THE AM1242 BITE, WHICH APPARENTLY THE COUNTY ATTORNEYS WANT BECAUSE THEY FELT THAT THINGS WEREN'T ADEQUATE ENOUGH, AND DIGEST IT, AND THERE'S NOT...IF YOU TAKE IT UP IN PIECES, THERE'S NOT A WHOLE LOT OF QUESTIONS THIS BITE MEANS. THE NEXT BITE IS A BIGGER BITE. BUT THIS BITE, THE FIRST PART ON PAGE 1, ASKS US WHETHER OR NOT WE WANT IT TO BE A DWI, DRIVING WHILE INTOXICATED, TO BE A CLASS III OR A CLASS IIA. WHAT'S THE DIFFERENCE? A CLASS IIA IS NO MINIMUM, MAX 20 YEARS. A CLASS III IS FOUR YEARS, AND TWO YEARS POSTRELEASE SUPERVISION, NO MINIMUM SENTENCE. SO WHEN SOMEBODY IS FOUND GUILTY, IN THIS CASE DWI, THEY COME BEFORE THE JUDGE AND THE JUDGE EITHER DECIDES TO GIVE THEM SOME PROBATION. IF MEMORY SERVES ME RIGHT, THAT CAN BE UP TO LIKE FIVE YEARS WITH ALL KINDS OF THINGS TO DO. MIGHT HAVE TO BE ON ANKLE BRACELET, MIGHT HAVE TO SIT OUT SOME TIME IN THE COUNTY JAIL. OR HE CAN SENTENCE THEM TO THE PENITENTIARY. SO THAT'S OUR CHOICE. FOR A DWI WHICH CAUSES THE DEATH OF ANOTHER, SHOULD THE JUDGE BE ABLE TO GO TO 20 YEARS OR SHOULD WE IMPOSE A 4-YEAR TOP, AS A QUESTION. IF WE DON'T LIKE THAT, WE WOULD STRIKE THAT FROM AM1242. NEXT ONE, VIOLATION OF, LET'S SEE, THIS ONE IS INTRUSION. APPARENTLY THIS IS A BURGLARY ONE. WHAT DO WE THINK ON BURGLARY ON PAGE 3? NO, WAIT A MINUTE, THIS IS NOT BURGLARY. THIS IS

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TAKING A PICTURE OF SOMEBODY IN A LOCKER ROOM, APPARENTLY WITH NO CLOTHES ON. SO IS 4 YEARS ENOUGH, OR SHOULD WE GIVE THE JUDGE 20 YEARS' OPTION? NEXT ONE IS DISTRIBUTION OF DOPE FOR A CLASS...WELL, IT JUST LOOKS LIKE ABOUT SCHEDULE I, THAT'S THE HEAVIER KINDS OF DOPE. DO WE WANT A 20-YEAR MAX THERE, OR A 4-YEAR MAX? IT'S OUR DECISION; IT'S NOT THE COUNTY ATTORNEY'S DECISION. NEXT ONE IT LOOKS LIKE IS ON PAGE 12. [LB605]

PRESIDENT FOLEY: ONE MINUTE. [LB605]

SENATOR SCHUMACHER: THAT'S CREDIT CARDS, HAVING FOUR OR MORE ILLEGAL CREDIT CARDS OR MAKING THEM UP. UNLAWFUL CIRCULATION OF A FINANCIAL DEVICE, IS THAT A 4-YEAR THING OR A 20-YEAR THING? MANUFACTURING CREDIT CARDS, THE WAY IT LOOKS. CHILD ABUSE, NEGLIGENCE, RESULTS IN DEATH, IS THAT A 4-YEAR OR 20-YEAR THING? THOSE ARE DECISIONS WE'RE BEING ASKED TO MAKE. AND WE HAVE THIS WHOLE INDETERMINATE SENTENCE, AND IT LOOKS LIKE I'M GOING TO RUN OUT OF TIME BEFORE I HAVE A CHANCE TO TRY TO WADE THROUGH THE INDETERMINATE SENTENCE, WHICH APPARENTLY IS GIVING THE COUNTY ATTORNEYS SOME HEARTBURN. WE JUST HAVE GOT TO DECIDE, ARE WE GOING...DO WE WANT HIGHER LATITUDES ON SOME OR ALL OF THESE PARTICULAR THINGS, AND DO WE WANT THE INDETERMINATE SENTENCE RATHER THAN JUST A SENTENCE FOR YEARS, A RANGE, WHERE THE JUDGE SAYS YOU'RE GETTING THREE TO TEN? AND THE SYSTEM DECIDES HOW MUCH OF THAT IS REALLY THREE AND WHAT IT WOULD TAKE TO GET YOU TO TEN. BUT I'M OUT OF TIME, LIKE I SAID, AND I... [LB605]

SPEAKER HADLEY PRESIDING

SPEAKER HADLEY: TIME, SENATOR. SENATOR PANSING BROOKS, YOU'RE RECOGNIZED. [LB605]

SENATOR PANSING BROOKS: THANK YOU, MR. PRESIDENT. I JUST WANT TO CLARIFY A COUPLE OF THINGS. ONE OF MY COLLEAGUES MENTIONED THAT THESE WERE NOT ISSUES BROUGHT FORWARD BY CSG. THAT'S JUST TOTALLY WRONG. YOU HAVE IN FRONT OF YOU...PAGE NUMBER 36 FROM THEIR REPORT TO US DOES SPEAK DIRECTLY TO THE MANDATORY MINIMUMS AND THE ONE-THIRD RULE. NOT MANDATORY MINIMUMS, EXCUSE ME, ONE-THIRD RULE. ALSO, SENATOR McCOY MENTIONED THE IMPORTANCE AND BROUGHT A SHEET

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FORWARD ABOUT THE BENEFITS OF POSTRELEASE SUPERVISION. NO ONE IS ARGUING ABOUT THE BENEFIT OF POSTRELEASE SUPERVISION. WHAT WE'RE CONCERNED ABOUT IS FORCING THE INMATES TO TAKE CLASSES OR TO DO ALL SORTS OF THINGS, GET JOB TRAINING, GET ALCOHOL AND DRUG REHAB BEFORE WE RELEASE THE PRISONER. I CAN'T UNDERSTAND THAT ANYONE WOULD THINK THAT WAS A BAD IDEA. AND SENATOR KINTNER DIDN'T UNDERSTAND. WE'RE NOT SAYING THAT NIKKO...IT'S NOT THAT NIKKO WOULD HAVE BEEN RELEASED. WHAT WOULD HAVE HAPPENED IS HE WOULD HAVE GONE BEFORE THE PAROLE BOARD AND THEY WOULD HAVE SEEN HIM COMING IN, IN HIS SHACKLES AND SPOUTING THE THINGS THAT HE WAS SPOUTING AT THAT TIME. AND THEY WOULD HAVE SAID, HECK, NO, YOU'RE NOT GOING TO GET RELEASED; NOT JUST NO, HECK NO. SO AGAIN THE PAROLE COULD HAVE BEEN DETERMINED THAT HE WAS NOT READY FOR RELEASE, THE PAROLE BOARD. AND THIS IS NOT SOMETHING THAT IS BEING ASKED, AGAIN, TO PASS ON THE FLY. MANY PEOPLE HAVE WORKED ON THIS FOR A LONG TIME. THIS ISN'T SOMETHING THAT THE JUDICIARY COMMITTEE IS JUST SORT OF DRUMMING UP AND THINKS, OH, THESE WOULD BE SORT OF SOME GOOD IDEAS THAT WE SHOULD TRY TO PASS. THESE ARE THOUGHTFUL RECOMMENDATIONS THAT HAVE BASIS IN FACT, BASIS IN EXPERIENCE AROUND THE COUNTRY. THESE...LB605 IS FILLED WITH VERY IMPORTANT IDEAS AND SOLUTIONS TO OUR PRISON OVERCROWDING SITUATION. I WOULD JUST LIKE TO SPEAK TO THE FACT THAT WE HAVE AN MO OUTSIDE OF THE GLASS RIGHT NOW. THE MODUS OPERANDI IS TO CONFUSE PEOPLE WITHIN HERE, TO CREATE WEDGES, AND I DON'T APPRECIATE IT. OUR JOB IS TO LEGISLATE, IT'S TO MAKE DIFFICULT DECISIONS, IT'S TO TRUST OUR PROCESS, AND I DON'T BELIEVE THAT'S HAPPENING WHILE WE'RE LISTENING TOO MUCH TO THE OUTSIDE. SO NOW I WOULD LIKE TO GIVE THE REST OF MY TIME TO OUR CHAIRMAN WHO LED THE GROUP THAT UNANIMOUSLY BROUGHT THESE ISSUES OUT FROM OUR COMMITTEE, SENATOR SEILER. THANK YOU. [LB605]

SPEAKER HADLEY: SENATOR SEILER, YOU'RE YIELDED 2 MINUTES AND 15 SECONDS. [LB605]

SENATOR SEILER: THANK YOU, MR. PRESIDENT, MR. SPEAKER. MEMBERS, AT THIS TIME, I'M GOING TO ASK THAT AM1242 BE AMENDED INTO AM1010 AND AMENDED INTO LB605 AND UNDER THE ABSOLUTE THAT WE WILL CONTINUE TO NEGOTIATE WITH MAKING SENATOR BURKE HARR A MEMBER OF THE NEGOTIATING AND THE COUNTY ATTORNEYS AND WITH ATTORNEYS GENERAL WORKING ON THIS ONE ISSUE OF INDETERMINATE SENTENCING AND GETTING THAT RESOLVED BETWEEN GENERAL FILE AND THE SELECT FILE. [LB605]

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SPEAKER HADLEY: THANK YOU, SENATOR SEILER. SENATOR DAVIS, YOU'RE RECOGNIZED. [LB605]

SENATOR DAVIS: QUESTION. [LB605]

SPEAKER HADLEY: DO I SEE FIVE HANDS? I SEE FIVE HANDS. THERE HAS BEEN A REQUEST TO CALL THE QUESTION. ALL IN FAVOR SIGNIFY BY SAYING AYE... VOTING AYE; AND OPPOSED, NAY. THERE HAS BEEN A REQUEST TO CALL THE HOUSE. RECORD THE VOTE, MR. CLERK. [LB605]

CLERK: 29 AYES, 0 NAYS, MR. PRESIDENT, TO CEASE DEBATE. [LB605]

SPEAKER HADLEY: DEBATE IS CEASED. THERE HAS BEEN A REQUEST TO PLACE THE HOUSE UNDER CALL. THE QUESTION IS, SHALL THE HOUSE GO UNDER CALL? ALL THOSE IN FAVOR VOTE AYE; ALL THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB605]

CLERK: 36 AYES, 0 NAYS, MR. PRESIDENT, TO PLACE THE HOUSE UNDER CALL. [LB605]

SPEAKER HADLEY: THE HOUSE IS UNDER CALL. SENATORS, PLEASE RECORD YOUR PRESENCE. THOSE UNEXCUSED SENATORS OUTSIDE THE CHAMBER PLEASE RETURN TO THE CHAMBER AND RECORD YOUR PRESENCE. ALL UNAUTHORIZED PERSONNEL PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. OKAY. SENATOR SEILER, YOU'RE RECOGNIZED TO CLOSE ON AM1242. SENATOR SEILER WAIVES CLOSING. SENATOR BOLZ, SENATOR HILKEMANN, SENATOR BLOOMFIELD, THE HOUSE IS UNDER CALL. THE QUESTION IS THE ADOPTION OF AM1242. ALL THOSE IN FAVOR SIGNIFY BY VOTING AYE; THOSE OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB605]

CLERK: 36 AYES, 4 NAYS, MR. PRESIDENT, ON THE ADOPTION OF SENATOR SEILER'S AMENDMENT TO THE COMMITTEE AMENDMENTS. [LB605]

SPEAKER HADLEY: COMMITTEE AMENDMENT IS ADOPTED...TO THE COMMITTEE AMENDMENT IS ADOPTED. THE CALL IS RAISED. MR. CLERK. [LB605]

CLERK: MR. PRESIDENT, SENATOR HARR HAS AN AMENDMENT, AM1026, TO THE COMMITTEE AMENDMENTS. (LEGISLATIVE JOURNAL PAGE 1181.) [LB605]

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SPEAKER HADLEY: SENATOR HARR, YOU'RE RECOGNIZED. [LB605]

SENATOR HARR: THANK YOU, MR. SPEAKER, MEMBERS OF THE BODY. THIS IS A VERY CONTROVERSIAL AMENDMENT. I'M GOING TO TAKE CLASS IV MISDEMEANORS AND I'M GOING TO TAKE THE MANDATORY MINIMUM FINE OF \$100 AND MAKE IT ZERO. AND THAT'S ALL IT DOES. IT'S PRETTY SIMPLE. TO BE HONEST WITH YOU, I DON'T UNDERSTAND WHY THERE'S A \$100 THERE. I'LL TALK QUICKLY ABOUT THE AMENDMENT, AND THEN I WANT TO TALK ABOUT SOME OF THE NEGOTIATING OUTSIDE. IF YOU LOOK IN AM1010 AND YOU LOOK AT THE FINES, YOU CAN HAVE A CLASS III FELONY AND THE FINE CAN BE ZERO, ZERO DOLLARS. BUT IF YOU HAVE A CLASS IV MISDEMEANOR IT'S 100 BUCKS. I HAVE NO IDEA WHY. NO ONE HAS EVER BEEN ABLE TO TELL ME WHY. IT'S KIND OF BEEN ONE OF MY PET PEEVES FROM MY DAYS LONG AGO. YOU LOOK AT MISDEMEANORS FOR CLASS W, IT'S ZERO; CLASS V, ZERO; CLASS IIIA, II, I, THEY'RE ALL ZERO. SO THAT'S ALL THIS DOES. AND I PROBABLY COULD HAVE SNUCK IT INTO AN AMENDMENT AND NO ONE WOULD HAVE NOTICED, BUT IT GAVE ME A CHANCE TO GET UP AND TALK. SO I'D ASK FOR YOUR SUPPORT ON AM1026. BUT I WAS WORKING WITH THE COUNTY ATTORNEYS OUT THERE AND THE ATTORNEY GENERAL'S OFFICE TRYING TO FIGURE OUT WHAT WE CAN DO. AND I THINK THEY'RE COMING IN GOOD FAITH. THEY HAVE REAL CONCERNS. THEY'RE ON THE FRONT LINES. THEY SEE THE RESULTS OF WHAT WE DO ALL THE TIME. IT'S FUN FOR US TO SIT IN HERE AND CONJURE UP SCENARIOS WHEN THEY'RE ACTUALLY ON THE FRONT LINES. I THINK THEY DO A VERY GOOD JOB AND THEIR CONCERNS ARE VALID. I'M EXCITED TO SIT DOWN WITH THEM AND WITH MEMBERS OF THE JUDICIARY BETWEEN NOW AND SELECT, MOVE LB605 TODAY, AND REALLY LOOK AT SOME OF THE MINUTIA. I THINK THERE IS AN OVERALL POLICY AGREEMENT THAT WE NEED TO LOOK AT HOW WE DO SENTENCING, THAT WE...I DON'T THINK ANYONE CAN DENY THAT WE HAVE A SENTENCING, OR EXCUSE ME, A PRISON OVERCROWDING ISSUE. THERE IS SOME DIFFERENCE AS TO WHETHER LB605 WILL HAVE THE INTENDED RESULTS OF LOWERING PRISON OVERCROWDING, BUT LB605 ALSO DEALS WITH THE ISSUE OF JAMMING OUT. IT DEALS WITH HOW DO WE TREAT SOME OF OUR MORE SERIOUS CRIMINALS. AND SO WE'LL HAVE A DISCUSSION ABOUT THIS. THERE WILL BE SOME DISAGREEMENT AND THERE WILL BE SOME COMPROMISE. BUT I THINK WE HAVE...WE'RE VERY CLOSE BETWEEN THE PARTIES AS FAR AS THE AGREEMENT THAT WE DO NEED TO CHANGE WHAT WE ARE CURRENTLY DOING; THAT WE CAN'T STAY ON THE CURRENT PATH OR, IN FACT, WE WILL FACE A LAWSUIT. WHAT THE COURTS FIND, YOU KNOW, 160 PERCENT OVER, I THINK IT'S PRETTY CLEAR IF WE GET MUCH HIGHER THAN THAT WE DO HAVE A PROBLEM. SO, YOU KNOW, SOME OF THESE RECOMMENDATIONS WILL BE CSG, SOME OF

