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Floor Debate
February 08, 2016

[LB131 LB188 LB270 LB275 LB474 LB474A LB505A LB505 LB686 LB695 LB699 LB702
LB737 LB751 LB759 LB760 LB761 LB771 LB775 LB814A LB827 LB853 LB876 LB976
LB1038 LR378CA LR424 LR425 LR426 LR427 LR428]

PRESIDENT FOLEY PRESIDING

PRESIDENT FOLEY: GOOD MORNING, LADIES AND GENTLEMEN, AND WELCOME TO THE GEORGE W. NORRIS LEGISLATIVE CHAMBER FOR THE TWENTY-SECOND DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, SECOND SESSION. OUR CHAPLAIN FOR TODAY IS PASTOR RON DRURY OF THE SHEPHERD OF THE HILLS LUTHERAN CHURCH IN HICKMAN, NEBRASKA, SENATOR BAKER'S DISTRICT. PLEASE RISE.

PASTOR DRURY: (PRAYER OFFERED.)

PRESIDENT FOLEY: THANK YOU, PASTOR DRURY. I CALL TO ORDER THE TWENTY-SECOND DAY OF THE ONE HUNDRED FOURTH LEGISLATURE, SECOND SESSION. SENATORS, PLEASE RECORD YOUR PRESENCE. ROLL CALL. MR. CLERK, PLEASE RECORD.

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

PRESIDENT FOLEY: THANK YOU, MR. CLERK. ARE THERE ANY CORRECTIONS FOR THE JOURNAL?

CLERK: I HAVE NO CORRECTIONS, MR. PRESIDENT.

PRESIDENT FOLEY: THANK YOU, MR. CLERK. ARE THERE ANY MESSAGES, REPORTS, OR ANNOUNCEMENTS?

CLERK: I HAVE NEITHER MESSAGES, REPORTS, NOR ANNOUNCEMENTS AT THIS TIME.

PRESIDENT FOLEY: THANK YOU, MR. CLERK. WHILE THE LEGISLATURE IS IN SESSION AND CAPABLE OF TRANSACTING BUSINESS, I PROPOSE TO SIGN AND DO HEREBY SIGN THE FOLLOWING LEGISLATIVE RESOLUTIONS: LR424, LR425, LR426, LR427, AND LR428. BEFORE WE MOVE TO THE AGENDA, SENATOR MELLO HAS

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REQUESTED SOME TIME. SENATOR MELLO, YOU'RE RECOGNIZED. [LR424 LR425
LR426 LR427 LR428]

SENATOR MELLO: THANK YOU, MR. PRESIDENT, MEMBERS OF THE LEGISLATURE. I RISE FOR A POINT OF PERSONAL PRIVILEGE TO DRAW YOUR ATTENTION TO THE PINK HANDOUT ON YOUR...IN FRONT OF YOUR DESK IN REGARDS TO THE APPROPRIATIONS COMMITTEE PRELIMINARY BUDGET REPORT THAT WE FINALIZED EARLY LAST WEEK AND WE'VE STARTED PUBLIC HEARINGS ON LAST WEEK, AS WELL. AND AS YOU CAN SEE FLIPPING THROUGH THE PRELIMINARY REPORT, A NUMBER OF OUR RECOMMENDATIONS MIRRORED WHAT WAS RECOMMENDED BY THE GOVERNOR IN RESPECTS TO CLOSING OUR OVER \$110 MILLION PROJECTED BUDGET SHORTFALL. THERE IS ONE ITEM THAT I WOULD POINT OUT. THERE WAS A SIGNIFICANT DIFFERENCE BETWEEN THE GOVERNOR AND THE COMMITTEE WAS THE COMMITTEE DID ADDRESS THE \$14.5 MILLION SHORTFALL IN THE K-12 STATE AID FORMULA THAT WAS NOT ADDRESSED IN THE GOVERNOR'S PROPOSAL. THE COMMITTEE RECOMMENDED UTILIZING THE STATE'S CASH RESERVE TO BACKFILL THAT AMOUNT AT THIS MOMENT IN TIME. THAT OBVIOUSLY IS OPEN TO FURTHER DISCUSSION AS THE COMMITTEE FURTHER UTILIZES THE BUDGET HEARINGS TO HELP PROVIDE A MORE FORMAL AND FINAL RECOMMENDATION TO THE ENTIRE LEGISLATURE. ONE LAST ITEM TO DRAW TO YOUR ATTENTION, AND I KNOW A NUMBER OF COLLEAGUES HAVE COME UP TO ME DURING BILL INTRODUCTIONS AND POST-BILL INTRODUCTIONS, IS WHERE WE CURRENTLY SIT IN REGARDS TO THE GENERAL FUND STATUS THAT THE COMMITTEE HAD RECOMMENDED. AS YOU CAN ROUGHLY SEE, FLIPPING THROUGH, I'M TRYING TO FIND THE EXACT PAGE, PAGE 5 WILL SHOW THAT RIGHT NOW, IF THIS BUDGET DOCUMENT WAS PROVIDED TO THE LEGISLATURE TODAY FOR US TO DEBATE ON GENERAL FILE, WE WOULD HAVE ROUGHLY \$1.5 MILLION AVAILABLE FOR ANY BILL OUTSIDE OF THE BUDGET. AS I'VE MENTIONED BOTH INSIDE THE COMMITTEE, AS WELL AS TO A NUMBER OF MEMBERS OUTSIDE OF THE APPROPRIATIONS COMMITTEE PROCESS, THAT IT'S MY GOAL FOR THE COMMITTEE TO TRY TO LEAVE UP TO \$10 MILLION FOR BILLS OUTSIDE OF THE BUDGET PROCESS, AS WE KNOW THERE ARE A NUMBER OF REVENUE, EDUCATION, AND OTHER RELATED BILLS THAT DO HAVE FISCAL NOTES THAT THE BODY WOULD LIKE TO BE ABLE TO ENTERTAIN FLOOR DEBATE IN THIS UPCOMING SESSION. SO WHILE THAT IS A GOAL FOR THE COMMITTEE MOVING FORWARD, IT'S A SIMPLE REMINDER THAT WE DO HAVE ECONOMIC FORECASTING BOARD MEETING AT THE END OF FEBRUARY THAT COULD HAVE A DRAMATIC IMPACT IN REGARDS TO THIS DOCUMENT THAT YOU HAVE IN FRONT OF US. REALLY, WE WON'T KNOW MORE UNTIL THE END OF THE MONTH ON FEBRUARY 26th IN REGARDS TO THOSE DECISIONS THAT THEY MAY OR MAY NOT

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MAKE. BUT OUR HOPE IS THAT WE'LL BE ABLE TO ONCE AGAIN, LIKE WE HAVE IN THE PAST, PROVIDE BOTH A BALANCED BUDGET FOR THIS BODY TO CONSIDER, AS WELL AS PROVIDE MORE FLEXIBILITY FOR BILLS OUTSIDE OF THE BUDGET TO BE ABLE TO HAVE A FAIR DEBATE, NOT SOLELY BASED ON THEIR FISCAL NOTE STATUS. WITH THAT, THANK YOU, MR. PRESIDENT.

PRESIDENT FOLEY: THANK YOU, SENATOR MELLO. NOW MOVING TO THE AGENDA: SELECT FILE, CONSENT CALENDAR. FIRST BILL, MR. CLERK.

CLERK: MR. PRESIDENT, LB759. SENATOR HANSEN, I HAVE NO AMENDMENTS TO THE BILL. [LB759]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB759]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB759 TO E&R FOR ENGROSSING. [LB759]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE THE BILL. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB759 ADVANCES. MR. CLERK. [LB759]

CLERK: LB760, MR. PRESIDENT. SENATOR HANSEN, I HAVE NO AMENDMENTS TO THE BILL. [LB760]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB760]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB760 TO E&R FOR ENGROSSING. [LB760]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB760. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB760 ADVANCES. MR. CLERK. [LB760]

CLERK: LB761, SENATOR, I HAVE NO AMENDMENTS TO THE BILL. [LB761]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB761]

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SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB761 TO E&R FOR ENGROSSING. [LB761]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB761. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB761 ADVANCES. MR. CLERK. [LB761]

CLERK: LB771, SENATOR, I HAVE NO AMENDMENTS TO THE BILL. [LB771]

PRESIDENT FOLEY: SENATOR HANSEN. [LB771]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB771 TO E&R FOR ENGROSSING. [LB771]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE THE BILL. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB771 ADVANCES. MR. CLERK. [LB771]

CLERK: LB699, SENATOR, I HAVE NO AMENDMENTS TO THE BILL. [LB699]

PRESIDENT FOLEY: SENATOR HANSEN. [LB699]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB699 TO E&R FOR ENGROSSING. [LB699]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB699. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB699 ADVANCES. MR. CLERK. [LB699]

CLERK: MR. PRESIDENT, SENATOR, LB751, THERE ARE ENROLLMENT AND REVIEW AMENDMENTS PENDING. (ER155, LEGISLATIVE JOURNAL PAGE 483.) [LB751]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB751]

SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADOPT THE E&R AMENDMENTS TO LB751. [LB751]

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PRESIDENT FOLEY: MEMBERS, THE MOTION IS TO ADOPT THE E&R AMENDMENTS. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE E&R AMENDMENTS ARE ADOPTED. [LB751]

CLERK: I HAVE NOTHING FURTHER ON THE BILL, MR. PRESIDENT. [LB751]

PRESIDENT FOLEY: SENATOR HANSEN. [LB751]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB751 TO E&R FOR ENGROSSING. [LB751]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB751. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB751 ADVANCES. MR. CLERK. [LB751]

CLERK: LB695, SENATOR, I HAVE NO AMENDMENTS TO THE BILL. [LB695]

PRESIDENT FOLEY: SENATOR HANSEN. [LB695]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB695 TO E&R FOR ENGROSSING. [LB695]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB695. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB695 ADVANCES. MR. CLERK. [LB695]

CLERK: LB702, SENATOR, ONCE AGAIN, I HAVE NO AMENDMENTS TO THE BILL. [LB702]

PRESIDENT FOLEY: SENATOR HANSEN. [LB702]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB702 TO E&R FOR ENGROSSING. [LB702]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB702. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB702 ADVANCES. MR. CLERK. [LB702]

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CLERK: LB775, SENATOR, NO AMENDMENTS TO THE BILL. [LB775]

PRESIDENT FOLEY: SENATOR HANSEN. [LB775]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB775 TO E&R FOR ENGROSSING. [LB775]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB775. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB775 ADVANCES. MR. CLERK. [LB775]

CLERK: LB737, SENATOR, THERE ARE ENROLLMENT AND REVIEW AMENDMENTS. (ER157, LEGISLATIVE JOURNAL PAGE 484.) [LB737]

PRESIDENT FOLEY: SENATOR HANSEN. [LB737]

SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADOPT THE E&R AMENDMENTS TO LB737. [LB737]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADOPT THE E&R AMENDMENTS. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE E&R AMENDMENTS ARE ADOPTED. [LB737]

CLERK: I HAVE NOTHING FURTHER ON THE BILL, SENATOR. [LB737]

PRESIDENT FOLEY: SENATOR HANSEN. [LB737]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB737 TO E&R FOR ENGROSSING. [LB737]

PRESIDENT FOLEY: YOU'VE HEARD THE MOTION TO ADVANCE LB737. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB737 ADVANCES. MR. CLERK. [LB737]

CLERK: LB876, SENATOR, I HAVE NO AMENDMENTS TO THE BILL. [LB876]

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PRESIDENT FOLEY: SENATOR HANSEN. [LB876]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB876 TO E&R FOR ENGROSSING. [LB876]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB876. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB876 ADVANCES. MR. CLERK. [LB876]

CLERK: LB853, SENATOR, I HAVE NO AMENDMENTS TO THE BILL. [LB853]

PRESIDENT FOLEY: SENATOR HANSEN. [LB853]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB853 TO E&R FOR ENGROSSING. [LB853]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB853. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB853 ADVANCES. MR. CLERK. [LB853]

CLERK: LB270, SENATOR, THERE ARE ENROLLMENT AND REVIEW AMENDMENTS PENDING. (ER149, LEGISLATIVE JOURNAL PAGE 450.) [LB270]

PRESIDENT FOLEY: SENATOR HANSEN. [LB270]

SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADOPT THE E&R AMENDMENTS TO LB270. [LB270]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADOPT THE E&R AMENDMENTS. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE E&R AMENDMENTS ARE ADOPTED. [LB270]

CLERK: I HAVE NOTHING FURTHER ON THE BILL, SENATOR. [LB270]

PRESIDENT FOLEY: SENATOR HANSEN. [LB270]

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SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB270 TO E&R FOR ENGROSSING. [LB270]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB270. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB270 ADVANCES. MR. CLERK. [LB270]

CLERK: MR. PRESIDENT, LB131. SENATOR, I HAVE ENROLLMENT AND REVIEW AMENDMENTS FIRST OF ALL. (ER150, LEGISLATIVE JOURNAL PAGE 450.) [LB131]

PRESIDENT FOLEY: SENATOR HANSEN. [LB131]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADOPT THE E&R AMENDMENTS TO LB131. [LB131]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADOPT THE E&R AMENDMENTS. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE E&R AMENDMENTS ARE ADOPTED. [LB131]