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THEM WILL BE BASED ON EXPERIENCE AS PROSECUTORS, AND SOME IT WILL BE BASED ON THE NEBRASKA WAY. WE'RE VERY PROUD OF SAYING THE NEBRASKA WAY, SO LET'S FOLLOW THE NEBRASKA WAY. AND SO WITH THAT, I WOULD JUST ASK FOR YOUR SUPPORT ON AM1026. THANK YOU. [LB605]

SPEAKER HADLEY: SENATOR JOHNSON, YOU ARE RECOGNIZED. [LB605]

SENATOR JOHNSON: I HAVE A BILL BEFORE THE JUDICIARY COMMITTEE, AND IT'S KIND OF A UNIQUE TIME TO BRING IT UP, I GUESS. IT'S LB137. IT'S A REAL SITUATION, AND I'M GOING TO ASK SENATOR SEILER IF WHAT WE'RE DOING HERE IS TAKEN INTO ACCOUNT. FIRST OF ALL, I'M GOING TO READ THE BILL AND IT'S ONLY ONE PARAGRAPH. IT SAYS: ANY PERSON WITHIN THE TERRITORIAL BOUNDARIES OF ANY CITY...OR A CITY...OR A FIRST-CLASS CITY OR COUNTY CONTAINING A CITY OF THE METROPOLITAN CLASS OR PRIMARY CLASS, WHO UNLAWFULLY, KNOWINGLY, AND INTENTIONALLY OR RECKLESSLY DISCHARGES A FIREARM WHILE IN A MOTOR VEHICLE OR IN THE PROXIMITY OF A MOTOR VEHICLE THAT SUCH PERSON HAS JUST EXITED, OR IN A GENERAL DIRECTION OF ANY PERSON, DWELLING, BUILDING, STRUCTURE, OCCUPIED MOTOR VEHICLE, OCCUPIED AIRCRAFT, INHABITED MOTOR HOME, AS DEFINED IN SECTION 71-4603, OR INHABITED CAMPER UNIT AS DEFINED IN SECTION 60-1801, IS GUILTY OF A CLASS IC FELONY. THAT'S THE BILL AS IT...OR THAT'S THE STATUTE AS IT READS RIGHT NOW. MY BILL SIMPLY IS CHANGED TO: ANY PERSON WHO UNLAWFULLY, UNKNOWINGLY...OR KNOWINGLY AND INTENTIONALLY. IN OTHER WORDS, WHAT I WAS ATTEMPTING TO DO WAS TO MAKE THE SAME LAW APPLY IN RURAL, SMALL COMMUNITIES AS IT APPLIES IN A METROPOLITAN AREA. THE BILL HAS BEEN PASSED OUT OF COMMITTEE WITH AN AMENDMENT, AND THE WAY I READ THE AMENDMENT THERE'S SOME OTHER CHANGES DEALING WITH THE OCCUPIED, UNOCCUPIED, WHICH I DON'T THINK IS PROBABLY AN ISSUE HERE RIGHT NOW. BUT IT DOES REDUCE THE...HE'S GUILTY OF A CLASS I MISDEMEANOR AND REDUCES THE MINIMUM FINE TO \$100. WHEN THIS FIRST CAME OUT, I LOOKED AT IT AND I SAID I'M NOT ONE THAT WANTS TO SOFTEN THE PENALTIES FOR OMAHA AND LINCOLN. I WANTED TO BRING RURAL COMMUNITIES UP TO THAT SAME STANDARD. SO MY QUESTION...IF SENATOR SEILER WILL YIELD TO A QUESTION. [LB605 LB137]

SPEAKER HADLEY SENATOR SEILER, WILL YOU YIELD? [LB605]

SENATOR SEILER: I WILL. [LB605]



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SENATOR JOHNSON: DOES THE AMENDMENT THAT WE JUST VOTED ON, MAYBE AM1026, AM1010 AND LB605, IF ALL THAT MOVES THROUGH, IS THIS WHAT WOULD BE THE REGULATION FOR MY BILL? THIS WOULD BE THE END RESULT OF MY BILL, LB137? IN OTHER WORDS, IS THIS, WHAT WE'RE DOING HERE, IS THIS TAKEN INTO ACCOUNT WHEN YOU SENT OUT THIS LB137 OUT OF COMMITTEE? [LB605 LB137]

SENATOR SEILER: I DON'T THINK OUR COMMITTEE EXAMINED YOUR BILL IN LIGHT OF THIS, TO BE QUITE HONEST WITH YOU. TELL ME THOSE PENALTIES AGAIN. [LB605]

SENATOR JOHNSON: THE ORIGINAL WAS A CLASS IC FELONY. [LB605]

SENATOR SEILER: THAT'S 50 YEARS TO A MINIMUM OF 5. [LB605]

SENATOR JOHNSON: OKAY, AND I BELIEVE IT'S AMENDED TO A CLASS I MISDEMEANOR IN THE AMENDMENT. [LB605]

SENATOR SEILER: THAT'S DOWN TO ONE YEAR IMPRISONMENT OR \$1,000. [LB605]

SENATOR JOHNSON: OKAY. SO IT IS CHANGED CONSIDERABLY. AND I KNOW THERE'S SOME OTHER CHANGES IN THE BILL WHICH, YOU KNOW, AN UNOCCUPIED VEHICLE, I THINK, WAS ONE OF THEM THAT...OR A HOUSE OR SOMETHING LIKE THAT, AND YOU AND I HAVE TALKED ABOUT THAT. [LB605]

SENATOR SEILER: YEAH. [LB605]

SENATOR JOHNSON: SO I GUESS WHAT...IT ANSWERS MY QUESTION. WHAT YOU HAVE PROPOSED IN YOUR AMENDMENT TO LB137... [LB605 LB137]

SPEAKER HADLEY: ONE MINUTE. [LB605]

SENATOR JOHNSON: ...IS NOT DIRECTLY RELATED TO THE ACTION WE'RE TAKING HERE RIGHT NOW. [LB605]

SENATOR SEILER: THAT'S CORRECT. [LB605]

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SENATOR JOHNSON: THANK YOU. [LB605]

SPEAKER HADLEY: SENATOR BLOOMFIELD, YOU'RE RECOGNIZED. [LB605]

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. I ORIGINALLY PUSHED MY LIGHT WHEN WE WERE ON THE EARLIER DEBATE, BUT I TOLD SENATOR CHAMBERS I WOULD YIELD HIM A LITTLE TIME. I HAVE NEVER KNOWN HIM TO REFUSE TIME, SO I WILL GO AHEAD AND YIELD HIM THAT TIME ON THIS. [LB605]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE YIELDED 4 MINUTES AND 50 SECONDS. [LB605]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR BLOOMFIELD, AND I WILL ACCEPT THE TIME. SENATOR HARR BEFORE HE WENT-- I GUESS HE'S OUT THERE NEGOTIATING--SAID, HOW DO YOU HAVE A PENALTY FOR A MISDEMEANOR THAT IS HARSHER THAN THE PENALTY FOR A FELONY. YOU HAVE IT BECAUSE THE LEGISLATURE BEHAVED THEN LIKE YOU'RE BEHAVING NOW. YOU'RE UNWILLING TO TAKE A COMPREHENSIVE VIEW. I'VE BEEN IN THIS LEGISLATURE GOING ON 41 YEARS. I WAS HERE AND WAS A PART OF REWRITING THE CRIMINAL CODE. THAT'S WHEN WE CREATED CLASSIFICATIONS OF OFFENSES. WE NAMED THEM: A FELONY, THIS GRADE, THIS GRADE, THIS GRADE, THAT GRADE; THE SAME WITH MISDEMEANORS. THEN A GROUP LIKE THE MERCHANTS MIGHT COME IN AND THEY SAY, WELL, THERE'S TOO MUCH SHOPLIFTING AND THAT PENALTY THAT YOU HAVE THERE WON'T WORK, SO WE WANT YOU TO PUT IN ANOTHER CATEGORY OF MISDEMEANOR THAT COVERS THIS KIND OF SHOPLIFTING, AND THE LEGISLATURE DID IT. I'VE GOT A LISTING AND IT MAY NOT BE ALL OF THE FELONIES. I WOULD LIKE TO ASK SENATOR SCHUMACHER A QUESTION, IF HE WILL YIELD. [LB605]

SPEAKER HADLEY: SENATOR SCHUMACHER, WILL YOU YIELD? [LB605]

SENATOR SCHUMACHER: YES. [LB605]

SENATOR CHAMBERS: SENATOR SCHUMACHER, BY NAME, HOW MANY FELONIES DO YOU THINK THERE ARE IN THE STATUTES, JUST A GUESS? [LB605]

SENATOR SCHUMACHER: DIFFERENT...OR ALL THE DIFFERENT THINGS THAT COULD BE A FELONY? [LB605]

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SENATOR CHAMBERS: YES. [LB605]

SENATOR SCHUMACHER: OH, JUST A GUESS, I'D PROBABLY SAY 50. [LB605]

SENATOR CHAMBERS: THANK YOU. YOU'RE WRONG. I'D LIKE TO ASK SENATOR McCOLLISTER, BECAUSE HE'S NEW. [LB605]

SPEAKER HADLEY: SENATOR McCOLLISTER, WILL YOU YIELD? [LB605]

SENATOR McCOLLISTER: I WILL, INDEED. [LB605]

SENATOR CHAMBERS: SENATOR McCOLLISTER, THE SAME QUESTION: DO YOU GUESS HOW MANY FELONIES BY NAME DO YOU THINK THERE ARE IN THE STATUTES? [LB605]

SENATOR McCOLLISTER: THIRTY-FIVE. [LB605]

SENATOR CHAMBERS: THERE ARE 278, 278. AND YOU WANT TO SIT HERE AND SAY I'M GOING TO LOOK AT THIS FELONY AND SEE IF THE PENALTY IS RIGHT FOR IT? I TELL YOU, I'VE GONE THROUGH THIS. YOU HAVE NO RESPECT FOR ME, YOU HAVE NO RESPECT FOR KNOWLEDGE IF IT COMES WRAPPED IN THE WRONG PACKAGE. YOU HAVE NO IDEA OF WHAT YOU'RE DEALING WITH, AND YOU WON'T LISTEN TO SOMEBODY WHO KNOWS; NOT WHAT I READ, WHAT I WAS A PART OF. BUT YOU KNOW WHAT I HAD TO DO, BECAUSE I'M AWARE OF HOW THESE THINGS WERE ENCRUSTED ONTO THE STATUTES? I HAD TO GO BACK--I'VE GOT A LIST--AND COUNT THE NUMBER OF FELONIES, BECAUSE AS THEY'VE PROLIFERATED I WASN'T KEEPING A RUNNING SCORE. AND THAT'S WHAT WE HAVE. SO TO TRY TO GET PEOPLE TO UNDERSTAND, SENATOR KINTNER WAS TALKING ABOUT SOME PEOPLE ARE JUST EVIL. WELL, I AGREE WITH HIM. I THINK SOME OF THEM WERE IN THE BUSH ADMINISTRATION. I DEFINITELY DO. AND SOME OF THEM ARE IN THE REPUBLICAN PARTY IN CONGRESS RIGHT NOW. HE OPENED THE WAY. THERE'S NO SUCH THING, IN MY VIEW, AS AN EVIL PERSON. THERE ARE PEOPLE WHO DO THINGS THAT ARE DEEMED EVIL BECAUSE THEY'VE BEEN DEFINED BY THE SOCIETY AS EVIL. THEY'RE NOT EVIL IN AND OF THEMSELVES, BECAUSE IF THE RIGHT PEOPLE DO IT THEN IT'S NOT EVEN LOOKED AT AS BEING SOMETHING WRONG. SO THAT KIND OF LANGUAGE IS JUST LIKE A LOST BALL IN HIGH WEEDS. BUT HERE'S WHAT I WILL SAY. SENATOR

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KINTNER DOESN'T KNOW WHAT'S GOING ON. WHAT WE TALKED ABOUT, AND HE DIDN'T LISTEN EVEN HERE, WAS THAT NIKKO JENKINS... [LB605]

SPEAKER HADLEY: ONE MINUTE. [LB605]

SENATOR CHAMBERS: ...WANTED TO BE COMMITTED. AND WITH THE EVIDENCE, THE MEDICAL EVIDENCE, THE PSYCHIATRIC EVALUATION, HE COULD HAVE BEEN COMMITTED. AND ONCE HE IS COMMITTED, HE DOES NOT GET OUT WHEN HE WANTS TO. HE'S NOT GOING TO JUST SAY, LET ME OUT OF HERE AND HE'S OUT. AND SENATOR KINTNER HAS A VOTE. AND YOU LISTEN TO WHAT HE SAYS, AND HE'S NOT PAYING ATTENTION. NIKKO JENKINS WANTED TO BE COMMITTED. HE TOLD THEM WHAT HE WOULD DO IF HE GOT OUT. HE SAID, DON'T LET ME GO. HE SAID, WHEN HAVE YOU EVER HAD A MAN, A FEW MONTHS FROM BEING RELEASED FROM THE PENITENTIARY, AND HE ASKED YOU TO LOCK HIM UP SO HE COULDN'T GET OUT? AND THEY TURNED HIM LOOSE IN MY COMMUNITY, AFTER GIVING ME ASSURANCES THAT HE WAS GETTING MENTAL HEALTHCARE, WHICH HE WASN'T. [LB605]