CLERK: MR. PRESIDENT, SENATOR BURKE HARR WOULD MOVE TO AMEND WITH AM2047. (LEGISLATIVE JOURNAL PAGE 527.) [LB131]

PRESIDENT FOLEY: SENATOR BURKE HARR, YOU'RE RECOGNIZED TO OPEN ON YOUR AMENDMENT. [LB131]

SENATOR HARR: MR. LIEUTENANT GOVERNOR, MEMBERS OF THE BODY, APOLOGIZE. THIS IS A SIMPLE AMENDMENT. SO THIS CAME IN FRONT OF THE BANKING, COMMERCE AND INSURANCE COMMITTEE EARLIER THIS YEAR...EXCUSE ME, IT CAME OUT OF GOVERNMENT EARLIER THIS YEAR. AND IT PASSED OUT UNANIMOUSLY. IT WAS ORIGINALLY LB827, WHICH ALLOWS COUNTY TREASURERS TO RECEIVE FEES FOR SERVICES RENDERED TO SIDs. FOR DECADES COUNTY TREASURERS AND THE AUDITOR OF THE PUBLIC ACCOUNTS HAVE INTERPRETED LAW TO MEAN THAT SIDs...EXCUSE ME...SHOULD PAY THE 2 PERCENT COMMISSION BECAUSE THEY ARE NOT A MUNICIPALITY. THE NEBRASKA SUPREME COURT, LAST YEAR, IN SID NO. 1 v. ADAMY REVERSED THAT INTERPRETATION RULE THAT SIDs SHOULD PAY THE LOWER 1 PERCENT COMMISSION. ALL THIS AMENDMENT DOES IS RESTORE THE PREVIOUS INTERPRETATION OF THE STATUTE AND ASSISTS COUNTIES WITH RECENT

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LOSSES IN REVENUE. I WOULD ASK FOR YOUR SUPPORT ON AM2047 AND WOULD LIKE TO THANK SENATOR CRAIGHEAD FOR ALLOWING ME TO PUT THIS AMENDMENT ON HER BILL. THANK YOU. [LB827 LB131]

PRESIDENT FOLEY: THANK YOU, SENATOR HARR. ARE THERE MEMBERS WISHING TO SPEAK ON AM2047? SEEING NO MEMBERS WISHING TO SPEAK, SENATOR HARR, YOU'RE RECOGNIZED TO CLOSE ON THE AMENDMENT. AND HE WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF AM2047. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD, PLEASE, MR. CLERK. [LB131]

CLERK: 32 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF SENATOR HARR'S AMENDMENT. [LB131]

PRESIDENT FOLEY: AM2047 IS ADOPTED. MR. CLERK. [LB131]

CLERK: I HAVE NOTHING FURTHER ON THE BILL, MR. PRESIDENT. [LB131]

PRESIDENT FOLEY: SENATOR HANSEN. [LB131]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB131 TO E&R FOR ENGROSSING. [LB131]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB131. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB131 ADVANCES. MR. CLERK. [LB131]

CLERK: LB505, I HAVE ENROLLMENT AND REVIEW AMENDMENTS FIRST OF ALL, SENATOR. (ER153, LEGISLATIVE JOURNAL PAGE 465.) [LB505]

PRESIDENT FOLEY: SENATOR HANSEN. [LB505]

SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADOPT THE E&R AMENDMENTS TO LB505. [LB505]

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PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADOPT THE E&R AMENDMENTS. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE E&R AMENDMENTS ARE ADOPTED. MR. CLERK. [LB505]

CLERK: SENATOR KRIST WOULD MOVE TO AMEND WITH AM1959. (LEGISLATIVE JOURNAL PAGE 477.) [LB505]

PRESIDENT FOLEY: SENATOR KRIST, YOU'RE RECOGNIZED TO OPEN ON AM1959. [LB505]

SENATOR KRIST: THANK YOU, MR. PRESIDENT. AND GOOD MORNING, COLLEAGUES; GOOD MORNING, NEBRASKA. THIS IS A, BASICALLY, A CLEANUP FOR LB505, SOME LANGUAGE DIFFERENCES THAT NEED TO BE MADE. I ASK FOR YOUR SUPPORT--GREEN LIGHT ON AM1959. [LB505]

PRESIDENT FOLEY: THANK YOU, SENATOR KRIST. SEEING NO MEMBERS WISHING TO SPEAK, SENATOR KRIST WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF AM1959. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD, PLEASE, MR. CLERK. [LB505]

CLERK: 33 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF SENATOR KRIST'S AMENDMENT. [LB505]

PRESIDENT FOLEY: AM1959 IS ADOPTED. MR. CLERK. [LB505]

CLERK: NOTHING FURTHER ON THE BILL, MR. PRESIDENT. [LB505]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB505]

SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADVANCE LB505 TO E&R FOR ENGROSSING. [LB505]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB505. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB505 ADVANCES. MR. CLERK. [LB505]

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CLERK: MR. PRESIDENT, LB505A, NO E&R. SENATOR KRIST WOULD MOVE TO AMEND WITH AM1999. (LEGISLATIVE JOURNAL PAGES 527-528.) [LB505A]

PRESIDENT FOLEY: SENATOR KRIST, YOU'RE RECOGNIZED TO OPEN ON AM1999. [LB505A]

SENATOR KRIST: THANK YOU, ONCE AGAIN, MR. PRESIDENT. GOOD MORNING AGAIN, COLLEAGUES, AND NEBRASKA. SHOULD HAVE MENTIONED ON THE LB505 AMENDMENT THAT WE CHANGED THE OPERATIVE DATE, MOVED IT BACK. PART OF THAT WAS TO REDUCE IN TERMS OF THE FISCAL NOTE HOW MUCH IT WAS ACTUALLY GOING TO COST TO PUT A ONE-TIME PROGRAMMING CHANGE TO THE NEBRASKA CRIMINAL JUSTICE INFORMATION SYSTEM KNOWN AS NCJIS. THAT IS \$30,000, AND IT DOES COME FROM GENERAL FUNDS. I ASK FOR YOUR SUPPORT FOR AM1999. [LB505A LB505]

PRESIDENT FOLEY: THANK YOU, SENATOR KRIST. SEEING NO MEMBERS WISHING TO SPEAK, SENATOR KRIST WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF AM1999. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD, PLEASE, MR. CLERK. [LB505A]

CLERK: 31 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF SENATOR KRIST'S AMENDMENT. [LB505A]

PRESIDENT FOLEY: AM1999 IS ADOPTED. MR. CLERK. [LB505A]

CLERK: NOTHING FURTHER ON THE BILL, MR. PRESIDENT. [LB505A]

PRESIDENT FOLEY: SENATOR HANSEN FOR A MOTION. [LB505A]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB505A TO E&R FOR ENGROSSING. [LB505A]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB505A. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB505A ADVANCES. MR. CLERK. [LB505A]

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CLERK: SENATOR, LB275, THERE ARE ENROLLMENT AND REVIEW AMENDMENTS PENDING. (ER151, LEGISLATIVE JOURNAL PAGE 465.) [LB275]

PRESIDENT FOLEY: SENATOR HANSEN. [LB275]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADOPT THE E&R AMENDMENTS TO LB275. [LB275]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE...EXCUSE ME, TO ADOPT THE E&R AMENDMENTS. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE E&R AMENDMENTS ARE ADOPTED. [LB275]

CLERK: I HAVE NOTHING FURTHER, MR. PRESIDENT. [LB275]

PRESIDENT FOLEY: SENATOR HANSEN. [LB275]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB275 TO E&R FOR ENGROSSING. [LB275]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB275. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB275 ADVANCES. MR. CLERK. [LB275]

CLERK: MR. PRESIDENT, LB474, I HAVE ENROLLMENT AND REVIEW AMENDMENTS FIRST OF ALL. (ER152, LEGISLATIVE JOURNAL PAGE 466.) [LB474]

PRESIDENT FOLEY: SENATOR HANSEN. [LB474]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADOPT THE E&R AMENDMENTS TO LB474. [LB474]

PRESIDENT FOLEY: MEMBERS, YOU'VE THE MOTION TO ADOPT THE E&R AMENDMENTS. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE E&R AMENDMENTS ARE ADOPTED. MR. CLERK. [LB474]

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CLERK: MR. PRESIDENT, SENATOR CHAMBERS WOULD MOVE TO AMEND WITH AM1958. (LEGISLATIVE JOURNAL PAGE 501.) [LB474]

PRESIDENT FOLEY: SENATOR CHAMBERS, YOU'RE RECOGNIZED TO OPEN ON AM1958. [LB474]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, THIS AMENDMENT WAS BROUGHT TO ME BY THE DEPARTMENT OF MOTOR VEHICLES. AND WHAT IT DOES IS SUBSTITUTE A SPECIFIC DATE INSTEAD OF THE WORDS "WHEN IT IS DESIGNED." IT HAS TO DO WITH WHEN APPLICATIONS FOR THIS PARTICULAR PLATE WILL BE MADE AVAILABLE. SO I ASK THAT YOU ADOPT THIS AMENDMENT WHICH SUBSTITUTES A SPECIFIC DATE FOR SOME GENERAL LANGUAGE. AND THAT'S ALL THERE IS TO IT. THANK YOU. [LB474]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. SEEING NO MEMBERS WISHING TO SPEAK, SENATOR CHAMBERS, YOU'RE RECOGNIZED TO CLOSE ON THE AMENDMENT. SENATOR CHAMBERS WAIVES CLOSING. THE QUESTION IS THE ADOPTION OF AM1958. ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. HAVE YOU ALL VOTED WHO CARE TO? RECORD, PLEASE, MR. CLERK. [LB474]

CLERK: 35 AYES, 0 NAYS, MR. PRESIDENT, ON THE ADOPTION OF SENATOR CHAMBERS' AMENDMENT. [LB474]

PRESIDENT FOLEY: AM1958 IS ADOPTED. MR. CLERK. [LB474]

CLERK: NOTHING FURTHER, MR. PRESIDENT. [LB474]

PRESIDENT FOLEY: SENATOR HANSEN. [LB474]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB474 TO E&R FOR ENGROSSING. [LB474]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB474. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB474 ADVANCES. MR. CLERK. [LB474]

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CLERK: LB474A, SENATOR, THERE ARE E&R AMENDMENTS PENDING. (ER154, LEGISLATIVE JOURNAL PAGE 466.) [LB474A]

PRESIDENT FOLEY: SENATOR HANSEN. [LB474A]

SENATOR HANSEN: MR. PRESIDENT, I MOVE THAT WE ADOPT THE E&R AMENDMENTS TO LB474A. [LB474A]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADOPT THE E&R AMENDMENTS. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE E&R AMENDMENTS ARE ADOPTED. [LB474A]

CLERK: I HAVE NOTHING FURTHER ON THE BILL, MR. PRESIDENT. [LB474A]

PRESIDENT FOLEY: SENATOR HANSEN. [LB474A]

SENATOR HANSEN: MR. PRESIDENT, I MOVE WE ADVANCE LB474A TO E&R FOR ENGROSSING. [LB474A]

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADVANCE LB474A. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. LB474A ADVANCES. MR. CLERK. [LB474A]

CLERK: MR. PRESIDENT, GENERAL FILE: FIRST BILL THIS MORNING, LB188, A BILL OFFERED ORIGINALLY BY SENATOR WATERMEIER. (READ TITLE.) THE BILL HAS BEEN DISCUSSED ON THE FLOOR, MR. PRESIDENT, AS RECENTLY AS FEBRUARY 4. AT THAT TIME, SENATOR WATERMEIER REMINDED THE BODY AS TO THE CONTENTS OF HIS BILL. THE COMMITTEE AMENDMENTS AS OFFERED BY JUDICIARY WERE PRESENTED. THERE WAS AN AMENDMENT TO THE BILL OFFERED BY SENATOR CHAMBERS THAT FAILED. PURSUANT TO THAT ACTION, SENATOR CHAMBERS MOVED TO RECONSIDER THE AMENDMENT. THAT MOTION TO RECONSIDER IS PENDING. [LB188]

PRESIDENT FOLEY: SENATOR WATERMEIER, WOULD YOU LIKE 30 SECONDS JUST TO REFRESH US ON THE BILL? [LB188]