SPEAKER HADLEY: TIME, SENATOR. [LB605]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB605]

SPEAKER HADLEY: SENATOR McCOY, YOU'RE...SORRY. SENATOR CHAMBERS, YOU'RE RECOGNIZED NEXT. [LB605]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, NOBODY ON THAT LR424 COMMITTEE EXCUSED WHAT NIKKO JENKINS DID. NOBODY JUSTIFIED IT. BUT THERE WERE STEPS ALONG THE WAY WHERE IT COULD HAVE BEEN PREVENTED, AND A PSYCHOLOGIST WHO OVERRULED THE FINDING OF A PSYCHIATRIST BY CONCEALING HER DIAGNOSIS FROM THE COUNTY ATTORNEY WHO WAS SEEKING EVIDENCE TO SEE WHETHER OR NOT A COMMITMENT WOULD BE JUSTIFIED. HE WOUND UP ADMITTING, UNDER MY QUESTIONING, THAT HE SHOULD HAVE TURNED THAT INFORMATION OVER. AND HAD HE TURNED IT OVER, IT WOULD HAVE PROVIDED A BASIS FOR A COMMITMENT. AND HE NO LONGER WORKS FOR THE DEPARTMENT OF CORRECTIONAL SERVICES. THAT COULD HAVE BEEN A PREVENTATIVE MEASURE AND IT WAS NOT TAKEN. THE ATTORNEY GENERAL LOOKED AT THESE VARIOUS THINGS AND SAID, NOBODY SHOULD BE PROSECUTED EVEN THOUGH LAWS WERE VIOLATED AND FOUR PEOPLE WERE MURDERED. AND PEOPLE CAN GET ANGRY AT WHAT I'M SAYING

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ALL THEY WANT TO. BUT IF YOU READ THOSE THICK TRANSCRIPTIONS OF THE LR424 HEARINGS, I GRILLED ALL THOSE PEOPLE WHO CAME BEFORE US, INCLUDING THE GOVERNOR, BUT IT MADE NO DIFFERENCE. AND IT MAKES NO DIFFERENCE NOW. BUT IT IS THERE AS A WRITTEN RECORD OF PROCEEDINGS WHICH WILL DOCUMENT WHAT WAS DONE AND NOT DONE AND HOW THOSE FOUR MURDERS COULD HAVE BEEN PREVENTED. THEY COULD HAVE BEEN. SO WHEN PEOPLE SIT UP HERE AND SAY, WELL, HE'S JUST EVIL AND YOU CAN'T MAKE ANYBODY RESPONSIBLE, WELL, YES, YOU CAN. LAWS WERE ON THE BOOKS AS SENATOR HARR POINTED OUT. MORE GOOD TIME COULD HAVE BEEN TAKEN FROM HIM, WHICH THE DEPARTMENT OFFICIALS CHOSE NOT TO TAKE. SO WHOSE FAULT IS THAT? IS IT NIKKO JENKINS' FAULT OR IS IT THOSE WHO DID NOT TAKE THE GOOD TIME? IS IT THEIR FAULT? AND THEN WHEN THEY SHIPPED HIM OUT OF THAT COMMITTEE...SHIPPED HIM OUT ON THE COMMUNITY STRAIGHT FROM SOLITARY, INGESTING HIS SEMEN, CUTTING HIMSELF. ONE TIME IT TOOK 21 STITCHES TO COVER. FOUR TIMES, CUT HIMSELF WITH A TILE. DID THE KIND OF CUTTING THAT'S NOT THIS "PITY-PAT"; PAINFUL AND BEGGED THEM. HE WROTE THINGS IN HIS BLOOD ON THE WALL, AND THIS IS NOT MAKE BELIEVE. THIS WAS DOCUMENTED. SO THE PSYCHOLOGIST SAID, WELL, HE'S ACTING. HE'S PRETENDING. AND THE DOCUMENTS SHOW THAT HE HAD PROBLEMS FROM AT LEAST THE TIME HE WAS SIX YEARS OLD. AND SOME PSYCHIATRIST DURING HIS TRIAL FOR COMPETENCY SAID HE WAS FAKING THEN BECAUSE THEY HAD MADE A MISDIAGNOSIS, AND THAT'S WHAT WE HAD A CHANCE TO SEE. AND AS I LISTEN TO THE DISCUSSIONS HERE BY PEOPLE WHO DON'T KNOW ANYTHING...THEY CAN'T KNOW EVERYTHING. IT'S NOT THEIR FAULT THEY DON'T KNOW ANYTHING. BUT WHEN THEY SPEAK AUTHORITATIVELY, AND THEY CAN DERAIL ALL THIS WORK THAT'S BEEN DONE, THAT'S A PART OF THE SYSTEM, BUT IT ACCOUNTS FOR MY FEELING OF FRUSTRATION. AND I'M SAYING THINGS FOR THE RECORD NOW, NOT THAT ANYBODY WILL LISTEN, NOT THAT IT WILL MAKE ANY DIFFERENCE, BUT I FOUND OUT THAT PEOPLE IN OTHER PARTS OF THE COUNTRY AND EVEN SOMETIMES OTHER PARTS OF THE WORLD DO LISTEN, AND THEY DO WATCH WHAT WE DO BECAUSE THOSE GADGETS OR SOME FORM OF THEM WILL PICK UP WHAT WE SAY. AND I'M OFTEN ASKED, WHY DO I EVEN STAY HERE? AND I SAY, CRAZY! I MIGHT BE THE LUNATIC. MAYBE ALL OF YOU ALL ARE SANE... [LB605]

SPEAKER HADLEY: ONE MINUTE. [LB605]

SENATOR CHAMBERS: ...AND I'M THE ONLY ONE WHO IS MAD. BUT I DON'T BELIEVE THAT. I'M GOING TO STAY HERE AND LISTEN AND SAY THINGS FOR THE RECORD. BUT I DON'T EXPECT ANYTHING OF CONSEQUENCE TO BE DONE,

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BECAUSE YOU LET PEOPLE WHO DON'T KNOW ANYTHING ABOUT THE SUBJECT STAND UP HERE AND SAY, WELL, YOU DIDN'T DO JUST WHAT THIS GROUP TOLD YOU TO DO. I SAY, AGAIN, THE CSG DOES NOT WRITE OUR LEGISLATION. WE ARE THE ONES WHO TAILOR WHAT WE PUT INTO THE LAW TO FIT THE SITUATION HERE. DID YOU WANT OR EXPECT THE LEGISLATURE TO GO ON AUTOMATIC PILOT AND THE ORGANIZATION THAT SENATOR McCOY IS NOW THE CHAIRPERSON OF NATIONALLY TO SAY, THIS IS OUR FINDING? AND WE TELL THE BILL DRAFTER, DRAFT THIS INTO LEGISLATION AND WE JUST RUN IT THROUGH AND PASS IT BECAUSE THEY SAID THAT'S THE WAY IT SHOULD BE? [LB605]

SPEAKER HADLEY: TIME, SENATOR. [LB605]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB605]

SPEAKER HADLEY: SENATOR McCOY, YOU'RE RECOGNIZED. [LB605]

SENATOR McCOY: THANK YOU, MR. PRESIDENT AND MEMBERS. WOULD SENATOR SEILER YIELD, PLEASE? [LB605]

SPEAKER HADLEY: SENATOR SEILER, WILL YOU YIELD? [LB605]

SENATOR SEILER: YES. [LB605]

SENATOR McCOY: THANK YOU, SENATOR. I JUST WANT TO MAKE SURE I HAD AN UNDERSTANDING OF WHAT IS TO TAKE PLACE BETWEEN GENERAL AND SELECT WITH THE ADOPTED AM1242 THAT WAS ADOPTED A FEW MINUTES AGO. SO IT'S MY UNDERSTANDING THAT SECTION 61 OF AM1242, WHICH IS THE ONE-THIRD RULE OR INDISCRIMINATE SENTENCING, HOWEVER YOU WANT TO DESCRIBE IT, THAT'S WHAT IS TO BE STRICKEN. AND IF I NEED TO ASK THIS QUESTION TO SENATOR BURKE HARR, WHO I KNOW HAS BEEN IN ONGOING DISCUSSIONS, JUST LET ME KNOW. BUT THAT'S MY UNDERSTANDING THAT THAT'S WHAT IS TO BE STRICKEN BETWEEN GENERAL AND SELECT AND NEW LANGUAGE THAT YOU'RE WORKING ON ADDED. IS THAT... [LB605]

SENATOR SEILER: THAT IS CORRECT. [LB605]

SENATOR McCOY: OKAY. I APPRECIATE THAT. I JUST WANTED TO MAKE SURE I HAD A PROPER UNDERSTANDING OF WHAT IS TO BE DONE. I THINK THAT IS

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PRUDENT, IN MY VIEW, AND IT'S NOT JUST MY VIEW. IT OBVIOUSLY IS A NUMBER OF FOLKS INVOLVED IN THIS ISSUE. AND I APPRECIATE WHAT YOU'VE DONE ON THIS LEGISLATION, SENATOR SEILER. AND THANK YOU, MR. PRESIDENT. [LB605]

SPEAKER HADLEY: SENATOR SCHNOOR, YOU'RE RECOGNIZED. [LB605]

SENATOR SCHNOOR: THANK YOU, SIR. I HAVE NOT TALKED ABOUT THIS ISSUE BECAUSE I AM NOT AN EXPERT IN THIS BY ANY MEANS. SENATOR CHAMBERS, WILL YOU YIELD TO A QUESTION, PLEASE? [LB605]

SPEAKER HADLEY: SENATOR CHAMBERS, WILL YOU YIELD? [LB605]

SENATOR CHAMBERS: YES. [LB605]

SENATOR SCHNOOR: SENATOR CHAMBERS, YOU'VE TALKED ABOUT HOW YOU KNOW MORE ABOUT THIS THAN MOST PEOPLE, AND I CAN'T DENY THAT. YOU PROBABLY DO. BUT, YET, I HAVE NEVER HEARD A COMMENT FROM YOU ON WHAT THE SOLUTION IS. ALL I'VE HEARD IS YOU SAY HOW PEOPLE DON'T LISTEN TO YOU. WELL, WHAT IS THE SOLUTION? IS LB605 A GOOD SOLUTION, AND ARE WE MOVING FORWARD IN THE RIGHT DIRECTION? SO THAT'S MY QUESTION FOR YOU. [LB605]

SENATOR CHAMBERS: SENATOR SCHNOOR, WHAT I SAID WHEN I FIRST SPOKE IS THAT THIS BILL IS NOT WRITTEN THE WAY I WOULD HAVE WRITTEN IT. THE DEAL THAT SENATOR...WELL, I WON'T SAY WHO MADE THE DEAL, BUT THEY WANTED TO STIFFEN SOME SENTENCES. ALL OF THAT SENTENCING I WOULD HAVE LEFT OUT OF THIS BILL ENTIRELY AND DEALT WITH THE SENTENCING, THOSE SPECIFIC OFFENSES SEPARATELY FROM THIS BILL. AND ALSO THERE ARE SOME THINGS THAT, WERE I WRITING THE BILL, I WOULD NOT HAVE PUT INTO THIS BILL. THERE ARE OTHER THINGS I WOULD HAVE. AND I'LL TELL YOU WHY I'M NOT SPECIFYING THEM. I DON'T WANT TO GIVE PEOPLE A REASON TO BE AGAINST THIS BILL. I SAID IT'S MOVING IN THE RIGHT DIRECTION, BUT IT'S FAR FROM THE SOLUTION. SOMETHING HAS TO BE DONE THAT WILL CREATE A FOUNDATION ON WHICH OTHER THINGS CAN BE ERECTED. A LOT OF WORK HAS BEEN DONE. THIS REPRESENTS THE CULMINATION OF A LOT OF THAT WORK. BUT I THINK EVEN THOSE WHO SUPPORT THIS BILL KNOW THAT IT'S FAR FROM BEING THE SOLUTION. WE WOULD HAVE TO HAVE, AND WE'RE NOT GOING TO BE ABLE TO DO IT, SOME WAY TO REDUCE DRASTICALLY, QUICKLY THE OVERPOPULATION IN THE PRISON SYSTEM TO AVOID A LAWSUIT. AND THAT'S WHAT EVERYBODY'S

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LOOKING AT AND IT'S WHAT EVERYBODY SHOULD SEE BECAUSE CURRENTLY THE CONDITIONS UNDER WHICH THE INMATES ARE LIVING NOW, THE OVERCROWDING, IT WOULD CONSTITUTE CRUEL AND UNUSUAL PUNISHMENT UNDER THE EIGHTH AMENDMENT TO THE U.S. CONSTITUTION. THE COURT WOULD RULE THAT THIS IS AN UNCONSTITUTIONAL SET OF CIRCUMSTANCES. AND WHAT THE STATE IS GOING TO HAVE TO DO IS BRING DOWN IMMEDIATELY-- AND THAT DOESN'T MEAN TODAY OR TOMORROW--THIS OVERCROWDING, WHICH MEANS LETTING PEOPLE GO. AND THAT HAS BEEN THE SOLUTION IN THE PAST. SO I THINK THIS IS A VERY GOOD START. BUT I WOULD HATE TO THINK THAT ONCE WE DO THIS THE FEELING IS ADOPTED THAT NOTHING ELSE NEEDS TO BE DONE. IF YOU WANT TO, AND I THINK MR. FRAKES WOULD TALK TO YOU, THE NEW DIRECTOR, HE COULD GIVE YOU AN OVERVIEW OF HOW SERIOUSLY DETERIORATED EVERYTHING IN THE DEPARTMENT OF CORRECTIONS IS. BUT HE HAS TO MOVE A STEP AT A TIME. AND THE LEGISLATURE, BEING A POLITICAL BODY, IS NOT GOING TO SPEND THE AMOUNT OF MONEY AT ONE TIME THAT NEEDS TO BE SPENT. BUT I HAVE A BILL THAT'S COMING UP THAT I DIDN'T WANT TO BE A PART OF THIS ONE BECAUSE I THINK IT IS A VERY IMPORTANT PART OF THE SOLUTION. BUT IF THE COUNTY ATTORNEYS HAVE THEIR WAY, THEY'LL DERAIL THAT BILL. SO I DO HAVE IDEAS. BUT ON THIS BILL WHICH OTHER PEOPLE DID SO MUCH WORK ON, I'M NOT GOING TO TRY TO DISMANTLE IT BECAUSE WE'LL BE BETTER OFF WITH IT THAN WITHOUT IT. [LB605]

SENATOR SCHNOOR: OKAY, THANK YOU. OBVIOUSLY WE WILL DEAL WITH YOUR BILL WHEN THE TIME COMES. BUT LIKE I SAY, I HEARD YOU TALKING ABOUT HOW YOU WERE THE EXPERT, BUT I NEVER HEARD ANY GOOD, FIRM COMMENTS ON IT UNTIL NOW, SO THANK YOU. [LB605]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU ARE RECOGNIZED. [LB605]