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SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. GOOD MORNING, NEBRASKA. JUST TO SUMMARIZE LB188, LB188 CLARIFIES THE MEANING OF INNOCENT THIRD PARTY FOR PURPOSES OF DETERMINING LIABILITY OF LAW ENFORCEMENT AGENCIES DURING A POLICE PURSUIT. THIS BILL DOES NOT CHANGE THE LAW RELATING TO BYSTANDERS, PERSONS IN OTHER VEHICLES. IT ONLY AFFECTS PASSENGERS IN THE FLEEING VEHICLE, AND ONLY UNDER CERTAIN CIRCUMSTANCES. THE CIRCUMSTANCES SPELLED OUT IN LB188 ARE BASED ON CASE LAW. BECAUSE THE LEGISLATURE HAS NOT DEFINED WHO IT INTENDS TO BE CONSIDERED AN INNOCENT THIRD PARTY FOR THE PURPOSES OF STRICT LIABILITY PURSUIT LAW, THE COURTS HAVE JUDICIOUSLY CONSTRUCTED A DEFINITION. HOWEVER, THE SUPREME COURT WENT SO FAR AS TO ISSUE A SEPARATE OPINION IN A CASE STATING THAT THEY DOUBT THAT THIS IS WHAT THE LEGISLATURE INTENDED AND SUGGESTED THAT THE LEGISLATURE COULD NARROW THE COURT'S INTERPRETATION. ALL INJURED PERSONS WILL STILL BE ABLE TO SUE THE GOVERNMENTAL ENTITY RESPONSIBLE FOR THE CHASE. THE INTENT BEHIND LB188 IS TO PREVENT ONLY THOSE PERSONS WHO ARE PASSENGERS IN A FLEEING VEHICLE AND WHO ARE TRULY NOT INNOCENT FROM COLLECTING. THIS BILL WILL GIVE THE COURT STANDARDS TO CONSIDER IN DETERMINING WHETHER A PASSENGER IN A FLEEING VEHICLE IS REALLY AN INNOCENT THIRD PARTY AND ELIGIBLE FOR AN AUTOMATIC RECOVERY. JUST KEEP IT IN MIND, COLLEAGUES, YOU'RE JUST TRYING TO DETERMINE, YOU'RE GIVING THE COURTS A LITTLE BIT OF STANDARDS TO USE, WHO IS AUTOMATICALLY CONSIDERED INNOCENT. DO WE REALLY WANT TO CONSIDER A PERSON IN A FLEEING VEHICLE WHO IS A PASSENGER ONLY AUTOMATICALLY INNOCENT? THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR WATERMEIER. BEFORE I MOVE TO THE SPEAKING QUEUE, SENATOR CHAMBERS, WOULD YOU LIKE A COUPLE OF MINUTES JUST TO REFRESH US ON YOUR RECONSIDERATION MOTION? [LB188]

SENATOR CHAMBERS: YES, THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, I OFFERED AN AMENDMENT THAT SAID THE...IT TALKED ABOUT IN THE COMMITTEE AMENDMENT INFORMATION THAT WOULD BE UTILIZED BY THESE OFFICERS. AND BECAUSE IT WOULD ALLOW, UNDER THE COMMITTEE AMENDMENT, THE OFFICER TO START A CHASE, THEN AFTER THE FACT, COME UP WITH SOME INFORMATION ABOUT A PERSON HAVING COMMITTED A FELONY OR SOME OTHER ACTIVITY AND MAKE THAT A BASIS FOR SAYING THAT PASSENGER IS NOT QUALIFIED AS AN INNOCENT PARTY. WHAT MY AMENDMENT SAID, AND I'M GOING TO OFFER A VARIATION OF IT WHEN WE GET THROUGH HERE, THAT THE OFFICER MUST BE AWARE OF THIS INFORMATION PRIOR TO COMMENCING

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THE CHASE. HOWEVER, EVEN THOUGH IT WAS DISCUSSED, MY AMENDMENT THAT IS UP THERE DOES NOT SAY THAT THIS KNOWLEDGE HAS TO BE A BASIS FOR THE CHASE, SO A FOLLOW-UP AMENDMENT THAT I'M GOING TO OFFER WOULD ELABORATE ON THIS ONE. THAT AMENDMENT FAILED. THIS MOTION IS TO RECONSIDER THAT AMENDMENT. AND IF WE RECONSIDER IT, THEN I WOULD SUBSTITUTE AN AMENDMENT FOR IT. IF WE DON'T RECONSIDER IT, THEN I WILL SIMPLY OFFER A DIFFERENT AMENDMENT. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. WE'LL NOW MOVE TO THE SPEAKING QUEUE. SENATOR CHAMBERS, YOU ARE FIRST IN THAT QUEUE AND YOU'RE RECOGNIZED. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, SENATOR WATERMEIER STILL ISN'T COMPLETELY LEVELING WITH US. WHAT HE'S TELLING US OBVIOUSLY IS NOT A COURT DECISION. IF IT WAS THE COURT'S DECISION, THAT WOULD BE THE LAW. AND IT WOULD BE THE LAW UNTIL WE CHANGED IT BY LEGISLATION. THAT THAT HE'S OFFERING TO US IS NOT A COURT DECISION. THE ONLY LANGUAGE THAT COMES FROM A COURT DECISION IS THE PART THAT SAYS THAT A PERSON IS NOT AN INNOCENT PARTY IF HE OR SHE PROMOTES, PROVOKES, OR PERSUADES THE DRIVER TO ENGAGE IN FLIGHT FROM LAW ENFORCEMENT PERSONNEL. THAT IS A PART OF A DECISION BY THE COURT. SINCE THAT IS IN THE DECISION OF THE COURT, IT'S NOT NECESSARY. THIS OTHER STUFF IS FROTH THAT THE CITIES, THE COUNTIES, WANT IN IT SO THEY CAN AVOID COMPENSATING INNOCENT THIRD PARTIES. AS WAS POINTED OUT BY SENATOR PANSING BROOKS THE OTHER DAY, AND SHE MADE IT MORE SUCCINCT THAN WHAT I'D BEEN SAYING, SHE REFERRED TO A COURT OPINION THAT SAID THE TERM "INNOCENT" IS A TERM OF ART USED IN THIS STATUTE. IT HAS NOTHING TO DO WITH MORALITY OR INNOCENCE IN THE ORDINARY SENSE OF THE TERM. IT HAS TO DO STRICTLY WITH WHAT INVOLVEMENT THIS PERSON MAY HAVE HAD IN THE CHASE EITHER STARTING OR BEING CONTINUED. THAT IS THE ONLY APPLICATION. WHEN SENATOR WATERMEIER BROUGHT UP SOME STUFF ABOUT SOMEBODY BEING CAUGHT IN A CAR AND WAS DECLARED AN INNOCENT THIRD PARTY, HAD A PIPE, DRUG PARAPHERNALIA, AND AN OPEN CONTAINER, THE COURT DID NOT ACCEPT THAT BECAUSE THAT HAD NOTHING TO DO WITH WHY THE CHASE HAD BEEN UNDERTAKEN. SENATOR WATERMEIER MAY NOT BE DELIBERATELY TRYING TO MISLEAD THE BODY, BUT THOSE WHO ARE FEEDING HIM THIS INFORMATION ARE DOING SO. IF A BILL CANNOT STAND IF THE TRUTH IS TOLD ABOUT IT, THAT PROVES THAT THE BILL HAS NO VALIDITY. THE COURT IS ABLE TO USE THE EXISTING LAW AS IT IS RIGHT NOW TO HANDLE THESE CASES. I ELABORATED ON

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SEVERAL CASES WHERE AN ORDINARY PERSON WOULD THINK THAT THE INDIVIDUAL WHO WAS INJURED WOULD HAVE BEEN AN INNOCENT THIRD PARTY AND THERE SHOULD HAVE BEEN RECOVERY. WELL, THE COURT IN SOME OF THOSE CASES SAID THERE WAS NOT A CHASE, THERE WAS NOT A PURSUIT, THEREFORE, THE PERSON COULD NOT RECOVER. THE COURT HAS HAD NO PROBLEM IN DETERMINING WHETHER AN INDIVIDUAL IN A VEHICLE OR ON A VEHICLE, I GUESS WHICH WOULD APPLY TO A MOTORCYCLE, NO PROBLEM IN DETERMINING WHETHER THIS INDIVIDUAL HAD PLAYED ANY ROLE IN THE COMMENCEMENT OF THE CHASE OR THE CONTINUATION OF THE CHASE. THAT IS WHAT NEEDS TO BE LOOKED AT. AS SENATOR BURKE HARR MENTIONED, THE LAST DAY WE WERE ON THIS, WHAT WE'RE TALKING ABOUT IN THIS BILL, BASED ON THE WAY IT'S DRAFTED, IS A SHIFT OF RESPONSIBILITY, A SHIFT OF THE BURDEN. THE INDIVIDUAL IN THE CAR IS GOING TO HAVE TO PROVE THINGS WHICH IN EFFECT ARE NOT PROVABLE. THERE HAVE BEEN MANY INSTANCES WHERE TWO PEOPLE...I'M GETTING AWAY FROM THE CHASE RIGHT NOW TO MAKE THIS POINT, IT SHOWS HOW PROSECUTORS OPERATE. IT'S CALLED THE RACE TO THE PROSECUTOR'S OFFICE. [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: IF TWO PEOPLE OR MORE ARE INVOLVED IN AN OFFENSE, ONE IS TOLD THAT IF YOU WILL TESTIFY AGAINST THE OTHERS, THERE WILL BE NO CHARGES AGAINST YOU. THE DRIVER COULD BE TOLD, IF YOU WILL SAY THAT THIS INDIVIDUAL ENCOURAGED YOU TO KEEP RUNNING, WE WILL EITHER LOWER THE CHARGES AGAINST YOU OR DISMISS IT, BECAUSE WHAT THEY'RE REALLY CONCERNED ABOUT IS HAVING TO PAY FOR THAT INNOCENT THIRD PARTY WHO WAS UNDER THE LAW AN INNOCENT THIRD PARTY; PAY FOR THE DAMAGE THAT PERSON SUFFERED AS A RESULT OF A LAW ENFORCEMENT ACTIVITY THAT IS APPROVED OF BY SOCIETY. AND IT'S NOT WHERE, LIKE SENATOR GROENE SUGGESTED, INDIVIDUALS ARE GOING INTO THEIR POCKET. IT IS THE SOCIETY ASSUMING RESPONSIBILITY FOR A PRACTICE THAT IT HAS ENDORSED. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. SENATOR WATERMEIER, YOU'RE RECOGNIZED. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. I JUST RISE IN OPPOSITION TO THE RECONSIDERATION MOTION THAT SENATOR CHAMBERS HAD OFFERED. AND SENATOR CHAMBERS BROUGHT UP AN INCIDENT THAT HAD HAPPENED,

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AND I HAD USED THAT IN MY DISCUSSION LAST WEEK, AND I BELIEVE HE'S ABSOLUTELY RIGHT. THE JUDGE HAD SAID BECAUSE THE WAY THE LAW IS WRITTEN, THAT PERSON IN THE FRONT SEAT OF THAT VEHICLE IS CONSIDERED INNOCENT WITHOUT ANY DISCUSSION. THAT'S ALL THIS BILL TALKS ABOUT. AND DO WE AS POLICYMAKERS IN THE STATE OF NEBRASKA WISH TO TAKE THAT AWAY FROM THE COURTS TO BE ABLE TO DECIDE, IS THAT PERSON AUTOMATICALLY INNOCENT? THEY'RE STILL GOING TO HAVE TO PROVE THAT THEY HAVE DONE SOMETHING WRONG. BUT DO WE WANT TO AUTOMATICALLY MOVE THEM OUT OF THAT CATEGORY AND PUT THEM RIGHT INTO THE INNOCENT? THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR WATERMEIER. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, I WOULD LIKE TO ASK SENATOR WATERMEIER A QUESTION. AND I KNOW PEOPLE ARE NOT LISTENING, BUT I WANT THIS FOR THE RECORD. SENATOR WATERMEIER... [LB188]

PRESIDENT FOLEY: SENATOR WATERMEIER, WOULD YOU YIELD, PLEASE? [LB188]

SENATOR CHAMBERS: WHEN YOU STARTED TALKING FRIDAY ABOUT THIS BILL, OR WHATEVER THE LAST DAY WAS WHEN WE DISCUSSED IT, YOU SAID OVER A TEN-YEAR PERIOD YOU KNEW OF THREE CASES. ISN'T THAT WHAT YOU SAID? [LB188]

SENATOR WATERMEIER: YEAH, I THINK I DID MENTION THREE CASES. [LB188]

SENATOR CHAMBERS: AND THIS WAS ONE OF THEM. MEMBERS OF THE LEGISLATURE, A LAW HAS BEEN ON THE BOOKS FOR TEN YEARS, LONGER THAN TEN YEARS, FOR DECADES, SINCE 1981. IF IN TEN YEARS HE CAN SCRAPE UP THREE CASES WHERE HE THINKS THE COURT SHOULD HAVE DONE DIFFERENTLY, THAT IS NOT A BASIS FOR CHANGING THE LAW. WE SHOULD NOT CHANGE THE LAW FOR THE PURPOSE OF DENYING PEOPLE WHO HAD NOTHING TO DO WITH THE CHASE RECOMPENSE FOR INJURIES SUFFERED WHEN THAT CHASE HAS OCCURRED. SENATOR WATERMEIER WAS NOT ABLE TO ANSWER ANYBODY'S QUESTION WHEN SPECIFIC ISSUE WAS TAKEN WITH THESE ITEMS THAT HAD TO BE ESTABLISHED. WHAT FACTS WOULD HAVE TO BE ALLEGED TO PROVE THAT YOU WERE NOT DISQUALIFIED? WELL, HE COULDN'T TELL YOU THAT. HE SAYS HE'S GIVEN THE COURT GUIDELINES. HE'S NOT GIVING THE COURT GUIDELINES.

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HE IS PUTTING BARS AGAINST RECOVERY INTO THE STATUTE. THE COURT HAS BEEN ABLE TO ADMINISTER THIS LAW FOR DECADES AND DECADES AND DECADES. THIS WAS NOT BROUGHT BECAUSE THERE WAS AN UNDUE AMOUNT OF MONEY BEING SPENT BY WAY OF COMPENSATION OR RECOMPENSE. SENATOR WATERMEIER ACKNOWLEDGED THAT OMAHA SAID THIS BILL WOULD NOT HAVE MUCH EFFECT ON WHAT HAPPENS IN OMAHA, AND THEY ACKNOWLEDGED THAT THEY PAY OUT ABOUT \$600,000 A YEAR. THAT MEANS THAT THESE CHASES ARE BEING ENGAGED IN BY THE OMAHA POLICE THAT RESULT IN INJURY TO THIRD PARTIES WHO ARE INNOCENT. THAT IS WHAT IS HAPPENING. WE SHOULD NOT BE DOING ANYTHING TO ENCOURAGE THE PROLIFERATION OF THESE CHASES. THEY ARE INHERENTLY DANGEROUS. THERE IS NO WAY THEY CAN BE CONDUCTED WITHOUT DANGER TO INNOCENT PEOPLE. THE ONLY PURPOSE OF THE LAW IS TO REQUIRE, IN MY VIEW, THE COMPENSATION NATURALLY. BUT THE AIM WAS TO REDUCE THE NUMBERS OF THESE CHASES. THE POLICE ARE NOT GOING TO REFRAIN FROM CHASING. EVEN WITH THE LAW, THEY CONTINUE TO CHASE. THEY CONTINUE TO INJURE INNOCENT THIRD PARTIES. CITIES CONTINUE TO PAY OUT. WHAT SENATOR WATERMEIER IS TRYING TO DO IS SAY GO AHEAD AND CHASE. AND THEN AFTER THE CHASE, IF YOU CAN CONTRIVE SOMETHING FROM THESE ITEMS BEING PUT INTO THE STATUTE, THE POLITICAL SUBDIVISION WILL NOT HAVE TO PAY OUT. I THINK THAT IS A REPREHENSIBLE POSITION FOR THIS LEGISLATURE TO TAKE. IT'S ONE THING FOR A MEMBER TO BRING A BONEHEAD BILL BECAUSE SOME PEOPLE OUTSIDE THE GLASS TOLD HIM OR HER TO BRING IT. IT'S ANOTHER THING ENTIRELY IF THE LEGISLATURE GOES ALONG WITH THAT. THERE IS NOTHING PERSONAL IN THIS FOR ME. BUT OFTEN I HAVE HAD TO STAND ON THIS FLOOR AND SPEAK FOR THOSE WHO CANNOT SPEAK FOR THEMSELVES, THOSE WHO ARE ON THE MARGINS,... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...THOSE WHO ARE THE THROWAWAY PEOPLE, THOSE WHO ARE THE UNPEOPLE, THOSE WHO ARE THE NONPEOPLE. AND THE LEGISLATURE, WERE I NOT HERE, EVEN THIS SESSION, WOULD HAVE RUN BILLS RIGHT ACROSS THE FLOOR WHICH OUGHT NOT TO HAVE BEEN ENACTED. SO SINCE THE ROLE THAT I AM FILLING HAS NOT CHANGED DOWN THROUGH THE DECADES, I SHALL CONTINUE TO DO IT. MY AIM IS TO FORCE SENATOR WATERMEIER TO GET 32 OF YOU ALL TO GO ALONG WITH HIM AND VINCE VALENTINO IN RESTRICTING THE RIGHT OF PEOPLE WHO ARE INNOCENT BASED ON THE LAW. SENATOR BLOOMFIELD COULD BE A JUNKIE; HE COULD BE A DOPE DEALER. BUT IF HE'S IN A CAR AND HAD NOTHING TO DO WITH THE CHASE AND HE IS INJURED, HE RECOVERS. SENATOR WATERMEIER SAYS, NO, WE WANT TO BE ABLE TO GO BACK

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AND LOOK AT WHAT HE MAY HAVE DONE IN HIS LIFE SOMEWHERE ELSE, EVEN IF THE OFFICER DID NOT KNOW ABOUT IT. [LB188]

PRESIDENT FOLEY: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: AND IT HAD NOTHING TO DO WITH THE CHASE. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. SENATOR WATERMEIER, YOU'RE RECOGNIZED. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. I JUST WANTED TO RESPOND. WHEN SENATOR CHAMBERS HAD SAID THERE WAS ONLY THREE CASES IN THE LAST TEN YEARS, I DID WANT TO SAY THAT THERE'S \$600,000 A YEAR IS BEING PAID OUT BY THE CITY OF OMAHA ON AVERAGE. SO I JUST WANT TO REBUT TO THAT. I WAS JUST TRYING TO GET TO THE HIGHLIGHTS OF THREE BIGGER CASES. I WANT TO JUST REMIND PEOPLE THAT WHAT WE'RE TRYING TO DO IS TO PUT STANDARDS IN PLACE FOR WHO IS INNOCENT AND WHO IS AUTOMATICALLY INNOCENT. WHEN WE SAY "INNOCENT THIRD PARTY," AND WE HAVE SUCH A BROAD DEFINITION OF THAT, WE NEED TO FOCUS THAT DOWN A LITTLE BIT. AND I HANDED OUT A PIECE OF PAPER HERE THAT HAS GOT MY NAME ON IT, LIABILITY, COUNTY, CITY, AND THE STATES. IF YOU HAVE QUESTIONS ABOUT IT, PLEASE COME UP TO THE FRONT AND I'LL HELP YOU TALK IT THROUGH. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR WATERMEIER. SENATOR CRAWFORD, YOU'RE RECOGNIZED. [LB188]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT. I STAND IN SUPPORT OF THE RECONSIDER MOTION BECAUSE I THINK THIS IS REALLY A FUNDAMENTALLY IMPORTANT ISSUE FOR US TO ADDRESS. AND I RESPECT AND APPRECIATE SENATOR WATERMEIER BRINGING THIS ISSUE BEFORE US. I JUST THINK IT IS A FUNDAMENTAL SHIFT IN POLICY AND A VERY IMPORTANT ONE FOR US TO CONSIDER. AND I HAVE SOME RESERVATIONS AND QUESTIONS MYSELF, SO I THINK IT'S IMPORTANT THAT WE TAKE TIME TO CAREFULLY CONSIDER WHAT THIS MEANS AS WE'RE CHANGING THIS POLICY. I AM...I THINK IT'S IMPORTANT THAT WE RECOGNIZE AGAIN WHAT WE MEAN BY "INNOCENT" IN THIS CASE, AND WHAT THE INTENT OF THE POLICY IS. AND WHEN WE SAY SOMEONE IS INNOCENT FOR THE PURPOSES OF THIS POLICY, WHAT WE'RE SAYING IS THAT

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UNFORTUNATELY SOMETIMES THERE ARE...THERE DO NEED TO BE POLICE CHASES FOR PUBLIC SAFETY, AND UNFORTUNATELY SOMEONE GETS HURT IN THAT CASE. AND AS A...WE HAVE DECIDED AS A STATE THAT OUR POLICY IN THAT CASE IS GOING TO BE TO MAKE SURE WE PAY FOR THOSE INJURIES WHEN SOMEONE IS HURT. AND THE QUESTION REALLY THEN IS, WHO IS DESERVING OF HAVING THEIR INJURIES PAID? AND I CAN UNDERSTAND THAT SOMEONE WHO IS...HAS BEEN CHARGED WITH FELONIES OR SOMEONE WHO IS DRUNK, YOU KNOW, MAY NOT BE THE MOST SYMPATHETIC CHARACTER AND THE NEWS WRITE-UP OF THAT PERSON GETTING THEIR INJURIES PAID MAY NOT BE THE MOST POLITICALLY POPULAR. BUT THE ISSUE IS THAT PERSON IS STILL A HUMAN BEING. AND IF THAT PERSON IS HARMED WHEN WE'RE PURSUING OUR PUBLIC SAFETY, THEN THAT PERSON IS STILL DESERVING OF HAVING THOSE INJURIES ADDRESSED. AND THAT, I THINK, IS THE FUNDAMENTAL, UNDERLYING ISSUE IN TERMS OF HUMAN DIGNITY THAT IS BEING QUESTIONED AND CHALLENGED IN THIS CASE. WHEN I READ THE BILL, I'M NOT A LAWYER MYSELF, BUT WHEN I READ THE BILL, IT LOOKS LIKE TO ME THAT IT WOULD BE PRETTY EASY TO EXCLUDE SOMEONE WHO IS IN THAT CAR. THE CONDITIONS, I MEAN, IF YOU ONLY HAVE TO MEET ONE OF THOSE CONDITIONS, IT LOOKS LIKE IT WOULD BE PRETTY EASY TO FIND WAYS TO EXCLUDE PEOPLE, AGAIN, WHO AREN'T SYMPATHETIC, BUT STILL AGAIN THEY ARE HUMAN BEINGS THAT GOT CAUGHT IN THE WRONG PLACE AT THE WRONG TIME, AND IT'S IMPORTANT FOR US TO RECOGNIZE THAT THEY STILL ARE DESERVING OF HAVING THEIR INJURIES MET, HAVING THEIR INJURIES ADDRESSED. AND IT'S IMPORTANT FOR US TO CONSIDER THE IMPORTANCE OF MAKING SURE THAT THAT HAPPENS. I THINK IT'S FURTHER...EVEN FURTHER THE CASE THAT WE MAINTAIN OUR CURRENT POLICY WHEN YOU SEE HOW RARELY THIS IS HAPPENING. SO THIS IS, I THINK WE TALKED OFF THE MIKE, ABOUT 5 PERCENT OF THE CASES, A VERY SMALL NUMBER OF CASES. SO I DON'T SEE THIS AS A HUGE LIABILITY RISK THAT OUR CITIES AND COUNTIES ARE FACING. WHEN WE TALK TO SOMEONE IN OUR COUNTY AND ASK, WILL OUR PREMIUMS GO DOWN, THE ANSWER IS "NO." SO I DON'T SEE IT BEING A FINANCIAL HELP TO MY COUNTY. SO I THINK IT'S AN IMPORTANT SHIFT IN POLICY AND ONE THAT, AS I HAVE COME TO LEARN MORE ABOUT IT, AM CONCERNED AND FEEL THAT WE SHOULD NOT MOVE IN THIS DIRECTION. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CRAWFORD. SENATOR CHAMBERS, YOU'RE RECOGNIZED. THIS IS YOUR THIRD OPPORTUNITY, SENATOR. [LB188]

SENATOR CHAMBERS: YES. THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR CRAWFORD. MEMBERS OF THE LEGISLATURE, IT IS A SERIOUS MATTER. THERE IS

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NO COMPELLING STATE INTEREST TO DO WHAT'S DOING HERE. SENATOR WATERMEIER DID NOT SIT DOWN AND LOOK AT THE LAW AND SEE A PROBLEM. IT WAS BROUGHT TO HIM BY A LOBBYIST WHO IS PAID TO INFLUENCE US. THAT IS NOT A SUFFICIENT REASON FOR US TO CHANGE A STATUTE THAT HAS BEEN WORKING FOR THESE DECADES. HE KEEPS TALKING ABOUT GIVING THE COURT GUIDELINES OR STANDARDS. THE COURT HAS SET THE STANDARDS. AND THE COURT ITSELF SAID THAT AFTER THE...AND I'M PARAPHRASING: SINCE THE COURT HAS ACTED, AND THE LEGISLATURE HAS NOT DONE ANYTHING TO CHANGE THAT, THE LEGISLATURE IS WILLING TO ACCEPT THE LIMITATIONS AND RESTRICTIONS THAT THE COURT HAS PUT IN PLACE. THE COURT SAID THAT. THE COURT HAS STANDARDS. THE COURT SET UP A STANDARD THAT IS IN THIS BILL RIGHT NOW. ALL THAT TACK-ON STUFF THAT SENATOR WATERMEIER IS TALKING ABOUT IS FLUFF, IT'S NONSENSE. IT IS NOT SOMETHING THAT THE COURT REQUIRED. THE COURT DID NOT TELL THE LEGISLATURE IT OUGHT TO DO ANYTHING. THE COURT, AS HAPPENS WHEN IT ENTERS A DECISION, CAN SAY THAT THE LEGISLATURE CAN CHANGE THIS IF IT CHOOSES. THE COURT DID NOT DIRECT THE LEGISLATURE TO DO ANYTHING. THAT WOULD BE A VIOLATION OF THE SEPARATION OF POWERS. THAT IS NOT THE FUNCTION OF THE COURT. SO HE IS MISLEADING. AND THOSE ON THE FLOOR ARE ALLOWING THAT TO OCCUR. SO WE'RE GOING TO GO TO CLOTURE AND HE'S GOING TO HAVE TO GET 32 OF YOU TO ACCEPT SOMETHING WHICH IS NONSENSICAL. THE COURT HAS SET THE STANDARD. AND IT'S NOT EVEN NECESSARY TO PUT IT IN THE STATUTE BECAUSE IT IS THE STANDARD THAT GUIDES THE COURT NOW. AND HERE IS THAT STANDARD. A PERSON WILL NOT BE CONSIDERED AN INNOCENT THIRD PARTY IF HE OR SHE IS A PASSENGER IN A CAR AND, WHILE A PASSENGER DURING THAT CHASE, PROMOTES, PROVOKES, OR PERSUADES THE DRIVER TO CONTINUE THIS FLIGHT. WHAT MORE DO YOU NEED THAN THAT? AS WAS POINTED OUT IN SOME OF THE EXAMPLES, WITH THIS LANGUAGE, IF A MINOR IS A PASSENGER, AND THE MINOR HAD SOME DOPE, THAT COULD QUALIFY AS A DISQUALIFIER FOR THAT MINOR WHO IS INJURED. WE GET THIS KIND OF NONSENSICAL, INSULTING LEGISLATION. IT'S AN INSULT TO OUR INTELLIGENCE. THEY ARE TELLING YOU HOW LITTLE THEY THINK OF YOU AS A LEGISLATURE, LEGISLATOR, AND A PERSON. MAYBE IF WE WERE DEALING ABOUT FARM ISSUES YOU WOULD PAY MORE ATTENTION. I'M CONCERNED ABOUT HUMAN BEINGS. I'VE NEVER BEEN PURSUED BY THE POLICE. WHEN I HAVE BEEN STOPPED IN THE PAST TO GET A TICKET, I DON'T ARGUE WITH THE POLICE. WHATEVER THEY SAY, FINE. AND I JUST TELL THEM WE'LL DISCUSS THIS IN COURT. AND IN A NUMBER OF CASES, I WOULD HAVE TO APPEAL IT TO THE SUPREME COURT, BUT I WOULD WIN. AND THERE ARE RIGHT NOW CASES ATTACHED AS ANNOTATIONS TO THE LAW