SENATOR CHAMBERS: THANK YOU. THANK YOU. AND, MR. PRESIDENT AND SENATOR SCHNOOR, I DON'T MIND ANSWERING QUESTIONS. BUT REMEMBER, IT'S NOT MY BILL. IT'S SENATOR MELLO'S BILL SO THEY APPROPRIATELY ADDRESS QUESTIONS TO HIM, ALTHOUGH I WILL ANSWER THEM. WHAT I'M LOOKING AT NOW AND TALKING ABOUT IS THE NEED TO HAVE SOMEBODY, EVEN THOUGH I'M AN IRRITANT, WHO WILL SAY...STATE FORTHRIGHTLY WHAT HAS TO HAPPEN. AND ALL THE PEOPLE ON THE LR424 COMMITTEE WILL VERIFY THIS. FIRST OF ALL, I WAS ALWAYS LAST TO ASK THE QUESTIONS. EVERYBODY ELSE GOT THEIR QUESTIONS ASKED AND IT WAS CONCEDED THAT I WOULD ALWAYS BE LAST BECAUSE I HAD TO BE THE MALLEUS. I HAD TO BE THE HAMMER, AND I DIDN'T MIND ASKING THE QUESTIONS THAT NEEDED TO BE ASKED TO GET THE



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ANSWERS THAT WE NEEDED OR WE WOULD GET NO ANSWER. I TOLD DIRECTOR KENNEY THAT YOU NEED TO BE FIRED. THAT YOU'RE THE ONE RESPONSIBLE FOR THIS. HIS DEPUTY DIRECTOR, I DON'T REMEMBER HIS NAME, I TOLD HIM IF HE WOULD HAVE QUIT RIGHT THEN I WOULD HAVE WRITTEN A RECOMMENDATION FOR HIM ON HIS NEXT JOB, BUT I SAID, YOU DEFINITELY CAN'T STAY HERE. THIS PSYCHOLOGIST THAT I MENTIONED, WHO CONCEALED THAT PSYCHIATRIST'S REPORT, I SAID HE HAD TO GO. THERE'S NO WAY HE COULD STAY HERE. ALL OF THEM ARE GONE AND OTHERS THAT I HAD MENTIONED. BUT I TOLD THEM WHILE THEY WERE TESTIFYING THAT YOU ALL NEED TO GO. AND I TOLD THE GOVERNOR, WHO WAS THEN HEINEMAN, THESE PEOPLE BY NAME AND THEY OUGHT TO BE FIRED NOW. AND HE DIDN'T WANT TO DO ANYTHING. AND THE QUESTIONING THAT I UNDERTOOK WAS VERY SPECIFIC, BUT IT MADE NO DIFFERENCE TO THE PAST ADMINISTRATION. THE ATTORNEY GENERAL, WHOSE JOB IT WOULD HAVE BEEN TO PROSECUTE SOME OF THESE PEOPLE, HAD SOMEBODY FROM HIS OFFICE SITTING WITH THAT PERSON ADVISING THAT PERSON, AND I WANTED TO KNOW HOW THAT COULD BE. SO THOSE WERE THE ISSUES THAT I WOULD RAISE. AND IT'S WHY I'M AN IRRITANT WHEN I'M ON THE OTHER SIDE OF SOMEBODY, BUT I'M THE ONE THEY WOULD MOST LIKE TO HAVE ME ON THEIR SIDE BECAUSE YOU ALL KNOW THAT THERE ARE THINGS THAT NEED TO BE BROUGHT UP THAT NOBODY ON THIS FLOOR WILL BRING UP. THERE'S SOME OF YOU WHO FEEL YOU'VE GOT TO CHEESE UP TO THE COUNTY ATTORNEYS AND I DON'T. ALL THEY ARE, ARE PEOPLE. THEY ARE POLITICIANS FIRST BECAUSE THEY ARE ELECTED, NOT ON THE BASIS OF DEMONSTRATED, LEGAL EXPERTISE, BUT THE ABILITY TO RAISE MONEY AND GET VOTES. AND WHEN YOU RUN FOR OFFICE NOW, YOU NEED A LOT OF MONEY, AND YOU NEED SOME WELL-HEELED PEOPLE WHO WILL GIVE LARGE AMOUNTS OF MONEY. AND THE HAND THAT FEEDS CONTROLS. AND THESE COUNTY ATTORNEYS JUDGE AND INTERPRET AND APPLY THE LAW BASED ON WHAT A POLITICIAN DOES. AND THAT IS A FACT. AND THEY WOULD RATHER NOT COME BEFORE THE JUDICIARY COMMITTEE BECAUSE THEY DON'T WANT TO BE QUESTIONED BY ME SO THEY CAN EVADE AND COME HERE WHEN WE'RE DEBATING HERE AND THEY CAN CORRUPT OUR PROCESS. AND YOU ALL WILL GO ALONG WITH THEM BECAUSE YOU DON'T LIKE ME EITHER. BUT I'M NOT WHINING. I'M TRYING TO SHOW SOME HUMILITY, BUT HOW CAN I BE HUMBLE WHEN I HAVE THESE FORCES OF EVIL, USING SENATOR KINTNER'S TERM, AIR RAID AGAINST ME. AND YOU ALL I'M SURE CAN CALL UP CASES FROM WHERE YOU CAME FROM, WHERE YOU SAW CHARGES THAT SHOULD HAVE BEEN BROUGHT NOT BROUGHT AGAINST CERTAIN PEOPLE, OTHER PEOPLE WHO MAY HAVE BEEN ALMOST PICKED OUT BY A COUNTY ATTORNEY AND THE POLICE IN THAT TOWN AND HOUNDED AND HARASSED. [LB605]

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SPEAKER HADLEY: ONE MINUTE. [LB605]

SENATOR CHAMBERS: DID YOU SAY TIME? [LB605]

SPEAKER HADLEY: ONE MINUTE. [LB605]

SENATOR CHAMBERS: OH, ONE MINUTE. THESE ARE THE THINGS I'M GOING TO TALK ABOUT BECAUSE I BELIEVE THAT THIS BILL WILL MOVE. BUT YOU WANT ME TO BE FRANK WITH YOU? I DON'T CARE WHETHER IT MOVES OR NOT. MY WORK IS GOING TO BE JUST AS HARD. I'LL STILL GET DOZENS OF LETTERS FROM THE INMATES. I'LL STILL HAVE TO FIND A WAY TO MAKE SURE THAT THE DIRECTOR OF CORRECTIONS IS WORRIED ABOUT MAKING SURE THAT WE'RE ON GOOD TERMS BECAUSE I WANT HIM TO SUCCEED. IF HE SUCCEEDS, I SUCCEED. AND I WILL DO EVERYTHING I CAN TO HELP HIM. BUT IF HE DOESN'T AND HE MAKES MY JOB HARD, HE CAN'T MAKE IT AS HARD FOR ME AS I CAN MAKE IT FOR HIM. THANK YOU, MR. PRESIDENT. [LB605]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED. THIS IS YOUR THIRD TIME. [LB605]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. I WOULD LIKE TO... [LB605]

SPEAKER HADLEY: IT'S YOUR THIRD TIME. [LB605]

SENATOR CHAMBERS: RIGHT, MY THIRD. I COUNTED THIS TIME. I WOULD LIKE TO ASK SENATOR MELLO A QUESTION. [LB605]

SPEAKER HADLEY: SENATOR MELLO, WILL YOU YIELD? [LB605]

SENATOR MELLO: OF COURSE. [LB605]

SENATOR CHAMBERS: SENATOR MELLO, YOU HEARD SENATOR SEILER LAY OUT, I THINK HE DID...LET ME ASK YOU WITHOUT TRYING TO REPEAT. WHAT IS YOUR IDEA ABOUT HOW WE OUGHT TO PROCEED FROM THIS POINT ON YOUR BILL BEFORE YOU GET TO WHERE ALL THIS OTHER NEGOTIATING WILL BE DONE BETWEEN GENERAL AND SELECT FILE? WHAT ARE WE TO DO TODAY? [LB605]

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SENATOR MELLO: WHAT SENATOR SEILER HAD DISCUSSED ON THE FLOOR IS TO ASK THE BODY TO MOVE AM1010, TO ADOPT THAT COMMITTEE AMENDMENT TO THE UNDERLYING BILL. WE'LL MOVE THE UNDERLYING BILL FROM GENERAL TO SELECT FILE. AND A NUMBER OF SENATORS FROM THE JUDICIARY COMMITTEE, SENATOR HARR, AND MYSELF WILL MEET AND WORK WITH THOSE WHO OPPOSE THE COMMITTEE AMENDMENT...A PORTION OF THE COMMITTEE AMENDMENT. WE'LL WORK BETWEEN GENERAL AND SELECT FILE TO FIND A NEGOTIATION THAT WE CAN BRING BACK TO THE BODY THAT WILL HELP ENHANCE THE ISSUE THAT HAS BEEN BROUGHT FORWARD, WHICH IS TRYING TO ALLEVIATE THE JAMMING OUT OF SENTENCES WITHOUT ADOPTING THE VERY BROAD NATURE OF INDETERMINATE SENTENCING. [LB605]

SENATOR CHAMBERS: SO WERE YOU TRYING TO GET ALL OF THOSE WITH AN INTEREST AROUND THE TABLE, MORE OR LESS? [LB605]

SENATOR MELLO: THAT IS THE INTENT AND WHAT SENATOR SEILER HAD SAID ON THE FLOOR, YES. [LB605]

SENATOR CHAMBERS: AND THEY DIDN'T WANT TO INTERRUPT ME TO BRING ME MY INVITATION TO SIT AT THE TABLE? [LB605]

SENATOR MELLO: I THINK THAT'S A QUESTION YOU CAN ASK SENATOR SEILER. I PROBABLY DON'T THINK HE'LL HAVE A PROBLEM IF YOU'D LIKE TO SIT AT THAT TABLE, SENATOR CHAMBERS. [LB605]

SENATOR CHAMBERS: NO, NO. I'M JUST TRYING TO LIGHTEN THE MOOD A LITTLE BIT. I SHOULDN'T BE THERE. YOU SHOULD HAVE PEOPLE WHO SOMEHOW, WHATEVER THEY COME BACK WITH THEY'RE GOING TO AGREE ON SOMETHING. BUT HERE'S WHAT I DO WANT TO FIND OUT. WHAT ABOUT THAT OTHER AMENDMENT UP THERE, 10...? [LB605]

SENATOR MELLO: AM1026? [LB605]

SENATOR CHAMBERS: UH-HUH. [LB605]

SENATOR MELLO: THAT IS AN AMENDMENT THAT, MY UNDERSTANDING, ADDRESSES AN ISSUE OF MISDEMEANOR CHARGES THAT COUNTIES ARE HAVING

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INDIVIDUALS SERVE TWO DAYS IN COUNTY...INDIVIDUALS ARE CHOOSING TO SERVE TWO DAYS IN COUNTY JAIL INSTEAD OF PAYING THE \$100 FINE. [LB605]

SENATOR CHAMBERS: BUT HERE'S WHAT I WANT TO ASK. IS THAT AMENDMENT THEN GOING TO BE WITHDRAWN OR IS IT GOING TO BE ATTACHED ALSO AND MOVED ALONG OR IT'S NOT A PART OF MOVING IT? [LB605]

SENATOR MELLO: I WOULD PREFER THAT SENATOR HARR WITHDRAWS THE AMENDMENT AND BRINGS IT BACK ON SELECT FILE SO THAT WE CAN HAVE A MORE THOROUGH DISCUSSION IN REGARDS TO ITS IMPACT IN REGARDS TO THE OVERALL JUSTICE REINVESTMENT FRAMEWORK. THAT WOULD BE...AS THE BILL INTRODUCER, THAT WOULD BE MY PREFERENCE SINCE IT WAS NOT PART OF THE ORIGINAL GREEN COPY OF THE BILL. [LB605]

SENATOR CHAMBERS: AND AS ONE WHOSE TIME IS GOING...HOW MUCH TIME DO I HAVE, MR. PRESIDENT? [LB605]

SPEAKER HADLEY: YOU HAVE TWO MINUTES AND 14 SECONDS. [LB605]

SENATOR CHAMBERS: I WOULD LIKE TO ASK SENATOR HARR A QUESTION IF HE WOULD YIELD. [LB605]

SPEAKER HADLEY: SENATOR HARR, WILL YOU YIELD? [LB605]

SENATOR HARR: I WOULD YIELD, MR. SPEAKER. [LB605]

SENATOR CHAMBERS: SENATOR HARR, WHAT IS TO BECOME OF YOUR AMENDMENT UP THERE IN THIS DEAL THAT YOU ALL HAVE WORKED OR YOU HAVEN'T WORKED THAT OUT COMPLETELY YET? [LB605]

SENATOR HARR: IT'S WHAT I SAID IN THE OPENING. I MEAN, IT'S A MINOR... [LB605]

SENATOR CHAMBERS: BUT THAT'S NOT WHAT I ASKED YOU. WHAT'S TO BECOME OF IT? [LB605]

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SENATOR HARR: WELL, I'D LIKE TO SEE IT PASSED; BUT IF IT DOESN'T, I CAN DO IT ON SELECT. [LB605]

SENATOR CHAMBERS: SO ARE YOU GOING TO HAVE US CONSIDER YOUR AMENDMENT HERE, WHICH IF WE MUST THEN WE GOT TO CLEAN UP WHAT'S IN FRONT OF IT FIRST? IS THAT RIGHT? I WANT TO FIND OUT WHAT THE PROCESS IS GOING TO BE. [LB605]

SENATOR HARR: YOU KNOW, IF YOU WANT ME...IF THEY WANT ME TO PULL AM1026... [LB605]

SENATOR CHAMBERS: I DON'T WANT ANYTHING. I WANT TO FIND...OTHER THAN TO FIND OUT WHAT WE'RE GOING TO DO. [LB605]

SENATOR HARR: I DON'T THINK THERE IS GOING TO BE ANOTHER AMENDMENT ON AM1010 TODAY. AND I THINK WE'LL PASS IT AS IS AND THEN WE'LL WORK ON IT BETWEEN GENERAL AND SELECT. [LB605]

SENATOR CHAMBERS: THE WAY YOU ALL HAVE WORKED ON HOW WE'LL HANDLE THESE LITTLE BITTY AMENDMENTS BEFORE WE GET TO THE BIG NEGOTIATING. THANK YOU. [LB605]

SENATOR HARR: YES. [LB605]

SENATOR CHAMBERS: THAT'S ALL I'LL ASK YOU. BROTHERS AND SISTERS, FRIENDS, ENEMIES, NEUTRALS, WE'RE GOING TO HAVE A NEGOTIATION OF ALL OF THE POWERS TO KEEP THE THIRD WORLD WAR FROM TAKING PLACE. AND WE CAN'T DECIDE BECAUSE SENATOR JOHNSON WANTS AN OBLONG TABLE... [LB605]

SPEAKER HADLEY: ONE MINUTE. [LB605]

SENATOR CHAMBERS: ...SENATOR SCHUMACHER WANTS A ROUND TABLE, SENATOR KOLTERMAN WANTS THREE LEGS ON THE TABLE, SENATOR STINNER WANTS TO BE ABLE TO PUT LEAVES IN THE TABLE, WHICHEVER SHAPE IT HAS SO IT CAN GO FURTHER. THEN AFTER THEY AGREE ON THE SIZE OF THE TABLE, HOW HIGH WILL THE CHAIRS BE SO NOBODY WILL BE HIGHER THAN ANYBODY ELSE? THEN THEY'RE GOING TO NEGOTIATE ON HOW TO STOP THE THIRD WORLD

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WAR. I'M PLEASED THAT THEY'RE GOING TO BE ABLE TO DO THAT. AND, MR. PRESIDENT, THAT'S ALL I HAVE TO SAY. THANK YOU. [LB605]

SPEAKER HADLEY: SENATOR HARR, YOU'RE RECOGNIZED TO CLOSE ON YOUR AMENDMENT, AM1026. [LB605]

SENATOR HARR: THANK YOU, MR. SPEAKER. AS I SAID IN MY INTRODUCTION, IT'S A MINOR AMENDMENT. THERE IS GOING TO BE A LOT OF NEGOTIATING GOING ON. MAYBE IT'S ONLY FAIR THAT I PULL AM1026 SO IT CAN BE PART OF THE NEGOTIATION. I DON'T REALLY SEE ANY OPPOSITION TO IT. BUT SENATOR MELLO, IT'S HIS BILL AND HE ASKED THAT I DO THAT AND I WILL FOLLOW HIS LEAD. SO WITH THAT, I WOULD PULL AM1026. THANK YOU. [LB605]

SPEAKER HADLEY: AMENDMENT IS WITHDRAWN. WE'RE BACK TO THE COMMITTEE AMENDMENT NOW. SEEING NO ONE IN THE QUEUE, SENATOR SEILER, YOU'RE RECOGNIZED TO CLOSE. SENATOR SEILER WAIVES CLOSING ON AM1010. THE QUESTION IS THE ADOPTION OF AM1010. ALL THOSE IN FAVOR SIGNIFY BY VOTING AYE; OPPOSED VOTE NAY. RECORD, MR. CLERK. [LB605]

CLERK: 32 AYES, 4 NAYS, MR. PRESIDENT, ON THE ADOPTION OF COMMITTEE AMENDMENTS. [LB605]

SPEAKER HADLEY: THE COMMITTEE AMENDMENT IS ADOPTED. SENATOR MELLO, YOU'RE...SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB605]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. WE DO AT LAST GET TO DISCUSS THE BILL. IS THAT WHAT'S BEFORE US NOW, THE BILL ITSELF? [LB605]

SPEAKER HADLEY: THAT IS CORRECT, SIR. [LB605]

SENATOR CHAMBERS: THANK YOU. I'M NOT GOING TO VOTE AGAINST ADVANCING THE BILL, BUT I NEED TO ASK SENATOR SEILER A QUESTION FOR MY CLARIFICATION IF HE WILL YIELD. [LB605]

SPEAKER HADLEY: SENATOR SEILER, WILL YOU YIELD? [LB605]

SENATOR SEILER: I WILL. [LB605]

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SENATOR CHAMBERS: SENATOR SEILER, DOES THE ONE-THIRD RULE REMAIN IN THE BILL AT THIS POINT? [LB605]

SENATOR SEILER: IT DOES. [LB605]

SENATOR CHAMBERS: THANK YOU. AND SO IT SHOULD REMAIN AND THAT'S WHY I SHOULDN'T BE AT THE TABLE. AND IF THEY TAKE IT OUT, I'M NOT GOING TO TRY TO STOP THE BILL, BUT I'M GOING TO VOTE AGAINST THE BILL. THAT IS AN IMPORTANT PART, AND YOU'RE GOING TO LET THE COUNTY ATTORNEYS COME IN HERE AND KICK YOU AROUND A LITTLE BIT AND SAY I KNOW MORE ABOUT THE LAW THAN YOU DO, SO TAKE IT OUT. IF YOU WOULD LOOK AT THE HISTORY OF THAT ONE-THIRD RULE, YOU'LL SEE HOW MANY YEARS MORE THAN A DECADE THAT IT HAD BEEN IN PLACE, THE ONE-THIRD RULE, WHICH SAID THAT THE MINIMUM COULD BE NO MORE THAN ONE-THIRD OF THE MAXIMUM. THEN EVEN IF A JUDGE GAVE A FLAT SENTENCE OF 20 YEARS, THEN THE MINIMUM WOULD BE ONE-THIRD OF 20...LET'S SAY 21 SO IT'S EASY FOR ME, IT WOULD BE 7 YEARS, THE MINIMUM. THAT'S NOT WHEN YOU'RE RELEASED. THAT'S WHEN THEY CAN LET YOU COME BEFORE THE PAROLE BOARD TO SEE WHETHER OR NOT THEY'RE WILLING TO PAROLE YOU. AND I'M NOT AWARE OF ANYBODY WITH ANY SIGNIFICANT CRIME BEING RELEASED AS SOON AS HE OR SHE IS ELIGIBLE FOR PAROLE. WHAT MAY HAPPEN IS THAT THEY WILL GIVE YOU SPECIFIC THINGS THAT THEY WANT YOU TO DO. THEN THEY WILL POSTPONE YOU FOR AT LEAST A YEAR, SOMETIMES LONGER. AND IF THERE ARE PROGRAMS YOU SHOULD HAVE TAKEN, WHICH YOU HAVE NOT TAKEN, THEN THEY WILL INSIST THAT YOU DO THAT. AND IF YOU DON'T, THEN THEY MIGHT POSTPONE YOU LONGER. SO WHEN PEOPLE STAND UP HERE AND TRY TO GIVE THE IMPRESSION THAT THE DATE OF ELIGIBILITY FOR PAROLE IS THE DATE YOU'LL BE RELEASED, THAT'S DISINGENUOUS AND DON KLEINE NEVER SHOULD HAVE SAID THAT. HE KNEW THERE WERE PEOPLE ON THIS FLOOR WHO WOULD GRAB THAT AND RUN WITH IT. AND HE, AS COUNTY ATTORNEY, KNOWS GOOD AND WELL THAT WITH WHAT ERICA JENKINS WAS CONVICTED OF NO PAROLE BOARD IS GOING TO LET HER OUT. THAT'S WHERE YOU ALL STOP BEING REALISTIC. AND ALL OF A SUDDEN YOU THINK THESE PEOPLE ARE GOING TO SAY, WELL, SHE HAD ALL THESE THINGS AND THAT THING AND THOSE OTHER THINGS, SO SHE'S ELIGIBLE FOR PAROLE SO WE'RE GOING TO LET HER OUT. WHY DO YOU THINK THERE'S A MAXIMUM SENTENCE? THAT'S SO THAT IF YOU BEHAVE AND EVERYTHING IS WORKED OUT DURING THIS TIME YOU'RE SERVING, THEN YOU CAN BE CONSIDERED FOR RELEASE, BUT THEY DON'T EVER HAVE TO RELEASE YOU ON PAROLE. YOU CAN COMPLETE EVERY PROGRAM THEY HAVE AND GET A PLUS IF THEY GRADE ON THE LETTER SYSTEM. YOU

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CAN NEVER HAVE HAD A WRITE-UP. YOU CAN HAVE VOLUNTEERED TO CLEAN UP THE KITCHEN AFTER EVERY MEAL, WASH THE DISHES, EAT YOUR SPINACH, ASPARAGUS, AND BE IN BED AT 9:00, WHETHER YOU'RE ASLEEP OR NOT, DON'T CAUSE ANY TROUBLE. YOU'RE LESS TROUBLE THAN A FLOWER WOULD BE BECAUSE THEY HAVE TO PUT THE FLOWER WHERE IT CAN RECEIVE SOME SUNLIGHT TO CARRY OUT PHOTOSYNTHESIS. YOU'D LIVE IN THE DARK. DO IT ALL, AND THE PAROLE BOARD CAN TURN YOU DOWN EVERY TIME. THEY'RE NOT COMPELLED TO GIVE YOU A PAROLE. THAT SHOWS HOW LITTLE PEOPLE ON THIS FLOOR KNOW, AND YET THEY'RE GOING TO BRING FEAR TO YOU. THIS ONE-THIRD RULE... [LB605]

SPEAKER HADLEY: ONE MINUTE. [LB605]

SENATOR CHAMBERS: ...HELPS BRING SOME DEGREE OF STABILITY TO THE SYSTEM. AND IT DOES MODIFY WHAT SOME UNREASONABLE JUDGES MIGHT DO TRYING TO BE FUNNY AND SHOW THAT THEY'RE TOUGH ON CRIME. SO THEY'LL SAY I'LL GIVE YOU A SENTENCE OF 19.5 TO 20 YEARS. AND WITHOUT THE ONE-THIRD RULE, THAT BOTTOM SENTENCE BECOMES HALF OF 19. THAT'S WHEN YOU MIGHT BE ELIGIBLE, BUT YOU'LL NEVER GET OUT. AND THAT JUDGE GETS THE PLAUDITS OF THE PEOPLE AND THE COMMUNITY WHO SAY, WOW, YOU'RE TOUGH ON CRIME. SO YOU KEEP THE PERSON WHO WENT THERE AS FRESHMAN AND HE COMES OUT WITH A MASTER'S DEGREE IN HOW TO COMMIT CRIMES. THANK YOU, MR. PRESIDENT. [LB605]

SPEAKER HADLEY: SENATOR SCHUMACHER, YOU'RE RECOGNIZED. [LB605]

SENATOR SCHUMACHER: THANK YOU, MR. SPEAKER, MEMBERS OF THE BODY. IT LOOKS LIKE THAT THE CONTROVERSY TO BE WORKED OUT ON THE BILL IS THE INDETERMINATE SENTENCING RULE THAT A MINIMUM SENTENCE CANNOT BE MORE THAN A THIRD OF THE MAXIMUM. IT'S BEEN A LONG TIME SINCE I'VE BEEN A PROSECUTOR; BUT WHEN I WAS A PROSECUTOR, THAT WAS A GOOD THING, AND WE THOUGHT WE WERE DOING OUR JOB WHEN THE JUDGE GAVE AN INDETERMINATE SENTENCE. OBVIOUSLY, SOMETHING HAS CHANGED IN THE WORLD IN THE LAST COUPLE OF DECADES. I DON'T SEE SENATOR HARR HERE. SENATOR SEILER, WILL YOU YIELD TO A QUESTION? [LB605]

SENATOR SEILER: I WILL. [LB605]

SPEAKER HADLEY: SENATOR...YES. [LB605]



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SENATOR SCHUMACHER: SENATOR SEILER, WHAT IS THE STORY BEHIND THIS? WHY IS THIS A MATTER OF CONTROVERSY? WHY DO THE COUNTY ATTORNEYS OPPOSE BASICALLY THE...DOING IT THE WAY WE DID IT SUCCESSFULLY SO MANY YEARS AGO? [LB605]

SENATOR SEILER: THE ONLY EXPLANATION I'VE HAD IS THAT IF YOU TAKE THE 50 YEARS, DIVIDE IT IN HALF FOR THE GOOD TIME, YOU'RE DOWN TO 25, THEN YOU TAKE A THIRD OF THAT, YOU'RE DOWN TO 8 AND THAT'S WHERE THEY SAY IT'S TOO LOW A NUMBER. [LB605]

SENATOR SCHUMACHER: THANK YOU, SENATOR SEILER. I DON'T THINK THE COURT HAS GOT TO GIVE AN INDETERMINATE SENTENCE. I THINK IT CAN GIVE A FLAT TERM OF YEARS. OF COURSE, I THINK THERE'S AN IMPLIED MINIMUM YEARS. BUT I'M NOT SO CONVINCED, AND I JUST WANT TO GET IT ON THE RECORD THAT THE INDETERMINATE SENTENCING THING IS A BAD THING. AND, YOU KNOW, WHEN YOU'RE LOOKING AT THE EXAMPLE THERE, THAT WAS A 50 YEARS, THAT WAS ONE OF THE HEAVIER FELONIES THAT THEY WAS TALKING ABOUT. THAT'S CERTAINLY NOT THE...THEY'RE GOING TO CALL A CLASS III OR CLASS IIA FELONY. AND I THINK IT MERITS US WATCHING HOW THEY HANDLE THIS INDETERMINATE THING. I'M NOT OF THE IMPRESSION IT'S A TERRIBLY BAD THING. THANK YOU. [LB605]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB605]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, LET ME COMPLETE THAT EXAMPLE I GAVE YOU--19.5 YEARS TO 20 YEARS. WELL, WITH THE GOOD TIME LAW THE WAY IT IS NOW, YOU CUT THE BOTTOM HALF OF THE SENTENCE IN HALF SO THAT YOU'RE ELIGIBLE FOR PAROLE SO YOU'D BE ELIGIBLE FOR PAROLE IN WHAT, 9.5 YEARS OR SOMETHING. THEN YOU CUT THE TOP END IN HALF TO SHOW WHEN YOU MUST BE RELEASED, AND THAT CUTS THAT DOWN TO 10 YEARS. SO YOU KNOW WHAT THE DIFFERENCE IS BETWEEN WHEN YOU COULD GET OUT ON PAROLE AND WHEN THEY MUST RELEASE YOU? A MATTER OF MONTHS. SO RATHER THAN BE RELEASED ON PAROLE AND HAVE ANY REGULATION, YOU SAY, I'M GOING TO SIT OUT MY SIX MONTHS, AND THAT'S WHAT JAMMING MEANS. IT MEANS YOU SERVE OUT ALL OF THE TIME TO THE POINT WHERE THEY HAVE TO RELEASE YOU. NOW, THAT'S SOMETHING THE COUNTY ATTORNEY DIDN'T TELL THESE PEOPLE. IF YOU TAKE ONE-THIRD...I'M NOT GOING TO GO THROUGH IT, BUT YOU CUT THE BOTTOM PART IN HALF TO FIND OUT WHEN YOU'RE ELIGIBLE FOR PAROLE, NOT WHEN YOU'RE TO BE