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RELATIVE TO RADAR AND VASCAR, AND OTHER SPEED-MEASURING DEVICES, WITH MY NAME ON THEM, WHICH I WON. OTHERS I WON... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...AT THE TRIAL COURT LEVEL BY USING THE LAW. AND WHEN THESE KIND OF PEOPLE CANNOT GET THEIR WAY UNDER THE LAW, THEY WANT TO CHANGE NOT ONLY THE WORDING OF THE LAW, BUT THE POLICY BEHIND THE LAW. WE SHOULD NOT DO ANYTHING THAT WOULD MAKE IT EASIER TO CONDUCT THESE CHASES. THEY ARE CONDUCTED THROUGH RESIDENTIAL AREAS, SOMETHING SENATOR WATERMEIER AND HIS HANDLERS DON'T WANT YOU TO THINK ABOUT, THAT THEY DON'T WANT TO TALK ABOUT. AND I DID MENTION A CASE WHERE A PERSON WAS A PEDESTRIAN, WAS RUN OVER AND SERIOUSLY INJURED, BUT COULD NOT RECOVER BECAUSE THE COURT APPLYING ITS STANDARD SAID THAT THE PURSUING CAR WAS AN UNMARKED POLICE VEHICLE. THERE WERE NO SIRENS, NO LIGHTS, THEREFORE, IT DOES NOT QUALIFY UNDER THE LAW AS A PURSUIT AND THAT INNOCENT PEDESTRIAN HAD TO ABSORB THE COST OF HIS INJURIES. [LB188]

PRESIDENT FOLEY: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. SENATOR SCHUMACHER. [LB188]

SENATOR SCHUMACHER: THANK YOU, MR. LIEUTENANT GOVERNOR, MEMBERS OF THE BODY. WOULD SENATOR WATERMEIER YIELD TO A QUESTION? [LB188]

PRESIDENT FOLEY: SENATOR WATERMEIER, WOULD YOU YIELD, PLEASE? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR SCHUMACHER: SENATOR WATERMEIER, ON A COUPLE, THREE OCCASIONS SO FAR IN THIS DEBATE, YOU'VE STATED THAT ALL THIS DOES IS...WELL, IT JUST REMOVES THE AUTOMATIC FROM THE PROCESS AND THE INNOCENT PARTY STILL CAN BE COMPENSATED BUT IN AN UNAUTOMATIC WAY. COULD YOU EXPLAIN WHAT YOU MEAN BY THAT? [LB188]

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SENATOR WATERMEIER: YEAH, I MEAN THAT'S BEEN MY WHOLE PURPOSE OF THE LAW AND THE POLICY THAT WE'RE TRYING TO DEBATE AND CHANGE TODAY IS THAT TODAY THERE IS NO DEFINITION AND NO NARROW DEFINITION OF WHO IS ACTUALLY INNOCENT. AND FOR ME THAT'S JUST THE WHOLE ISSUE, IS THAT WE ARE TAKING AWAY THE AUTOMATIC BECAUSE IF THERE'S AN ACCIDENT TODAY, WHETHER IT WAS A RESULT FROM NEGLIGENCE OR NON-NEGLIGENT ISSUE ON A POLICE PURSUIT, ANY PASSENGER IN THAT VEHICLE, NO MATTER WHAT THEY MAY HAVE DONE TO CAUSE THE PURSUIT, WHAT THEY MAY HAVE DONE TO EVEN, DAY BEFORE OR YEAR BEFORE, BEEN INVOLVED IN SOMETHING ILLEGAL, THEY ARE AUTOMATICALLY CONSIDERED INNOCENT. AND WHAT WE DO THEN, AND SENATOR BROOKS AND I HAVE BEEN TALKING ABOUT THIS, IS TO ME THAT YOU'RE NOT AUTOMATICALLY SAYING THEY'RE GUILTY, BUT YOU'RE ALLOWING FOR THAT PROCESS THAT THEY WILL HAVE TO PROVE THAT THEY ARE NOT GUILTY. THIS HAPPENS EVERY DAY. [LB188]

SENATOR SCHUMACHER: EXCUSE ME, SENATOR WATERMEIER. [LB188]

SENATOR WATERMEIER: YEAH. [LB188]

SENATOR SCHUMACHER: BUT WHERE IS IT IN HERE THAT IT SAYS THAT THEY THEN HAVE AN OPTION TO PROVE THEMSELVES INNOCENT? [LB188]

SENATOR WATERMEIER: BECAUSE THEY'RE NOT...BECAUSE THEY'RE NOT AUTOMATICALLY INNOCENT, THEY WILL HAVE THE...JUST LIKE IF THERE WAS NO POLICE PURSUIT AT ALL AND THERE WAS AN ACCIDENT, THEIR ONLY OBLIGATION, THEIR ONLY OPTION WOULD BE TO SUE THE DRIVER. [LB188]

SENATOR SCHUMACHER: OKAY, SO IN THOSE CASES, THE FACT THAT THE LAW, AS IT'S NOW WRITTEN, DETERS CHASES, SHOULDN'T WE JUST GET RID OF IT ALTOGETHER AND HAVE EVERYBODY PROVE THAT THEY ARE INNOCENT? THAT...I MEAN, WHY DISCRIMINATE BETWEEN SOME AND THE OTHER? IF THIS...A LAW IS A BAD IDEA AND IT DOESN'T DETER WILD CHASES OR UNWISE CHASES, WHY DON'T WE JUST GET RID OF IT AND MAKE EVERYBODY PROVE THAT THEY'RE INNOCENT, OR THE OFFICER AT LEAST PROVE THAT HE IS MORE INNOCENT THAN THE INNOCENT BYSTANDER? WHY DO WE EVEN HAVE THIS THING? [LB188]

SENATOR WATERMEIER: I WOULD AGREE. THAT'S WHERE WE HEADED WITH THE ORIGINAL BILL. AND MY AM374 ACTUALLY ADDED ANOTHER RESTRICTION,

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ANOTHER EXCLUSION TO WHO ACTUALLY COULD BE AUTOMATICALLY CONSIDERED INNOCENT. NOW IF YOU'RE A FELON...IT'S VERY, VERY NARROWLY DEFINED IN THAT FELON OR THOSE FIVE CATEGORIES. [LB188]

SENATOR SCHUMACHER: I THINK YOU'VE ANSWERED MY QUESTION. FOLKS, WE'VE FIRST GOT TO MAKE A POLICY DECISION. AND THE POLICY DECISION IS WHETHER THE WHOLE IDEA IS WORTH ANYTHING. IF IT IS A GOOD IDEA TO DETER WILD CHASES, THEN THE LAW IS PRETTY GOOD RIGHT NOW, BECAUSE IT'S DOING A GOOD JOB OF DETERRING THEM. AND IT'S DOING SO IN A WAY, THAT SENATOR CRAWFORD POINTED OUT, ISN'T COSTING MUCH INSURANCE COST ON THE PART OF GOVERNMENT. THE CHASES ARE WAY DOWN, BUT THAT'S A TOPIC FOR DISCUSSION. THIS PARTICULAR BILL SAYS, WELL, IT'S A GOOD IDEA, EXCEPT FOR SOME PEOPLE; EXCEPT IF YOU HAPPEN TO GET IN A VEHICLE AND YOU THOUGHT MAYBE THE PERSON WAS DRUNK AND HOW YOU KNOW THAT AHEAD OF TIME, AS SENATOR PANSING BROOKS POINTED OUT, OFFICERS DON'T EVEN KNOW IF PEOPLE ARE DRUNK, THEY GOT TO GIVE THEM A TEST. HOW ARE YOU SUPPOSED TO GIVE THEM A TEST? OR HOW ARE YOU SUPPOSED TO PROVE THAT YOU TOOK, DURING THE COURSE OF THE CHASE, REASONABLE STEPS TO PERSUADE THE DRIVER OF THE FLEEING VEHICLE? WHAT IF YOU HAD GOT HIT ON YOUR HEAD AND YOU CAN'T EVEN TESTIFY, DON'T EVEN REMEMBER? "IS SUBJECT TO ARREST OR TO BE APPREHENDED"--WHAT IF IT'S A THREE-YEAR-OLD BENCH WARRANT BECAUSE YOU FAILED TO...AND FORGOT ABOUT A... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR SCHUMACHER: ...SPEEDING TICKET AND THE JUDGE ISSUED A BENCH WARRANT AND SAID, ARREST HIM AND BRING HIM IN ON THE SPEEDING TICKET THREE YEARS AGO? HAS ENGAGED IN CONDUCT CHARGEABLE AS A FELONY-- WHEN I WAS PROSECUTING THERE WAS A JOKE, AND THAT IS EVERYBODY IS GUILTY OF A FELONY, WE JUST GOT TO FIGURE OUT WHICH ONE. THE BOTTOM LINE IS THIS TRY...IF THIS IS A GOOD POLICY AND IT WORKS TO DETER WILD CHASES, THEN IT'S GOOD AND WE DON'T HAVE TO GET DOWN TO SPLITTING HAIRS: WHO IS A BAD PERSON AND WHO IS A GOOD PERSON? THE ONLY ONE OF THESE THINGS IN HERE THAT IS JUSTIFIED IS THE ONE THAT THE COURT RECOGNIZED, AND THAT IS IF YOU EGGED THE DRIVER ON DURING THE COURSE OF THE CHASE. AND THAT MAY ALREADY BE THE LAW. DON'T KNOW WHY WE'RE HERE UNLESS WE ARE...WANT TO THROW THE WHOLE THING OUT. AND IF THAT'S THE ARGUMENT THAT SENATOR WATERMEIER IS MAKING, THEN LET'S ARGUE

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THAT WE SHOULD JUST THROW IT OUT AND GO BACK TO THE WAY WE WERE BEFORE 1980-SOMETHING. THANK YOU. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR SCHUMACHER. SENATOR McCOLLISTER, YOU'RE RECOGNIZED. [LB188]

SENATOR McCOLLISTER: THANK YOU, MR. SPEAKER. GOOD MORNING, COLLEAGUES. I RISE IN SUPPORT OF THE RECONSIDER MOTION AND WOULD LIKE TO SAY THAT THIS BILL, LB188, IS NOT READY FOR PRIME TIME. ONCE AGAIN, WE HAVE BILL THAT NEEDS TO BE REWORKED. THE IDEA FOR THE BILL IS GOOD. YOU KNOW, I SEE SOME MERIT IN THAT, BUT I ALSO SEE SOME PITFALLS THAT MANY OTHER SPEAKERS THIS MORNING HAVE ALLUDED TO. SO, ONCE AGAIN, I RISE IN SUPPORT OF THE RECONSIDER MOTION AND WOULD YIELD THE BALANCE OF MY TIME TO SENATOR CHAMBERS. [LB188]

PRESIDENT FOLEY: SENATOR CHAMBERS, 4:30. [LB188]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. THANK YOU, SENATOR McCOLLISTER. AND I'M GRATEFUL FOR WHAT SENATOR SCHUMACHER POINTED OUT. NOW WE'RE DISCUSSING THE THINGS THAT SOBER, DELIBERATIVE LAWMAKERS SHOULD BE DISCUSSING. AND IF THAT WERE OUR APPROACH, THIS BILL WOULD NOT BE ON THE FLOOR IN THE FIRST PLACE. BUT I WANT TO GO BACK TO THE JOURNAL, MAY 13, 1981. THIS IS WHERE IT ALL STARTED. I'D BEEN TRYING TO GET A HIGH-SPEED CHASE BILL THROUGH THE LEGISLATURE. AND IT WAS DECIDED, AND JOHN DeCAMP WAS CHAIRPERSON OF THE BANKING COMMITTEE AT THAT TIME, THAT INSTEAD OF MY BILL, WE WOULD ADD THIS AMENDMENT TO RISK MANAGEMENT LEGISLATION THAT WAS BEING COMPREHENSIVELY DRAFTED AT THE TIME. AND ON PAGE 1986 OF THE 1981 JOURNAL THIS IS WHAT IS STATED: MR. CHAMBERS MOVED TO RETURN LB273 TO SELECT FILE FOR THE FOLLOWING SPECIFIC AMENDMENT, QUOTE, IN CASE OF DEATH, INJURY, OR PROPERTY DAMAGE TO ANY INNOCENT THIRD PARTY AS A RESULT OF ACTION TAKEN BY A LAW ENFORCEMENT OFFICER DURING VEHICULAR PURSUIT, DAMAGES SHALL BE PAID TO SUCH THIRD PARTY BY THE STATE OR POLITICAL SUBDIVISION EMPLOYING THE OFFICER. THE MOTION PREVAILED 26 AYES, 0 NAYS, 20 PRESENT AND NOT VOTING, 3 EXCUSED AND NOT VOTING. THEN ON THE FOLLOWING PAGE, THE CHAMBERS' SPECIFIC AMENDMENT FOUND IN THIS DAY'S JOURNAL, WHICH I JUST READ, WAS ADOPTED WITH 27 AYES, 1 NAY, 18 PRESENT AND NOT VOTING, AND 3 EXCUSED AND NOT VOTING. AND HERE WAS THE DISCUSSION TAKEN FROM THE