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RELEASED. YOU CUT HALF OFF THE TOP TO MAKE IT CLEAR WHEN THEY HAVE TO RELEASE YOU. IN THE EARLY DAYS...BECAUSE SENATOR SCHNOOR KIND OF WONDERED IF I KNOW ANYTHING--NO, HE DIDN'T SAY THAT--BUT IN THE EARLY DAYS AROUND THE TURN OF THE CENTURY, THE JUDGES COULD ONLY...IN SENTENCING, THEY COULD ONLY STATE THE MINIMUM AND THE MAXIMUM. AND THE SUPREME COURT RULE THAT THEY WERE DOING MERELY A MINISTERIAL FUNCTION AND THEY COULD NOT SAY WHEN A PERSON WOULD ACTUALLY GET OUT. SO IF THE MINIMUM SET BY STATUTE IS 5 YEARS AND THE MAXIMUM IS 20 YEARS, THE JUDGE SAID, I SENTENCE YOU FROM 5 YEARS TO 20 YEARS BECAUSE THE JUDGE COULDN'T SENTENCE YOU TO LESS THAN WHAT THE STATUTE SAID IS THE MINIMUM NOR COULD THE JUDGE SENTENCE YOU TO MORE THAN WHAT WAS THE MAXIMUM. THEN THEY HAD THIS BOARD THAT WOULD SIT AND LOOK AT ALL THE INFORMATION THAT THEY GOT FROM THE PRISON AND OTHERS TO DETERMINE WHEN YOU WERE LIKELY TO GET OUT. THE JUDGES DIDN'T MAKE THAT DECISION. THEN AS TIME ROCKED ON, THE LEGISLATURE GAVE THE JUDGES THE AUTHORITY TO OPERATE WITHIN THAT MINIMUM SET BY LAW AND THAT MAXIMUM SET BY LAW AND DETERMINE ON THE SPECIFIC CASES OF THE PARTICULAR INDIVIDUAL WHAT THE SENTENCE OUGHT TO BE WITHIN THAT RANGE, AND THAT'S WHEN THAT GOT STARTED. SOMETIME AFTER I GOT IN THE LEGISLATURE, I DON'T REMEMBER THE EXACT YEAR, I WAS ON THE JUDICIARY COMMITTEE. SENATOR ROLAND LUEDTKE WAS THE CHAIRPERSON. AND WITHOUT ANY RATIONALE BEING GIVEN OTHER THAN THAT IT WAS A WORTHWHILE IDEA, AN AMENDMENT WAS PUT IN THE STATUTE WHICH SAID THAT THE JUDGE COULD NOT SENTENCE TO LESS THAN WHAT THE MINIMUM WAS BY STATUTE, BUT THE MAXIMUM COULD BE NO MORE THAN ONE-THIRD...THE MINIMUM COULD BE NO MORE THAN ONE-THIRD OF THE MAXIMUM. SO IF THE JUDGE WAS GOING TO SAY, ALTHOUGH THE SCALE ALLOWS A SENTENCE BETWEEN 5 YEARS AND 20 YEARS, I'M GOING TO GIVE YOU 15. WELL, THAT ONE-THIRD RULE SAID, NO, YOU WON'T. THE MINIMUM WILL NOT BE 15 YEARS. THE MINIMUM WILL BE ONE-THIRD OF THAT MAXIMUM. THEN IT GAVE YOU AN ELIGIBILITY DATE TO BE CONSIDERED FOR PAROLE. AND MOST PEOPLE WHO GO TO PRISON DO NOT MISBEHAVE TO SUCH AN EXTENT... [LB605]

SPEAKER HADLEY: ONE MINUTE. [LB605]

SENATOR CHAMBERS: ...THAT THEY DON'T GET PAROLE. SO THERE WAS A CONSIDERABLE AMOUNT OF TIME BETWEEN WHEN A PERSON WAS PAROLED AND THAT MAXIMUM SENTENCE WOULD HAVE BEEN SERVED THAT HE OR SHE IS UNDER SUPERVISION BEFORE BEING RELEASED FROM PAROLE. THAT'S WHAT

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ALL THAT IS ABOUT. THESE PEOPLE TALKING DON'T EVEN UNDERSTAND IT. DON KLEINE UNDERSTOOD IT, BUT HE MISLED ON PURPOSE SO THAT SOMEBODY ON THIS FLOOR WOULD STAND UP AND TELL YOU WHAT ONE-THIRD OF 50 IS, WHICH ANYBODY KNOWS. THEN HE LEFT IT HANGING BY SAYING THEN THAT PERSON IS ELIGIBLE FOR PAROLE WHEN HALF THAT AMOUNT OF TIME IS SERVED, LEAVING THE IMPRESSION THAT THAT IS GOING TO BE THE RELEASE DATE. AND THAT IS NOT WHAT'S GOING TO HAPPEN. THAT'S WHY I'M SO FRUSTRATED. THAT'S WHY I SAY I'M WASTING MY TIME. I'M WASTING YOUR TIME, TOO, BECAUSE I'M BEING REPETITIVE. WAS THAT MY THIRD TIME, MR. PRESIDENT? [LB605]

SPEAKER HADLEY: TIME. [LB605]

SENATOR CHAMBERS: WAS THAT MY THIRD ONE? [LB605]

SPEAKER HADLEY: THAT WAS YOUR SECOND TIME. ONE TIME LEFT. SENATOR BLOOMFIELD, YOU ARE RECOGNIZED. [LB605]

SENATOR BLOOMFIELD: THANK YOU, MR. PRESIDENT. SENATOR CHAMBERS ENJOYS PLAYING AROUND WITH PEOPLE'S NAMES, SO I BELIEVE I'M GOING TO START CALLING HIM SENATOR "TORTURE," AS IN "TORTURE CHAMBERS." (LAUGHTER) BUT, SENATOR CHAMBERS, YOU SAID SOMETHING A MOMENT AGO ABOUT THE IDEA THAT IF YOU GOT A 50-YEAR SENTENCE THAT WOULD BE REDUCED BY GOOD TIME TO 25, THEN COULD POSSIBLY LOWER YOUR PAROLE DATE TO 8.5. IS THAT...WAS I UNDERSTANDING THAT CORRECTLY OR NOT? WOULD SENATOR CHAMBERS YIELD? [LB605]

SPEAKER HADLEY: SENATOR CHAMBERS, YIELD? [LB605]

SENATOR CHAMBERS: YES, I WILL. HERE'S THE WAY IT WOULD WORK. IF YOU GOT A 50-YEAR SENTENCE, THAT TOP HALF IS REDUCED BY HALF AND THE MAXIMUM BECOMES 25 IN REALITY. AND IF YOU GOT...WELL, LET'S SAY YOU GOT 10 TO 50, THEN THAT 10 BECOMES 5 WHEN YOU'RE ELIGIBLE FOR PAROLE. SO THE LOWER END BECOMES LESSER SO YOU CAN BE CONSIDERED FOR PAROLE, BUT THAT DOESN'T MEAN YOU'LL GET IT. THE TOP END IS LESSENERED SO YOUR RELEASE DATE BECOMES HALF OF WHAT WAS ACTUALLY STATED BY THE COURT. [LB605]

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SENATOR BLOOMFIELD: SO TECHNICALLY IF YOU WERE THE GOOD GUY AND DID EVERYTHING RIGHT, YOU COULD GET OUT IN 8 ON A 50-YEAR SENTENCE? [LB605]

SENATOR CHAMBERS: WELL, IF THE... [LB605]

SENATOR BLOOMFIELD: TECHNICALLY. [LB605]

SENATOR CHAMBERS: IF THE PAROLE BOARD WANTED TO, YOUR FIRST ELIGIBILITY DATE COULD RESULT IN YOUR BEING RELEASED. SO IF YOU GOT FROM 10 TO 50 YEARS, THAT 10 WOULD BE 5. IF YOU DID EVERYTHING RIGHT AND THE PAROLE BOARD WAS CONVINCED OF THAT, YOU COULD GET OUT IN 5 YEARS. [LB605]

SENATOR BLOOMFIELD: OKAY. THANK YOU, SENATOR. MR. PRESIDENT, I'D YIELD THE REMAINDER OF MY TIME TO SENATOR CHAMBERS. [LB605]

SPEAKER HADLEY: SENATOR CHAMBERS, YOU'RE YIELDED THREE MINUTES. [LB605]

SENATOR CHAMBERS: THANK YOU, SENATOR BLOOMFIELD. AND, MEMBERS OF THE LEGISLATURE, ON THAT SUBJECT SINCE THE LEGISLATURE WOULD PASS DIFFERENT GOOD TIME LAWS AND A PERSON MUST HAVE HIS OR HER GOOD TIME FIGURED ON THE BASIS OF WHAT THE LAW WAS WHEN HE OR SHE FIRST WENT IN, YOU CAN SEE HOW DIFFICULT IT WOULD BE TO CALCULATE ACCURATELY THE GOOD TIME OF EVERY ONE OF THOSE OVER A THOUSAND INMATES. THEY MAY LOSE GOOD TIME, THEN IT CAN BE RESTORED. AND SINCE THEY WERE DOING IT ALL, I GUESS, BY PENCIL AND PAPER, SOME OF THEM GOT CONFUSED. THEN OTHERS SAID, WELL, WHAT WE'RE JUST GOING TO DO IS IGNORE WHEN A MANDATORY MINIMUM IS GIVEN. THIS COMPLICATES IT BECAUSE DURING THE PERIOD OF THAT MANDATORY MINIMUM YOU CANNOT GET GOOD TIME. SO YOU HAVE TO SERVE ALL OF THAT MANDATORY MINIMUM, WHATEVER IT IS, DAY FOR DAY. AND IT COMPLICATES THE CALCULATING WHEN YOU HAVE ALL THESE OTHER CASES THAT YOU HAVE TO DEAL WITH. SO THEY JUST DECIDED THEY WERE GOING TO IGNORE THE GOOD TIME, I MEANT THE MANDATORY MINIMUM SENTENCE AND FIGURE THE GOOD TIME AS THOUGH THE MANDATORY MINIMUM WERE NOT THERE, AND THEY WOULD RECKON THAT A PERSON WAS GETTING GOOD TIME DURING THAT PERIOD WHEN THE MANDATORY MINIMUM WAS BEING SERVED. THEY WOULD HAVE TO SERVE THE

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MANDATORY MINIMUM BEFORE THEY COULD BE RELEASED, BUT THEY WERE GETTING GOOD TIME AGAINST THAT MAXIMUM DATE WHEN THEY HAD TO BE RELEASED, AND THAT'S WHERE THEY WERE VIOLATING WHAT THE NEBRASKA SUPREME COURT HAD SAID. SO THERE ARE THINGS THAT THE LEGISLATURE HAS DONE TRYING TO SHOW THAT THEY'RE TOUGH ON CRIME ON THE FRONT END AND THEN WASH THEIR HANDS OF IT. BUT THEY DON'T CARE WHAT HAPPENS IN THE PENITENTIARY. THE ONLY REAL METHOD THEY HAVE OF MANAGING THOSE INMATES IS GOOD TIME. [LB605]

SPEAKER HADLEY: ONE MINUTE. [LB605]

SENATOR CHAMBERS: THIS GIVES YOU WHAT THEY CALL SKIN IN THE GAME. IF YOU BEHAVE, YOU KEEP THE GOOD TIME THAT YOU'RE GRANTED WHEN YOU FIRST COME IN. IF YOU MISBEHAVE, YOU LOSE THE GOOD TIME; AND AS YOU LOSE THE GOOD TIME, YOU EXTEND THE AMOUNT OF TIME YOU HAVE TO BE HERE WITH US. THERE ARE SOME INMATES, THEY JUST GET OVERWHELMED, AND THEY DO THINGS IN ANGER OR JUST WHATEVER HAPPENS WHEN YOU SPEND ALL THAT TIME IN THERE AND THEY LOSE GOOD TIME. BUT IF YOU TELL THEM THERE'S NO WAY YOU CAN EARN GOOD TIME, THEN THEY'LL TELL YOU WHERE YOU CAN GO AND THEY TELL YOU WHAT YOU CAN DO TO YOURSELF. AND THEY'LL BE RIGHT WHEN THEY TELL, YOU CAN'T EXTEND THE TIME I HAVE TO BE HERE BECAUSE THE JUDGE SET THAT TIME AND THAT'S THE MAXIMUM TIME YOU CAN KEEP ME HERE AND YOU CAN'T MAKE ME DO NOTHING. AND I'M NOT GOING TO DO ANYTHING. THE INCENTIVE IS TAKEN AWAY SO IT'S VERY EASY FOR PEOPLE OUT HERE TO GET THAT SOUND BITE TO SAY, GET RID OF ALL GOOD TIME, AND THEN YOU FORGET ABOUT THE PEOPLE... [LB605]

SPEAKER HADLEY: TIME, SENATOR. [LB605]

SENATOR CHAMBERS: ...WHO ARE WORKING IN THE PRISONS. THANK YOU, MR. PRESIDENT. [LB605]

SPEAKER HADLEY: YOU'RE NEXT IN THE QUEUE, AND IT'S YOUR THIRD TIME. SENATOR CHAMBERS WAIVES. SENATOR MELLO, THERE'S NO ONE IN THE QUEUE. YOU'RE RECOGNIZED TO CLOSE ON LB605. [LB605]

SENATOR MELLO: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE. INTERESTING DEBATE TODAY IN REGARDS TO BOTH I THINK THE INITIAL GREEN COPY COMPONENTS THAT YOU HAD IN FRONT OF YOU OF LB605;

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THE COMMITTEE AMENDMENT, AM1010; AND SENATOR SEILER'S AMENDMENT, AM1242. AS EVERYONE...AS JUST A REMINDER AS WHAT SENATOR SEILER HAD SAID ON THE FLOOR, THERE WILL BE A GROUP OF US WORKING WITH THOSE WHO ARE IN OPPOSITION, I REMIND EVERYONE, IN OPPOSITION TO THE COMMITTEE AMENDMENT AND WE'RE NOT IN OPPOSITION TO THE GREEN COPY OF THE BILL. OPPOSITION TO THE COMMITTEE AMENDMENT WILL WORK BETWEEN GENERAL AND SELECT FILE TO TRY TO FIND A COMPROMISE IN REGARDS TO MOVING LB605 FORWARD. I'D REMIND EVERYONE IS THIS ISSUE OF INDETERMINATE SENTENCING AND THE ONE-THIRD RULE, THERE IS A BILL IN JUDICIARY COMMITTEE--AND I'VE SPOKEN WITH SENATOR PANSING BROOKS, AND I HAVE NOTHING BUT RESPECT FOR SENATOR PANSING BROOKS IN REGARDS TO WHAT SHE WANTS TO ACHIEVE THROUGH HER POLICY OBJECTIVES--BUT THERE IS A SEPARATE BILL IN JUDICIARY THAT DEALS WITH THIS ISSUE. AND IT WAS NOT INCLUDED SPECIFICALLY BY CSG AS PART OF THEIR RECOMMENDATION, COLLEAGUES, BECAUSE THEY COULD NOT GENERATE CONSENSUS AMONGST THE STAKEHOLDERS. THAT INCLUDED LAW ENFORCEMENT, INCLUDED POLICYMAKERS, INCLUDED THE EXECUTIVE AND JUDICIAL BRANCHES, AS WELL AS PUBLIC DEFENDERS AND COUNTY ATTORNEYS ALONG THE WAY IN REGARDS TO THAT SPECIFIC POLICY IN ADDRESSING THE ISSUE OF FLAT SENTENCES AND INDIVIDUALS JAMMING OUT OF CORRECTIONS. THAT WAS THE REASON WHY IT WAS NOT INCLUDED AS WELL AS WHAT SENATOR McCOY MENTIONED EARLIER, THAT CSG COULD NOT MODEL THAT SPECIFIC POLICY AND ITS IMPACTS ON THE OVERALL JUSTICE REINVESTMENT FRAMEWORK. WE WILL WORK BETWEEN GENERAL AND SELECT TO FIND A POLICY TO BE ABLE TO MOVE FORWARD, AND IT LIKELY WILL NOT LOOK WHAT YOU HAVE IN FRONT OF YOU NOW IN LB605. BUT THE POLICY ISSUE IS REALLY THERE, AND I THINK THAT IS THE UNDERLYING POINT THAT I WANT TO REMIND THE BODY THAT WE HEARD FROM A NUMBER OF SENATORS THAT THE ISSUE OF INDIVIDUALS JAMMING OUT OF OUR CORRECTIONAL SYSTEM IS AN ISSUE AND IT'S A PROBLEM. NOW THE GREEN COPY OF LB605, COLLEAGUES, DEALS WITH OVER 70 PERCENT OF THOSE INDIVIDUALS JAMMING OUT THROUGH POSTSUPERVISION RELEASE, AND THAT SHOULD NOT BE LOST ON ANYONE THAT THE GREEN COPY OF LB605, WHICH CSG HAD DRAFTED WITH US, ADDRESSES 70 PERCENT OF THE JAM OUT OF SENTENCES. SO THE INDIVIDUALS WHO ARE LEFT IN REGARDS TO JAMMING OUT ARE YOUR FELONY I's AND YOUR FELONY II's, WHICH ARE ARGUABLY THE MOST SERIOUS, VIOLENT OFFENDERS IN OUR CORRECTIONAL SYSTEM. AND SO THOSE INDIVIDUALS WE HAVE TO COME UP WITH SOME SOLUTION TO ADDRESS THE ISSUE OF THEM JAMMING OUT. THE REALITY IS TO SOME EXTENT--AND IT'S A CONVERSATION AND IT'S A POLICY THAT I HAD TO COME TO A REALIZATION ON--IS THERE ARE SOME CASES WHERE