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TRANSCRIPT OF MAY 13, 1981: MR. PRESIDENT, SAYS THE CLERK, LB273 HAS A MOTION BY SENATOR CHAMBERS TO RETURN FOR A SPECIFIC AMENDMENT. THEN HE READ IT. THE CHAIR RECOGNIZES SENATOR CHAMBERS. SENATOR CHAMBERS: MR. CHAIRMAN AND MEMBERS OF THE LEGISLATURE, THIS IS THE FORM OF THE AMENDMENT THAT HAS BEEN DISCUSSED ON THE HIGH-SPEED CHASE BILL. I HAD TRIED TO GET IT AMENDED INTO LB76, BUT WAS UNSUCCESSFUL BECAUSE WE HAD DECIDED THAT THIS WOULD BE THE BILL THAT SUCH A PROPOSITION OUGHT TO BE ATTACHED TO. SO WHAT IT WOULD DO IS DEAL WITH THE SITUATION WHERE A PERSON NOT INVOLVED IN THE CHASE AT ALL, NEVERTHELESS, IS INJURED OR KILLED, OR THERE MAY BE GREAT PROPERTY DAMAGE. OFTEN THE PERSON WHO IS BEING CHASED HAS NO MEANS BY WHICH TO RESPOND IN DAMAGES. AND IN OMAHA, THERE HAVE BEEN NUMEROUS CASES WHERE PEOPLE NOT INVOLVED IN THE CHASE AT ALL HAVE BEEN INJURED, KILLED, AND THEIR PROPERTY DESTROYED. JUST THE OTHER DAY IT HAPPENED. NOT TO HAVE INVOLVED A THIRD-PARTY, THE OMAHA POLICE SHOWED THAT THEY GOT THE MESSAGE THAT THE LEGISLATURE WAS SENDING THEM. THEY HEARD, THEY SAID,... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...A GUY SPEED AWAY FROM A PARKING LOT SO THEY CHASED HIM DOWN A BUSY STREET. FORTUNATELY, IT WAS EARLY IN THE MORNING AND THERE WAS NOT A LOT OF TRAFFIC ON THE STREET AT THAT TIME, SO A CRUISER CUT RIGHT IN FRONT OF HIM. IN TRYING TO AVOID THE CRUISER, HE RAN INTO THREE TELEPHONE POLES AND DIED. SO I GUESS EVERYBODY IS HAPPY NOW BECAUSE THIS IS WHAT SHOULD HAPPEN IN THOSE INSTANCES. I KNOW THE...AND I'M NOT GOING TO HAVE A CHANCE TO FINISH AT THIS TIME, SO I WON'T START IN THE MIDDLE, BUT THIS WAS DONE IN THE CONTEXT OF A DISCUSSION OF NUMEROUS CHASES OF THIS KIND AND THE DAMAGE TO THIRD PARTIES. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. SENATOR CRAWFORD, YOU ARE RECOGNIZED. [LB188]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT. I WAS JUST TRYING TO LOOK AT THE COURT CASE AND KIND OF UNDERSTAND WHAT THE COURTS HAVE SAID AND HOW WHAT WE ARE DOING HERE RELATES TO WHAT THE COURTS HAVE SAID ABOUT WHAT...WHEN SOMEONE IS CONSIDERED NOT TO BE AN INNOCENT THIRD PARTY. SO, WHAT I WOULD LIKE TO DO IS COME BACK TO THAT ISSUE

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THAT, I THINK, IS PART OF OUR POLICY DEBATE HERE AS WELL, WHICH IS WHETHER OR NOT WE SHOULD CHANGE THE DEFINITION BECAUSE OF SOMETHING THAT IS HAPPENING IN THE COURTS OR NOT. SO MY UNDERSTANDING FROM QUICKLY TRYING TO LOOK AT THE CASE AND FROM THE HANDOUT THAT SENATOR WATERMEIER HAS PROVIDED IS THAT WE DO HAVE A CASE, AND A CASE IN WHICH SOMEONE WAS DETERMINED NOT TO BE INNOCENT THIRD PARTY BECAUSE THEY HAD PROMOTED, PROVOKED, OR PERSUADED THE DRIVER TO ENGAGE IN FLIGHT AND, ALSO, BECAUSE THEY HAD BEEN CONSIDERED TO BE...SOUGHT TO BE APPREHENDED. SO IT IS MY UNDERSTANDING THEN THAT IN OTHER CASES THAT COME FORWARD, IF THESE CONDITIONS ARE TRUE, THAT COULD BE A BASIS FOR SOMEONE TO BE EXCLUDED AS AN INNOCENT THIRD PARTY IF THAT IS THE CASE. BUT I WOULD LIKE TO ASK THAT TO SOMEONE ON THE FLOOR, WHO COULD, PERHAPS, CONFIRM THAT. SENATOR CHAMBERS? [LB188]

PRESIDENT FOLEY: SENATOR CHAMBERS, WOULD YOU YIELD, PLEASE? [LB188]

SENATOR CHAMBERS: YES. SENATOR CRAWFORD, THE SPECIFIC CASE YOU MENTIONED, I DON'T KNOW WHETHER I WOULD BE COMMENTING ON THAT, BUT WHEN THAT LANGUAGE CAME OUT ABOUT THE PASSENGER IN THE CAR, THAT WAS WHERE THE COURT LAID DOWN THE PROPOSITION THAT IF THIS PERSON EGGS ON THE DRIVER AND THIS PERSON, BASED ON EVIDENCE THAT HAD BEEN PRESENTED, SAID THAT SHE HAD WARRANTS, SHE HAD FAILED TO APPEAR, AND THERE WERE OTHER REASONS WHY SHE WANTED HIM NOT TO STOP. THEY WERE IN A STOLEN VEHICLE WHICH SHE NOR ANY OTHER PASSENGERS KNEW WERE STOLEN. BUT WHEN THEY WENT PAST A CRUISER, SOMEBODY IN THE CAR SAID THEY MIGHT BE RUNNING A CHECK ON THE LICENSE PLATE. AND THAT IS WHEN THIS PERSON IN THE CAR SAID, I HAVE WARRANTS IN SARPY COUNTY AND WHATEVER, BUT ENCOURAGED THE PERSON TO KEEP FLEEING. UNDER THOSE CIRCUMSTANCES, THE COURT SAID THAT PERSON WAS NOT INNOCENT; THAT PERSON PLAYED A ROLE IN PROVOKING OR PERSUADING THE DRIVER TO CONTINUE. [LB188]

SENATOR CRAWFORD: AND THAT PRECEDENT EXISTS. SO IF THAT IS THE CASE IN ANY FUTURE CHASES, THAT IS A WAY IN WHICH SOMEONE COULD BE EXCLUDED FROM THE INNOCENT BYSTANDER, GIVEN THE CURRENT...WITHOUT PASSING LB188. IS THAT CORRECT? [LB188]

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SENATOR CHAMBERS: RIGHT. THAT IS WHAT THE COURT WOULD TAKE AS ITS STANDARD AND IT WOULD COVER EVERYTHING THAT IS REASONABLE IN TERMS OF EXCLUDING SOMEBODY. [LB188]

SENATOR CRAWFORD: SO THAT WOULD BE IF WE, SAY, PASSED LB188 WITH THE FLOOR AMENDMENTS THAT YOU HAVE PROPOSED. IT WOULD, BASICALLY, BE SIMILAR TO WHAT THE COURT CAN CURRENTLY DO NOW, IS THAT CORRECT? [LB188]

SENATOR CHAMBERS: I DON'T THINK WE NEED THE BILL. I WANT TO KILL THE BILL AND LEAVE IT WHERE THE COURT HAS PLACED IT. AND THE COURT ITSELF HAS SAID THE LEGISLATURE HAS NOT CHANGED WHAT WE DID, THEREFORE, THE LEGISLATURE ACCEPTS THAT STANDARD. [LB188]

SENATOR CRAWFORD: AND THAT WOULD BE YOUR...AS...THAT WOULD BE YOUR VIEW IS, YES, WE AS A LEGISLATURE SHOULD ACCEPT THIS STANDARD. [LB188]

SENATOR CHAMBERS: AT THIS POINT, I CERTAINLY DO. WHAT I'M SAYING, I HAVEN'T SEEN A REASON TO CHANGE IT. IF I THOUGHT THERE WAS A REASON TO ATTACK WHAT THE COURT HAD DONE, NOT JUST BECAUSE I DIDN'T LIKE IT, I WOULD HAVE BROUGHT LEGISLATION TO ATTEMPT TO CHANGE THAT APPROACH THAT THE COURT HAD TAKEN. [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: BUT IT'S REASONABLE...OH, YOU SAID TIME? IT IS REASONABLE FOR THE COURT TO SAY THAT THIS PERSON DID FACILITATE THE CHASE BY ENCOURAGING THIS PERSON IN THIS UNLAWFUL CONDUCT. IF I ENCOURAGE YOU TO STEAL AND TOOK ENOUGH ACTION, I WOULD BE AN AIDER AND ABETTOR. SO THAT IDEA IS CURRENT IN THE LAW IN OTHER MATTERS WHERE OFFENSES ARE INVOLVED. [LB188]

SENATOR CRAWFORD: THANK YOU, SENATOR CHAMBERS. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATORS CRAWFORD AND CHAMBERS. (VISITORS INTRODUCED.) SENATOR BAKER, YOU ARE RECOGNIZED. [LB188]

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SENATOR BAKER: THANK YOU, MR. PRESIDENT. I WOULD LIKE TO CALL THE QUESTION ON THE RECONSIDER MOTION. [LB188]

PRESIDENT FOLEY: THAT WILL NOT BE NECESSARY, SENATOR, THERE IS NO ONE IN THE QUEUE. SENATOR CHAMBERS, YOU ARE RECOGNIZED TO CLOSE ON THE RECONSIDERATION MOTION. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, WE ARE NOT GOING TO BE RID OF THIS DISCUSSION. SO WE CAN HAVE IT ON THIS MOTION, MY OTHER AMENDMENT THAT IS UP THERE, AND, THEN, AN ALTERNATIVE. WE SHOULD JUST GET RID OF THIS BILL. THE COURT HAS SET A STANDARD ALREADY. WHAT SENATOR WATERMEIER WANTS TO DO IS FIND A WAY TO EXCLUDE PEOPLE WHOM THE COURT WOULD NOT AUTOMATICALLY EXCLUDE. WHEN THESE CASES COME BEFORE A COURT, THE CITY DOES NOT WANT TO PAY. SO THEY WILL MAKE THE INDIVIDUAL WHO IS TRYING TO RECOVER PRESENT EVIDENCE TO SHOW THAT HE OR SHE FALLS WITHIN THE CONFINES OF THE LAW AND THE CURRENT SUPREME COURT OPINIONS. BUT IN MANY CASES WHERE CITIES ARE INVOLVED, RATHER THAN GO TO COURT, PAY THE FEES AND THE COSTS THAT ARE ENTAILED IN LITIGATION, REACH A SETTLEMENT, THEY WILL REACH A SETTLEMENT. IF ON THE AVERAGE, BASED ON SENATOR WATERMEIER'S FIGURES, \$600,000 IS PAID OUT BY OMAHA YEARLY, AVERAGE MEANS SOME THINGS ARE LOWER THAN THAT, OTHERS ARE MORE. WE DON'T KNOW HOW MUCH LOWER OR HOW MUCH MORE OR HOW MANY CASES UNLESS WE HAD THE ACTUAL NUMBER OF ACTUAL CASES, WERE ABLE TO REVIEW THE FACTS AND TO SEE HOW MUCH WAS PAID OUT IN EACH INSTANCE. THIS IS NOT A BUDGET BUSTER FOR ANY POLITICAL SUBDIVISION. AND IF IT WERE, YOU KNOW WHAT THE POLITICAL SUBDIVISION COULD DO TO PROTECT ITSELF? TELL THE OFFICERS THESE CHASES THAT YOU HAVE BEEN ENGAGING IN, STOP IT. AND THAT WOULD BE IT. NOBODY HAS POINTED OUT ANY SITUATION WHERE THERE ARE PEOPLE FLEEING FROM THE POLICE ON A DAILY OR AN HOURLY BASIS. THE POLICY SHOULD REMAIN INTACT. SENATOR WATERMEIER HAD TO ACKNOWLEDGE THAT IT HAS HAD AN IMPACT ON REDUCING THE NUMBER OF CHASES. WE SHOULD DO NOTHING TO ALTER THAT. SO IF YOU VOTE TO CEASE DEBATE ON THIS PARTICULAR MOTION, IT WILL JUST GET US TO MY NEXT MOTION AND WE'LL BE ON THAT FAR BEYOND NOON TODAY. WE WILL BE ON THAT AND SUBSEQUENT MOTIONS UNTIL YOU HAVE TO GET 32 VOTES. AND I PLEDGE TO FIGHT THIS BILL AT EVERY STAGE OF CONSIDERATION FOR THE FULL AMOUNT OF TIME WE ARE ALLOWED UNDER THE RULES. IT WILL BE NO PROBLEM FOR ME WHATSOEVER. SEE, IN MY ADVANCED AGE, IF I SNEEZED REAL HARD, IF I CAUGHT A COLD, I COULD KEEL OVER AND DIE FROM OLD AGE. SO WHAT DIFFERENCE DOES IT