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AN INDIVIDUAL WILL JAM OUT BECAUSE THEY WILL NOT TAKE PROGRAMMING. THEY WILL NOT GO THROUGH THE PAROLE PROCESS BECAUSE THEY DO NOT WANT SUPERVISION FROM THE STATE AFTER THEY LEAVE CORRECTIONS. AND I DON'T KNOW IF THERE'S ANYTHING WE CAN DO IN THOSE INSTANCES. IT'S SOMETHING THAT SENATOR KRIST, SENATOR SEILER, AND MYSELF HAVE BEEN TALKING ABOUT OVER THE LAST COUPLE WEEKS IS HOW DO YOU SOLVE THE JAM OUT ISSUE, SO TO SPEAK? AND I DON'T KNOW IF THERE IS A SINGLE SILVER BULLET TO ADDRESS THAT. BUT THE UNDERLYING PREMISE IN LB605 IS IT STARTS US DOWN A PATHWAY, COLLEAGUES, TO MOVE NONVIOLENT OFFENSES TOWARDS PROBATION. IT ADDRESSES SOME SENTENCING CHANGES IN REGARDS TO VIOLENT AND/OR SEX OFFENSES ARE INCREASED. AND IT MOVES US DOWN A PATH OVER A FIVE-YEAR PERIOD TO REDUCE OUR PRISON POPULATION FROM 170 PERCENT TO ROUGHLY 140 PERCENT. WE'VE GOT A LOT OF WORK TO DO, COLLEAGUES. WE HAVE A FEW MORE BILLS MOVING FORWARD, BUT BELIEVE ME... [LB605]

SPEAKER HADLEY: ONE MINUTE. [LB605]

SENATOR MELLO: ...WHEN I SAY THIS, WE HAVE GOT A LOT OF WORK OVER THE NEXT GENERAL AND...OR BETWEEN SELECT FILE AND NOW. AND I URGE THE BODY TO MOVE THIS BILL FORWARD WITH THE UNDERSTANDING THAT WE WILL FIND SOME RESOLUTION ON THE ISSUES THAT WE DISCUSSED TODAY. THANK YOU, MR. PRESIDENT. [LB605]

SPEAKER HADLEY: THE BILL BEFORE US IS THE ADOPTION OF LB605. ALL THOSE IN FAVOR SIGNIFY BY VOTING AYE; OPPOSED, NAY. HAVE ALL VOTED? RECORD, MR. CLERK. [LB605]

CLERK: 35 AYES, 3 NAYS, MR. PRESIDENT, ON THE ADVANCEMENT OF LB605. [LB605]

SPEAKER HADLEY: LB605 IS ADVANCED. MR. CLERK. [LB605]

CLERK: MR. PRESIDENT, THE NEXT BILL, LB598, A BILL BY SENATOR SCHUMACHER. (READ TITLE.) INTRODUCED ON JANUARY 21, REFERRED TO JUDICIARY, ADVANCED TO GENERAL FILE. THERE ARE COMMITTEE AMENDMENTS, MR. PRESIDENT. (AM928, LEGISLATIVE JOURNAL PAGE 1003.) [LB598]

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SPEAKER HADLEY: SENATOR SCHUMACHER, YOU'RE RECOGNIZED TO OPEN ON YOUR BILL. [LB598]

SENATOR SCHUMACHER: THANK YOU, MR. SPEAKER. I'M PLEASED TO INTRODUCE LB598 TODAY. WE'VE BEEN PEDALING UPHILL AGAINST THE WIND AND MAYBE NOW WE'VE GOTTEN TO THE CREST OF THE HILL, AND WE'VE GOT WHAT AMOUNTS TO THREE BILLS THAT EVENTUALLY BY THE COMMITTEE AMENDMENT ARE ROLLED INTO THIS BILL, AND MAYBE COAST A LITTLE BECAUSE THEY ARE A WHOLE LOT SIMPLER CONCEPTS. THE LR424 COMMITTEE RATHER SUBDIVIDED SOME OF THE ISSUES THAT WAS DISCOVERED IN THE HEARINGS, AND I GOT THE ONE THAT DEALT WITH SEGREGATION. WHAT THE HEARINGS REVEALED WAS THAT WE HAVE A PROBLEM WITH THE USE OF SEGREGATION IN OUR FACILITIES, THAT'S ADMINISTRATIVE SEGREGATION, SOLITARY CONFINEMENT. THEY HAD A BUNCH OF DIFFERENT NAMES FOR WHAT AMOUNTED TO THE SAME THING AND THAT WAS LOCKING YOU IN A VERY SMALL CELL FOR VARIOUS THINGS THAT WERE CONSIDERED MISBEHAVIORS. AND YOU GOT OUT FOR, I THINK IT WAS A HALF AN HOUR A DAY, DOING A LITTLE RUNNING BACK AND FORTH IN A DOG RUN. AND IN THE...MR. JENKINS, FOR EXAMPLE, OF HIS TEN YEARS, SPENT ABOUT 60 PERCENT OF HIS TIME IN THIS TYPE OF ENVIRONMENT AND THE PSYCHOLOGIST AND EVERYONE TOLD US THAT THAT WOULD DRIVE ANYBODY BATTY IF YOU HAD TO PUT UP WITH THAT FOR VERY LONG. WHAT WAS PARTICULARLY NOTEWORTHY IS THAT TO MR. JENKINS GOT UP TO DOUGLAS COUNTY FOR, I THINK IT WAS A FUNERAL, MISBEHAVED, AND ENDED UP BEING CHARGED ON...CHARGES THERE. WAS HELD IN DOUGLAS COUNTY FOR A YEAR AND THEY WERE ABLE TO MANAGE HIM OUTSIDE OF ADMINISTRATIVE SEGREGATION OR SOLITARY CONFINEMENT JUST FINE. WHEN HE WAS RETURNED TO THE STATE FACILITY, IMMEDIATELY HE WENT BACK INTO SOLITARY CONFINEMENT AND ESSENTIALLY STAYED THERE RIGHT UP UNTIL HIS RELEASE. AND I THINK EVERYONE FELT THAT THAT WAY THAT WAS HANDLED CONTRIBUTED TO THE PROBLEMS THAT WE SAW IN THE EVENTUAL FOUR HOMICIDES. PART OF THE PROBLEM WAS THAT THERE ARE NO RULES FOR HOW PEOPLE ARE CONFINED OR AT LEAST PUBLICLY KNOWLEDGEABLE RULES. IT WAS KIND OF FLY BY THE SEAT OF YOUR PANTS BY THE ADMINISTRATION AS TO WHO IS CONFINED TO SOLITARY CONFINEMENT, WHAT ARE THE LEVELS OF SOLITARY CONFINEMENT, WHAT KIND OF TREATMENT AND ACCESS TO PSYCHOLOGISTS AND PSYCHIATRISTS YOU GET. THE IMPRESSION I HAD THAT MOST OF IT WAS THROUGH YOUR CELL DOOR AND IT WASN'T VERY OFTEN. SO, A BAD, BAD SITUATION. I THINK THERE ARE ROUGHLY 300 PEOPLE THAT ARE IN THAT SITUATION RIGHT NOW IN OUR STATE AND IT IS PRETTY BAD. WE HAD TWO DIFFERENT APPROACHES TO TAKE TO THE ISSUE. ONE, WE COULD TRY TO



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MICROMANAGE IT IN LEGISLATION AND SAY, OKAY, THESE ARE THE CIRCUMSTANCES UNDER WHICH YOU GO INTO SOLITARY CONFINEMENT OR RESTRICTED HOUSING, AND THESE ARE THE STEPS THAT YOU CAN TAKE TO GET OUT. AND NOBODY SHALL BE HELD THERE FOR MORE THAN SO MANY DAYS WITHOUT SUCH AND SUCH HAPPENING. AND, BASICALLY, IT WAS PRETTY CLEAR THAT NONE OF US IN HERE ARE PRISON ADMINISTRATORS AND KNEW A WHOLE LOT ABOUT WHAT WE WERE TALKING ABOUT AS FAR AS THE DETAILS OF THAT. THE OTHER APPROACH IS TO SAY TO THE DEPARTMENT--GIVING THE NEW ADMINISTRATION AND THE NEW DIRECTOR THE BENEFIT OF THE DOUBT--THAT THEY'RE GOING TO PLAY FAIR, PLAY STRAIGHT, TRY TO WORK ON THESE PROBLEMS, SAYING, LISTEN, BEYOND A CERTAIN DATE THERE WILL BE NO SOLITARY CONFINEMENT UNLESS IT'S DONE IN CONFORMITY WITH RULES AND REGULATIONS THAT YOU ADOPT PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT IN OPEN HEARINGS WHERE EVERYBODY CAN PUT THEIR TWO CENTS' WORTH IN AND THE NEWSPAPERS CAN CRITICIZE AND THE ACLU CAN MAKE THEIR SUGGESTIONS AND THE COUNTY ATTORNEYS CAN MAKE THEIR SUGGESTIONS AND WHATEVER ELSE. BUT NOBODY'S HELD IN THERE UNLESS THEY CONFINED WITH RULES THAT YOU ADOPT IN A PROPERLY CONSTITUTED FORUM. AND THEN THERE IS A MINOR EXCEPTION IF THE ADOPTION OF THOSE RULES WOULD JEOPARDIZE THE SECURITY OF THE INSTITUTION. THEY CAN BE IN A MORE SECRETIVE FORUM. YOU CERTAINLY WOULDN'T WANT FOLKS TO KNOW THE RULES AND REGULATIONS AS TO HOW TO LOCK SOME OF THE DOORS OR SOMETHING LIKE THAT. SO, THAT'S THE APPROACH THAT WAS TAKEN. AND WE ALSO THEN REQUIRED THAT THERE TO BE REPORTS TO THE LEGISLATURE EVERY YEAR THAT DETAILED WHO IS IN THERE, WHY THEY WERE IN THERE, HOW LONG THEY WERE IN THERE, HOW WE COMPARE WITH OTHER STATES IN THE USE OF THE SEGREGATED TECHNIQUES AND THOSE ARE OUTLINED WITHIN THE BILL. THERE'S ABOUT A HALF A DOZEN DIFFERENT THINGS. SO THIS IS AN EFFORT TO GIVE THE BENEFIT OF THE DOUBT TO THE NEW ADMINISTRATION, THE NEW DIRECTOR, THAT THIS WILL BE CLEANED UP WITH PROPERLY ADOPTED RULES, AND THAT NOBODY IS GOING TO BE HELD THERE UNLESS THEY'RE HELD THERE IN CONFORMITY WITH THOSE RULES. IT'S PRETTY STRAIGHTFORWARD, PRETTY SIMPLE. IT WILL APPEAR IN THE AMENDMENT THAT'S GOING TO BE OFFERED WHERE THIS BILL IS ROLLED INTO IT. AND IT'S REALLY FAIRLY SHORT, PAGES 29 THROUGH...LOOKS LIKE 32 OF THE AMENDMENT. IT SAYS JUST ABOUT AS MUCH AS I TOLD YOU. HOPEFULLY, WE WILL NOT HAVE WHAT AMOUNTS TO A RATHER SINFUL SITUATION IN SOLITARY CONFINEMENT IN THIS STATE MUCH LONGER. AND IT IS, LIKE I SAID, GIVING THE NEW ADMINISTRATION THE BENEFIT OF THE DOUBT. IF FOR SOME REASON WE DON'T HAVE A WARM AND COMFY THAT THIS HAS BEEN TAKEN CARE OF, THEN

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WE MAY HAVE TO BE MORE PRISON ADMINISTRATORS. BUT IN THE MEETINGS I'VE HAD WITH THE NEW DIRECTOR, I THINK THAT EVERYONE REALIZES THERE'S A PROBLEM AND THIS IS A VEHICLE FOR BRINGING AN ORDERLY SOLUTION TO THE PROBLEM. I THINK THE COMMITTEE AMENDMENTS WILL DESCRIBE THE ADDITION OF THE OTHER TWO BILLS TO LB598 AND HOPEFULLY, THEY'RE AS STRAIGHTFORWARD AS THIS PART WAS AND WE CAN MOVE THIS BILL TODAY. THANK YOU. [LB598]

SPEAKER HADLEY: AS THE CLERK STATED, THERE ARE AMENDMENTS FROM THE JUDICIARY COMMITTEE. SENATOR SEILER, AS CHAIR OF THE COMMITTEE, YOU'RE RECOGNIZED TO OPEN ON THE AMENDMENTS. [LB598]

SENATOR SEILER: THANK YOU, MR. SPEAKER. MEMBERS OF THE UNICAMERAL, PAUL ALWAYS DOES A GREAT JOB OF DESCRIBING HIS BILL. I'D THOUGHT THERE FOR A MINUTE HE WAS GOING TO LEAVE ME WITH NOTHING TO SAY, BUT THIS IS REALLY A COMBINATION. AM928 MOVED OUT OF JUDICIARY UNANIMOUSLY WITH ALL EIGHT SENATORS PRESENT AND VOTING. AM928 IS A COMBINATION OF LB592, LB606 AND LB598. THE THREE BILLS WERE INTRODUCED TO IMPLEMENT THE RECOMMENDATIONS OF THE DEPARTMENT OF CORRECTIONAL SERVICES SPECIAL INVESTIGATIVE COMMITTEE, KNOWN AS LR424. IT'S A PRIORITY BILL BY THE PERFORMANCE AUDIT COMMITTEE. I THINK ONE OF THE THINGS THAT SECTION 36 DOES IN THAT AMENDMENT, THE DEPARTMENT IS TO PROMULGATE RULES AND REGULATIONS TO DEFINE THE TERM FLAGRANT AND SERIOUS MISCONDUCT AS RECOMMENDED BY THE PERFORMANCE AUDIT. I BELIEVE THAT'S A WELL-WELCOMED CHANGE. AND THEN, I THINK THE LAST THING THAT WE NEED TO DISCUSS IS LB606 REALLY CREATED THE OFFICE OF THE INSPECTOR GENERAL OF THE NEBRASKA CORRECTIONS SYSTEM. AND THEY ARE UNDER THE AUSPICES OF THE OFFICE OF PUBLIC COUNSEL, WHICH IS THE OMBUDSMAN. AND EACH AND EVERY ONE OF YOU SHOULD HAVE AN OPPORTUNITY TO WORK WITH THAT GROUP. THEY DO AN AMAZING JOB. THE LAST IS THE OVERCROWDING EMERGENCY ACT, SECTION 37. AND THE GOVERNOR...IN CURRENT LAW IS, THE GOVERNOR MAY DECLARE AN OVERCROWDING EMERGENCY. AND WHEN THE POPULATION REACHES 140 PERCENT...AS AMENDED JULY 1ST, 2020, THE GOVERNOR WOULD BE REQUIRED TO DECLARE AN EMERGENCY WHICH WOULD REQUIRE THE PAROLE BOARD TO CONSIDER OR RECONSIDER INMATES WHO ARE PAROLE ELIGIBLE. AND IF I...OH, HERE IT IS. I CAN TELL YOU WHAT THAT MEANS. IF YOU GET THIS BLUE PAMPHLET FROM THE DEPARTMENT OF CORRECTIONS, THEY HAVE THAT SET OUT IN THERE WHO'S ELIGIBLE. AND I THINK IT WAS 1,320-SOME THAT ARE ELIGIBLE FOR PAROLE

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AND...1,342, EXCUSE ME, ARE PAROLE ELIGIBLE AND THE AVERAGE TIME ON PAROLE IS 8.69 MONTHS. THANK YOU, MR. SPEAKER. [LB598 LB592 LB606]

SPEAKER HADLEY: SENATOR MELLO, YOU ARE RECOGNIZED. [LB598]

SENATOR MELLO: THANK YOU, MR. PRESIDENT AND MEMBERS OF THE LEGISLATURE. I RISE IN SUPPORT OF AM928 TO THE UNDERLYING BILL. AM928 INCORPORATES ONE OF THE BILLS THAT I BROUGHT TO JUDICIARY COMMITTEE AS PART OF THE LR424 RECOMMENDATIONS, LB606 WHICH CREATES THE OFFICE OF INSPECTOR GENERAL OVER THE DEPARTMENT OF CORRECTIONAL SERVICES WHICH IS A NEW LEGISLATIVE OFFICE THAT WOULD BE HOUSED WITHIN THE OMBUDSMAN'S OFFICE, OR BETTER KNOWN AS THE PUBLIC COUNSEL'S OFFICE, AS WELL AS A CHANGE TO THE EMERGENCY OVERCROWDING ACT IN REGARDS TO WHEN THE STATE MUST DECLARE AN EMERGENCY WHEN PRISON CAPACITY REACHES...OVER CAPACITY REACHES A CERTAIN PERCENTAGE. WE HAD ESSENTIALLY MADE THAT CHANGE IN THE ORIGINAL LB606 BASED OFF THE LR424 RECOMMENDATION. IN TALKING WITH THE COMMITTEE, IT WAS BEST FELT TO MOVE THAT DATE FORWARD TO GIVE SOME LEEWAY IN RESPECTS TO THE ASSUMPTION THAT LB605 AND THE CSG RECOMMENDATIONS WOULD BE PASSED THIS YEAR, WHICH IS A FIVE-YEAR WINDOW FOR THEIR RECOMMENDATIONS THAT FULLY TAKE EFFECT, WHICH WOULD BRING OUR PRISON POPULATION BACK DOWN BELOW 140 PERCENT. SO, AS YOU READ THROUGH THE COMMITTEE AMENDMENT, IT DOES MAKE A CHANGE. THE OVERCROWDING EMERGENCY ACT WOULD NOT TAKE EFFECT AT 140 PERCENT WHEN THE EMERGENCY WILL BE DECLARED UNTIL YEAR 2020. THAT IS THE FIVE-YEAR WINDOW THAT WE WANTED TO ENSURE TO GIVE THE STATE TIME TO ALLOW THE CSG RECOMMENDATIONS TO BE FULLY IMPLEMENTED. THOSE ARE THE TWO COMPONENTS OF LB606 THAT WERE INCORPORATED IN THE COMMITTEE AMENDMENT. AND THE COMPONENT THAT WAS LEFT OUT IS DEALING WITH THE ADMINISTRATIVE PROCEDURES ACT AND THE DEPARTMENT OF CORRECTIONS' FAILURES OVER A LONG NUMBER OF YEARS TO NOT FOLLOW THE RULES AND REGULATIONS PROCESS, WHICH CURRENTLY IS BEING DONE THROUGH ANOTHER PROCESS WITHIN THE LEGISLATURE. WITH THAT, I'D URGE THE BODY TO ADOPT AM928 AND LB598. THANK YOU, MR. PRESIDENT. [LB598 LB605 LB606]

SPEAKER HADLEY: SENATOR McCOY, YOU ARE RECOGNIZED. [LB598]

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SENATOR McCOY: THANK YOU, MR. PRESIDENT AND MEMBERS. WOULD SENATOR MELLO YIELD, PLEASE? [LB598]

SPEAKER HADLEY: SENATOR MELLO, WILL YOU YIELD? [LB598]

SENATOR MELLO: YES. [LB598]

SENATOR McCOY: THANK YOU, SENATOR. I'VE BEEN GOING THROUGH LB606 AND TRYING TO UNDERSTAND WHAT WE'RE POTENTIALLY ADOPTING IN AS PART OF THE AMENDMENT HERE TO LB598. YOU HAD JUST SAID ON THE MICROPHONE-- WHICH ACTUALLY WAS GOING TO BE MY FIRST QUESTION TO YOU AND DOVETAILS RIGHT IN WITH WHAT I WAS GOING TO ASK--WHAT, FOR THE BENEFIT OF THE RECORD, WHERE ELSE, WHEN ELSE, I SHOULD SAY, DURING THE SESSION, AND IN WHAT BILL ARE WE ADDRESSING WHAT YOU JUST SAID AS I UNDERSTAND WAS PART OF LB606, WHICH IS NOT PART OF AM928, THE ADMINISTRATIVE PROCEDURES ACT? WHERE ELSE ARE WE ADDRESSING THAT THIS SESSION? [LB598 LB606]

SENATOR MELLO: THAT IS AN ISSUE THAT IS BEING ADDRESSED THROUGH THE PERFORMANCE AUDIT COMMITTEE, BUT DUE TO STATUTE, I'M NOT ALLOWED TO DISCUSS NOR IS OTHER PERFORMANCE AUDIT COMMITTEE MEMBERS ABLE TO DISCUSS RIGHT NOW AN ISSUE THAT'S CURRENTLY BEING...THAT'S CURRENTLY GOING THROUGH THE AUDIT PROCESS UNTIL THAT PROCESS BECOMES PUBLIC. [LB598]

SENATOR McCOY: I UNDERSTAND THAT AND I'M NOT ASKING YOU TO DIVULGE THAT. WHAT I'M SAYING IS, IS THAT GOING TO BE ADDRESSED IN STATUTE IN THE BILL... [LB598]

SENATOR MELLO: NO. [LB598]

SENATOR McCOY: ...OR IN AN OTHERWISE MANNER OUTSIDE OF A PIECE OF LEGISLATION? [LB598]

SENATOR MELLO: NOT THIS LEGISLATIVE SESSION, SENATOR McCOY. I THINK THE ISSUE IS IT'S BEING LOOKED AT AND BEING EVALUATED AND STUDIED IN THE HOPING BEING THAT THERE WILL BE AN ISSUE THAT CAN BE BROUGHT NEXT

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YEAR TO ADDRESS SHORTCOMINGS IN OUR ADMINISTRATIVE PROCEDURES ACT.  
[LB598]

SENATOR McCOY: AND I APPRECIATE THAT, SENATOR. THAT WAS THE ANSWER THAT I ANTICIPATED THAT YOU WERE GOING TO MENTION. AND I THINK THAT CONCLUDES THE QUESTION THAT I HAD ON LB606. OH, ONE LAST ONE IF I MAY, SENATOR. WOULD YOU MIND, I DIDN'T...OBVIOUSLY, NOT HAVING THE BENEFIT OF A COMMITTEE STATEMENT, CAN YOU APPRISE ME OF WHO TESTIFIED ON LB606? DO YOU RECALL? I'M NOT GOING TO PUT YOU ON THE SPOT WITH THAT, BUT... [LB598 LB606]

SENATOR MELLO: SENATOR McCOY, I KNOW WE HAD THE PUBLIC COUNSEL TESTIFY IN SUPPORT. WE HAD, I KNOW, I BELIEVE THE ACLU OF NEBRASKA CAME IN SUPPORT. I BELIEVE THERE WAS A NUMBER OF OTHER ENTITIES THAT CAME IN SUPPORT OF PROVIDING THE LEGISLATIVE OVERSIGHT OVER THE DEPARTMENT OF CORRECTIONS. I COULD GET...MY STAFF CAN PROBABLY PROVIDE YOU WITH THE LIST OF TESTIFIERS WHO TESTIFIED ON LB606 SPECIFICALLY, IF YOU'D LIKE. THERE WAS NO OPPOSITION, GENERAL OPPOSITION TO THE BILL. THERE WAS, I GUESS, ONE INDIVIDUAL WHO TESTIFIED ON HIS OWN NATURE NOT SUPPORTING THE ADDITION OF AN INSPECTOR GENERAL, BECAUSE IT WAS ADDING AN ADDITIONAL STAFF PERSON IN THE LEGISLATIVE COUNCIL AND THAT WAS HIS LONE OPPOSITION TO THE BILL. [LB598 LB606]

SENATOR McCOY: WELL, I APPRECIATE THAT, SENATOR. THAT'S ALWAYS ONE OF THE THINGS...I KNOW SOME OF US I THINK THAT HAVE BEEN AROUND HERE A WHILE, IT'S ONE OF THE CONCERNS I ALWAYS HAVE, ESPECIALLY WHEN WE GET TO THIS PORTION OF THE SESSION WHERE WE'RE SOMETIMES AMENDING A NUMBER OF BILLS INTO ANOTHER BILL. UNLESS YOU SIT ON THAT COMMITTEE YOU'RE NOT AFFORDED THE OPPORTUNITY TO KNOW JUST EXACTLY WHO CAME AND TESTIFIED ON THIS PIECE OF LEGISLATION, AND WITHOUT THE BENEFIT, OF COURSE, OF A COMMITTEE STATEMENT IN THE CASE OF ANY BILL THAT WASN'T VOTED OUT AND PROVIDED WITH A COMMITTEE STATEMENT THAT WOULD BE AVAILABLE TO US ALL. SO, I APPRECIATE THAT. THANK YOU, SENATOR MELLO. [LB598]

SPEAKER HADLEY: SEEING NO ONE ELSE IN THE QUEUE, SENATOR SEILER YOU'RE RECOGNIZED TO CLOSE ON AM928. SENATOR SEILER WAIVES CLOSING ON AM928. QUESTION IS THE ADOPTION OF AM928. ALL THOSE IN FAVOR VOTE

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AYE; OPPOSED VOTE NAY. HAVE ALL VOTED WHO WISH? RECORD, MR. CLERK.  
[LB598]

CLERK: 31 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF COMMITTEE  
AMENDMENTS. [LB598]

SPEAKER HADLEY: THE AMENDMENT IS ADOPTED. SEEING NO ONE IN THE  
QUEUE, SENATOR SCHUMACHER, YOU'RE RECOGNIZED TO CLOSE ON LB598.  
[LB598]

SENATOR SCHUMACHER: THANK YOU, MR. SPEAKER AND MEMBERS OF THE  
BODY. JUST BRIEFLY, LB598 DEALS WITH THOSE ISSUES THAT STOOD OUT FROM  
THE LR424 HEARINGS, AS WELL AS THE ISSUES WORKED ON BY JUDICIARY  
COMMITTEE, AS NEEDING TO BE ADDRESSED TO CLEAN UP THIS VERY MESSY  
SITUATION THAT EVOLVED IN OUR CORRECTIONS DEPARTMENT AS IT  
DEVELOPED OVER THE LAST FEW YEARS. I'D ASK YOUR SUPPORT FOR THE BILL  
AS AMENDED. THANK YOU. [LB598]

SPEAKER HADLEY: QUESTION FOR THE BODY IS THE ADOPTION OF LB598. ALL  
THOSE IN FAVOR VOTE AYE; OPPOSED VOTE NAY. HAVE ALL VOTED WHO WISH?  
RECORD, MR. CLERK. [LB598]

CLERK: 32 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADVANCEMENT OF THE BILL.  
[LB598]

SPEAKER HADLEY: LB598 IS ADVANCED TO E&R INITIAL. MR. CLERK. [LB598]

CLERK: MR. PRESIDENT, SOME ITEMS. ENROLLMENT AND REVIEW REPORTS  
LB265, LB482 AS CORRECTLY ENGROSSED. SENATOR SCHUMACHER WOULD LIKE  
TO PRINT AN AMENDMENT TO LB72; SENATOR CAMPBELL TO LB89A. NAME  
ADDS: SENATOR GARRETT AND FRIESEN TO LB623; SENATOR MELLO TO LR154.  
(LEGISLATIVE JOURNAL PAGES 1181-1183.) [LB265 LB482 LB72 LB89A LB623 LR154]

MR. PRESIDENT, SENATOR HUGHES WOULD MOVE TO ADJOURN THE BODY UNTIL  
WEDNESDAY MORNING, APRIL 15, AT 9:00 A.M.

Transcript Prepared By the Clerk of the Legislature  
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SPEAKER HADLEY: YOU'VE HEARD THE MOTION TO ADJOURN THE BODY. ALL IN FAVOR SIGNIFY BY SAYING AYE. OPPOSED, NAY. MOTION CARRIES. WE ARE ADJOURNED.