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MAKE HOW I SPEND THE REMAINING TIME I HAVE ON THIS EARTH? I HAVE CONCLUDED I'LL HAVE TO SPEND IT DOING WHAT I PROMISED TO DO. WHEN PEOPLE VOTED FOR ME TO COME TO THIS OFFICE, I CANNOT THINK OF A BETTER WAY THAN, TO USE COWBOY LINGO, THAN TO DIE IN THE SADDLE WITH MY BOOTS ON, MY SIX-GUN LOADED AND AN ATTITUDE. SO AS LONG AS BAD LEGISLATION COMES BEFORE US, I HAVE AN OBLIGATION, REGARDLESS OF WHAT ANYBODY ELSE THINKS, DOES OR SAYS, OR DOESN'T DO, THINK OR SAY. MY OBLIGATION IS DETERMINED... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...BY MY CONSCIENCE. AND THIS IS THE KIND OF LEGISLATION I ATTACH THE LABEL "TRASH" TO, BECAUSE IT HAS NO VALIDITY. IT MEETS AND SATISFIES NO COMPELLING PUBLIC OR LEGAL INTEREST. IT PROVIDES A SALARY FOR A LOBBYIST WHO IS COMING TO TELL YOU THAT SOMETHING ON THE BOOKS SINCE 1981 AND HAS BEEN USED BY THE COURT, HAS BEEN INTERPRETED BY THE COURT, SHOULD NOW BE CHANGED BECAUSE THE LOBBYIST SAID SO. WELL, I SAY I DON'T AGREE WITH THE LOBBYIST. SO MAYBE THIS FIGHT IS BETWEEN ME AND THE LOBBYIST AND NOT ME AND SENATOR WATERMEIER. BUT MY COLLEAGUES WHO SIT HERE AS MEMBERS OF THIS BODY ARE GOING TO DETERMINE THE OUTCOME AND I'M TRYING TO PERSUADE YOU TO DO THAT WHICH ENHANCES AND ADVANCES... [LB188]

PRESIDENT FOLEY: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: ...THE LEGISLATIVE PROCESS. MR. PRESIDENT, I WILL ASK FOR A CALL OF THE HOUSE AND A ROLL CALL VOTE ON THE MOTION WHEN WE GET TO IT TO CEASE DEBATE. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. THERE'S BEEN A REQUEST TO PLACE THE HOUSE UNDER CALL. THE QUESTION IS, SHALL THE HOUSE GO UNDER CALL? ALL THOSE IN FAVOR VOTE AYE; THOSE OPPOSED VOTE NAY. RECORD, PLEASE, MR. CLERK. [LB188]

CLERK: 26 AYES, 0 NAYS, MR. PRESIDENT, TO PLACE THE HOUSE UNDER CALL. [LB188]

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PRESIDENT FOLEY: THE HOUSE IS UNDER CALL. SENATORS PLEASE RECORD YOUR PRESENCE. THOSE UNEXCUSED SENATORS OUTSIDE THE CHAMBER PLEASE RETURN TO THE CHAMBER AND RECORD YOUR PRESENCE. ALL UNAUTHORIZED PERSONNEL PLEASE LEAVE THE FLOOR. THE HOUSE IS UNDER CALL. SENATORS PANSING BROOKS, COASH, AND STINNER, THE HOUSE IS UNDER CALL. SENATOR GLOOR, THE HOUSE IS UNDER CALL. ALL MEMBERS ARE PRESENT. MEMBERS, THE QUESTION BEFORE US IS THE ADOPTION OF SENATOR CHAMBERS' RECONSIDERATION MOTION. HE HAS REQUESTED A ROLL CALL VOTE. MR. CLERK. [LB188]

CLERK: (ROLL CALL VOTE TAKEN, LEGISLATIVE JOURNAL PAGES 528-529.) 11 AYES, 29 NAYS, MR. PRESIDENT, ON THE MOTION TO RECONSIDER. [LB188]

PRESIDENT FOLEY: THE RECONSIDERATION MOTION IS NOT ADOPTED. I RAISE THE CALL. ITEMS FOR THE RECORD, MR. CLERK? [LB188]

CLERK: THANK YOU, MR. PRESIDENT. MR. PRESIDENT, I HAVE AN AMENDMENT TO BE PRINTED BY SENATOR SCHILZ TO LB1038. I HAVE NOTICE OF HEARING FROM THE EDUCATION COMMITTEE AND FROM THE TRANSPORTATION COMMITTEE AND FROM THE GENERAL AFFAIRS COMMITTEE, ALL SIGNED BY THE RESPECTIVE CHAIRS. NEW A BILL: SENATOR FRIESEN OFFERS LB814A. (READ LB814A BY TITLE FOR THE FIRST TIME.) SENATOR SEILER WOULD LIKE TO WITHDRAW LB976, THAT WILL BE LAID OVER. AND, MR. PRESIDENT, THE EXECUTIVE BOARD CHAIRED BY SENATOR KRIST REPORTS LB686 TO GENERAL FILE WITH COMMITTEE AMENDMENTS ATTACHED. THAT'S ALL THAT I HAVE. (LEGISLATIVE JOURNAL PAGES 529-534.) [LB1038 LB814A LB976 LB686]

MR. PRESIDENT, RETURNING TO LB188 AND THE COMMITTEE AMENDMENT, SENATOR CHAMBERS WOULD MOVE TO AMEND THE COMMITTEE AMENDMENTS WITH FA86. (LEGISLATIVE JOURNAL PAGE 506.) [LB188]

PRESIDENT FOLEY: SENATOR CHAMBERS, YOU ARE RECOGNIZED TO OPEN ON FA86. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, THIS IS AN AMENDMENT THAT WOULD STRIKE SOME PROVISIONS FROM THE BILL. AND THOSE PROVISIONS ARE FOUND IN TWO PLACES IN THE BILL. SO IF YOU HAVE ANY INTEREST AND YOU WOULD TURN TO PAGE 3 OF THE GREEN COPY, YOU WILL SEE THE LANGUAGE IN LINES 24 THROUGH 28, AND

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THEN THE SIMILAR LANGUAGE ON PAGE 5. AND THIS IS THE LANGUAGE THAT WOULD BE STRICKEN. THIS IS TO DETERMINE IF A PERSON IS NOT INNOCENT. AND THIS IS THE LANGUAGE I WANT TO STRIKE: "ENTERS INTO THE VEHICLE WITHOUT COERCION KNOWING, OR WITH A REASONABLE BELIEF, THAT THE DRIVER OF THE VEHICLE IS UNDER THE INFLUENCE OF ALCOHOLIC LIQUOR OR DRUGS." I WANT TO STRIKE THAT, BECAUSE THE PERSON DOES NOT HAVE ANY WAY TO PROVE THAT HE OR SHE KNEW THE CONDITION OF THE DRIVER. THANK YOU, MR. CLERK. IF A PERSON IS STOPPED BECAUSE AN OFFICER SMELLS ALCOHOL ON THE PERSON'S BREATH, THAT IS NOT SUFFICIENT BASIS TO SAY THE PERSON IS DRIVING UNDER THE INFLUENCE. THE OFFICER HAS THE PERSON TAKE A BREATHALYZER TEST AND SOME FIELD SOBRIETY TESTS. ON THE CHANCE THAT A PERSON MIGHT REFUSE TO DO SO, THAT REFUSAL ITSELF BECOMES A BASIS FOR PROCEEDING AGAINST THE INDIVIDUAL UNDER THE DRIVING UNDER THE INFLUENCE LAWS. IF YOU DIDN'T HAVE THAT PROVISION, EVERYBODY WOULD SIMPLY SAY, I'M NOT GOING TO SUBMIT TO THIS TEST. AND THE OFFICER SIMPLY SAYING SOMETHING IS NOT ENOUGH TO ESTABLISH DRIVING UNDER THE INFLUENCE, BECAUSE YOU HAVE TO SHOW THAT A CERTAIN AMOUNT OF ALCOHOL IS IN A PERSON'S SYSTEM. EVEN IF A PERSON IS GIVEN A TEST, AND IT CAN BE SHOWN THAT THE OPERATOR DID NOT KNOW HOW TO ADMINISTER THE TEST, THAT THE EQUIPMENT WAS NOT FUNCTIONING PROPERLY, OR ANY DEFECT, THEN THE EVIDENCE COULD NOT BE OFFERED. AND IF OFFERED OVER THAT PERSON'S OBJECTION, THEN ON APPEAL THE CONVICTION WOULD BE THROWN OUT. SO IF LAW ENFORCEMENT HAS TO GO THROUGH THESE STEPS, SENATOR WATERMEIER WANTS YOU TO SAY THAT A PERSON WOULD DETERMINE THE CONDITION OF THAT PERSON WHO IS DRIVING. I WOULD STRIKE THAT. THE NEXT ONE IS UNDER (b): "FAILS TO TAKE REASONABLE STEPS TO PERSUADE THE DRIVER OF THE FLEEING VEHICLE TO STOP THE VEHICLE." I'D LIKE TO ASK SENATOR WATERMEIER A QUESTION. [LB188]

PRESIDENT FOLEY: SENATOR WATERMEIER, WOULD YOU YIELD, PLEASE? [LB188]

SENATOR CHAMBERS: SENATOR WATERMEIER, WHAT ARE THE REASONABLE STEPS...WHAT STEPS WOULD BE CONSIDERED REASONABLE IN PERSUADING THE DRIVER TO STOP THE VEHICLE? [LB188]

SENATOR WATERMEIER: SENATOR CHAMBERS, I REALLY CAN'T ANSWER THAT BECAUSE YOU AND I HAVE BEEN DOWN THIS ROAD BEFORE THAT... [LB188]

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SENATOR CHAMBERS: WELL, IF YOU CAN'T ANSWER IT, BUT THAT'S WHAT THE LAW PUTS ON THIS PERSON IN THE VEHICLE, HOW DOES THAT PERSON KNOW WHAT TO DO? [LB188]

SENATOR WATERMEIER: THE LAW STILL...WHAT WE ARE TRYING TO CHANGE IN POLICY TODAY IS WHETHER THAT PERSON IS AUTOMATICALLY...THAT BURDEN OF THAT PROOF GOES BACK TO THE CIVIL CASE WHICH IS GOING TO FOLLOW. [LB188]

SENATOR CHAMBERS: OKAY. YOU ARE JUST REPEATING. THANK YOU. YOU DON'T KNOW. MEMBERS OF THE LEGISLATURE, YOU ALL ARE ASKED TO PUT IN THE LAW LANGUAGE THAT THE INTRODUCER DOESN'T EVEN KNOW WHAT IT MEANS. HOW DUMB CAN YOU BE? HOW STUPID CAN YOU BE? HE DOESN'T KNOW; YOU DON'T KNOW. AND YOU'RE GOING TO PUT IT IN THE LAW. AND SOMEBODY IN A CAR WOULD HAVE TO DO WHAT THE INTRODUCER DOESN'T KNOW WHAT IT IS, WHAT THE LEGISLATURE DOESN'T KNOW WHAT IT IS, THEN HOW IS THE COURT SUPPOSED TO KNOW? AND IF HE'S UPSET BECAUSE THE COURTS DON'T HAVE A STANDARD, HE IS PUTTING SOMETHING IN THE LAW FOR THE COURT TO PUZZLE THROUGH WHICH THEY DON'T HAVE TO PUZZLE THROUGH RIGHT NOW. THAT IS WHAT I WANT TO STRIKE. I'M TRYING TO SAVE THE LEGISLATURE FROM ITSELF. THOSE ARE THE TWO PROVISIONS THAT MY AMENDMENT UP THERE WOULD STRIKE. AND I'LL TELL YOU ALL WHAT I'M GOING TO DO, BECAUSE I JUST WANT TO TAKE TIME, AND I'M GOING TO OPERATE UNDER THE RULES. I ALWAYS DO THAT. THIS AMENDMENT COMPRISES TWO PROVISIONS. IF IT IS VOTED DOWN, THEN I CAN OFFER EACH ONE OF THOSE SEPARATELY. AND THAT DOES NOT COMPRISE A RECONSIDERATION BECAUSE IT IS A SUBSTANTIALLY DIFFERENT PROPOSITION. SO I HAVE PLENTY OF OPPORTUNITIES TO TAKE TIME AND TO RAIL AND TO SHOW HOW FOOLISH THIS IS THAT IS BEING DONE. I DON'T KNOW WHETHER ARRANGEMENTS HAVE BEEN MADE AND I WON'T EVEN ALLEGE THAT ARRANGEMENTS HAVE BEEN MADE. BUT SOMETHING IS GOING ON HERE THAT PREVENTS MY COLLEAGUES, WHO ORDINARILY HAVE SOME ABILITY TO THINK, TO HAVE WHAT THEY CALL IN LITERATURE VOLUNTARY SUSPENSION OF DISBELIEF. YOU READ A NOVEL, THINGS THAT COULD NOT POSSIBLY HAPPEN, OR WOULD BE VERY UNLIKELY TO HAPPEN IN THE REAL WORLD. YOU GO ALONG WITH IT IN ORDER THAT THE PLOT IN THE STORY MAY BE ADVANCED. THAT IS WHERE YOU SUSPEND YOUR DISBELIEF VOLUNTARILY. AND THAT IS WHAT THAT TERM MEANS. YOU SHOULD NOT VOLUNTARILY SUSPEND DISBELIEF WHEN WE ARE TALKING ABOUT THE LAW. SENATOR BLOOMFIELD IS IN ONE OF THESE VEHICLES. THE GUY DRIVES AND DOESN'T STOP. SENATOR BLOOMFIELD SAID, WELL, HE WOULDN'T STOP. AND THE PROSECUTOR SAYS, DID YOU MAKE

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REASONABLE EFFORTS TO GET THE PERSON TO STOP? AND YOU SAY, I DON'T KNOW WHAT THAT WOULD BE, I TOLD HIM YOU SHOULDN'T DO THIS, OR, I DIDN'T SAY ANYTHING, I WAS TERRIFIED. THEN YOU, SENATOR BLOOMFIELD, WOULD BE DISQUALIFIED FROM RECOVERING BECAUSE YOU DIDN'T KNOW WHAT THOSE REASONABLE STEPS WERE AND YOU DID NOT TAKE THEM. HOW DO YOU KNOW WHAT IS A REASONABLE STEP IF WE PASSING THE LAW DON'T TELL YOU WHAT IT IS? ARE YOU SUPPOSED TO GRAB THE STEERING WHEEL? IF IT IS A STICK SHIFT LIKE I'VE GOT, ARE YOU SUPPOSED TO TRY TO GET SOMEPLACE AND PULL THE...TAKE THE CAR OUT OF GEAR? REACH OVER AND STEP ON THE CLUTCH SO THAT THE ENGINE WILL RACE BUT IT WON'T GO ANY FASTER AT LEAST? ARE YOU SUPPOSED TO REACH OVER AND PUT YOUR FOOT ON THE BRAKE? WHAT IS REASONABLE? IT IS NOT IN THE BILL AND SENATOR WATERMEIER TOLD YOU HE CANNOT TELL YOU, YET YOU ALL ARE VOTING WITH HIM. WHEN YOU ALL ASK ME TO VOTE FOR BILL AND I GO ALONG WITH YOU, I DON'T DO THAT ON THE BASIS OF WHAT IS CRAZY. WHEN I SUPPORTED SENATOR DAVIS ON HIS BILL, ON THE HOG BILL, I WASN'T DEALING WITH SOMETHING UP IN THE SKY OR UP IN THE AIR. I HAD REASONABLE REASONS FOR THE POSITION THAT I TOOK. AND IF THE INTRODUCER CAN'T ANSWER THIS, I'M NOT GOING TO ASK YOU ALL WHAT THE ANSWER IS, BECAUSE YOU DON'T KNOW. BUT YOU DON'T CARE BECAUSE SOMETHING IS GOING ON THAT HAS NOTHING TO DO WITH WHAT IS HAPPENING ON THE FLOOR. AND I'M NOT INTERESTED IN EMBARRASSING ANYBODY OTHER THAN SENATOR WATERMEIER, AND NOT DOING IT JUST TO DO IT BUT TO SHOW YOU THAT ANYBODY WOULD BE EMBARRASSED IF HE OR SHE HAD ANY PRIDE OR FEELING OF PROFESSIONALISM ABOUT THE WORK WE ARE DOING. IF I BRING A BILL TO YOU AND I DON'T KNOW WHAT IT MEANS AND I SAY, BUT VOTE FOR IT, WHY SHOULD I VOTE FOR IT? WELL, BECAUSE A LOBBYIST TOLD ME THAT THIS IS WHAT WE SHOULD DO. AND THAT IS WHAT YOU ARE BEING ASKED TO DO, AND YOU ARE GOING TO DO IT. BUT YOU'RE GOING TO SPEND SOME HOURS AND THERE ARE GOING TO BE...HAVE TO BE 32 OF YOU, ALONG WITH SENATOR WATERMEIER, TO VOTE FOR SOMETHING THAT HE DOESN'T EVEN KNOW THE MEANING OF. [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: NOW THE PART THAT I'M LEAVING UNTOUCHED IS THE LANGUAGE THAT FOLLOWS: "PROMOTES, PROVOKES, OR PERSUADES THE DRIVER TO ENGAGE IN FLIGHT FROM LAW ENFORCEMENT PERSONNEL." WHY DON'T I OBJECT TO THAT? THAT IS WHAT THE COURT HAS SAID ALREADY. THAT IS THE STANDARD. THAT IS APPLIED BY THE COURT. THE COURT CREATED IT. THE COURT UNDERSTANDS IT. BUT I WOULD STILL TRY TO KILL THE BILL BECAUSE IT

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IS SUPERFLUOUS AND NOT NEEDED. IT WOULD BE LIKE SAYING I WANT TO PASS A BILL THAT SAYS WHEN YOU COME TO AN INTERSECTION, THERE'S A TRAFFIC CONTROL SIGNAL, IT HAS A RED, YELLOW, AND GREEN LIGHT AS PART OF THE MAKEUP. WHEN THE LIGHT IS RED FACING YOU, YOU STOP. I WANT TO PUT THAT INTO THE LAW. [LB188]

PRESIDENT FOLEY: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: WELL, IT'S IN THE LAW ALREADY. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. SENATOR WATERMEIER, YOU ARE RECOGNIZED. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. I JUST WANT TO RISE AND...OPPOSITION TO FA86. AND I DO WANT TO RESPOND A LITTLE BIT TO WHAT SENATOR CHAMBERS, AS FAR AS WHO HAD ASKED ME TO BRING THIS BILL. FOUR YEARS AGO, I HAD GOTTEN CALLS FROM COUNTY COMMISSIONERS IN MY DISTRICT AND ACTUALLY SHERIFFS AND DEPUTY SHERIFFS AND I WENT BACK AND LOOKED AT SOME OF MY NOTES AND THEY JUST HAD CONCERNS ABOUT THE DEFINITION OF INNOCENT THIRD PARTY NEEDS TO BE REVISED. WHEN YOU THINK OF INNOCENT THIRD PARTY, YOU THINK OF A PEDESTRIAN AND OCCUPANTS OF OTHER VEHICLES NOT INVOLVED IN THE PURSUIT. HOWEVER, YOU DON'T THINK OF A PASSENGER OF A FLEEING VEHICLE WHO ARE ALSO CARRYING AROUND AND POSSESSING ENOUGH TO UNDER THE LAW BE CONSIDERED A FELON. THAT'S WHY I GOT INTO THIS. I DID NOT GET APPROACHED BY THE LOBBY. I DID NOT GO OUT AND LOOK FOR A FIGHT. I WAS CALLED BY PEOPLE IN LAW ENFORCEMENT INDIRECTLY BECAUSE THEY WERE COUNTY COMMISSIONERS AND, OBVIOUSLY, DIRECTLY BECAUSE OF THE DEPUTY SHERIFF. I HAVE BEEN APPROACHED WITH SEVERAL OPTIONS AND I'M OPEN TO DISCUSSING HOW WE COULD DO TO PASS THIS BILL THIS YEAR. BUT I WILL TELL YOU, THIS BILL IS READY FOR PRIME TIME. THIRTY YEARS AGO, NEBRASKA HAD THE DEBATE ABOUT WHETHER YOU NEED TO HAVE A POLICE PURSUIT AND HOW WE'RE REALLY GOING TO DEFINE THIS. SENATOR CHAMBERS WAS OBVIOUSLY INVOLVED IN THAT DEBATE AND I'M SURE HE IS PROUD OF THE FACT THAT HE'S GOT INTO LAW SUCH A BROAD DEFINITION. AND I DOUBT WHETHER HE EVEN EXPECTED SUCH A BROAD DEFINITION. AND I'VE TOLD THIS BODY AND I'VE TOLD SENATOR CHAMBERS REPEATEDLY THAT WE HAVE DONE A GOOD JOB IN NEBRASKA, EVEN THOUGH WE ARE THE ONLY STATE IN THE UNION

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THAT HAS THIS ABILITY TO HOLD THE CITY OR THE COUNTY OR THE STATE LIABLE, WE ARE STILL THE ONLY STATE IN THE UNION. IF THIS BILL WASN'T READY FOR PRIME TIME, I COULD GO BACK TO 1980 AND 1981 WHEN WE PASSED IT THE FIRST TIME. IT MAY NOT HAVE BEEN READY THEN. OTHERWISE, WHY DO WE NOT HAVE A LIST OF OTHER STATES WILLING TO PUT THEMSELVES IN THE SAME POSITION? YES, WE MAY HAVE AN ARGUMENT, AND WE MAY HAVE A DEBATE, WE MAY HAVE DISAGREEMENTS ON WHAT JUSTIFIES A POLICE PURSUIT. BUT SOME OF THE ARGUMENTS I HAD OVER THE WEEKEND WOULD JUST AS WELL SAY LET'S JUST OPEN UP THE CASH REGISTERS; LET'S OPEN UP THE VAULTS; LET'S TAKE ALL POLICE CRUISERS AWAY FROM THE POLICE; IF YOU DON'T OWN A HELICOPTER, YOU'RE OUT OF LUCK, CAN'T PURSUE. WELL, IN LIFE WE HAVE THE PRIVILEGE TO DRIVE ON A HIGHWAY AND THAT COMES WITH FOLLOWING SOME RULES. AND I'M SORRY, SOMETIMES THE LAW ENFORCEMENT ARE REQUIRED TO GO INTO A PURSUIT. BUT I'VE TOLD SENATOR CHAMBERS THIS REPEATEDLY THAT HE OUGHT TO BE PROUD OF THE FACT THAT NEBRASKA HAS REDUCED ITS NUMBER OF PURSUITS, IT HAS PUT A POLICY IN PLACE THAT THE PURSUIT...THAT LAW ENFORCEMENT AGENCY HAS TO DO...PROCEDURES THAT THEY HAD NEVER DONE BEFORE. AND I'M SURE THEY HAVE IMPROVED IT AND AS MUCH AS THEY CAN. BUT I'M ALSO SURE THAT SENATOR CHAMBERS COULD GIVE YOU LOTS OF EXAMPLES OF BAD APPLES IN THE ENVIRONMENT. BUT THE IDEA OF ALLOWING SOMEONE TO BECOME AN INNOCENT THIRD PARTY AUTOMATICALLY, I JUST HAVE A PROBLEM WITH THAT. SO I WOULD ENCOURAGE EVERYBODY TO KEEP YOUR EYE ON THE BALL. DON'T TAKE THE SEED OF CHANGE HERE. WE CAN CHANGE THIS AND SENATOR CHAMBERS WILL STILL HAVE 98 PERCENT OF THE BILL HE HAD IN 1980. WE HAVE IMPROVED POLICE PURSUITS; WE'VE REDUCED THE NUMBER OF INCIDENCES. YES, EVEN IF IN OMAHA THEY STILL AVERAGE \$600,000 A YEAR AND AFTER THIS BILL THEY AVERAGE \$599,000, I CAN'T SAY THAT IS AN IMPROVEMENT. BUT I'M SAYING THAT IS THE REALITY THAT SOME OF THESE PEOPLE OUT THERE ARE CLAIMING TO BE AUTOMATICALLY INNOCENT. WE HAVE CATEGORIZED THAT SO BROADLY WE HAVE GIVEN NO DEFINITION TO IT. THE COURT HAS TOLD US THIS, COMMON SENSE SHOULD TELL YOU THAT. SO I STAND IN OPPOSITION TO FA86. BUT I DO APPRECIATE THE DISCUSSION. AND IF WE CAN COME TO SOME SORT OF AN AGREEMENT ON A CHANGE IN THIS, I'M OPEN. BUT KEEP IN MIND WHERE WE ARE HEADED WITH THIS. WE'RE THE ONLY STATE THAT DOES THIS. [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR WATERMEIER: THANK YOU, MR. PRESIDENT. [LB188]

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PRESIDENT FOLEY: THANK YOU, SENATOR WATERMEIER. SENATOR PANSING BROOKS, YOU ARE RECOGNIZED. I DO NOT SEE HER IN THE CHAMBER AT THE MOMENT. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, I'D LIKE TO ASK SENATOR WATERMEIER A QUESTION OR TWO BASED ON WHAT HE JUST SAID. [LB188]

PRESIDENT FOLEY: SENATOR WATERMEIER, WOULD YOU YIELD, PLEASE? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR CHAMBERS: SENATOR WATERMEIER, YOU MENTIONED THAT SOME OF YOUR COUNTY COMMISSIONERS AND A SHERIFF CAME TO YOU ABOUT THIS. DID I HEAR YOU CORRECTLY? [LB188]

SENATOR WATERMEIER: YES, FOUR YEARS AGO, THEY DID. [LB188]

SENATOR CHAMBERS: DID THEY TELL YOU THE MEANING OF THIS LANGUAGE THAT I'M TRYING TO STRIKE, THE MEANING OF WHICH YOU DON'T KNOW? DID THEY TELL YOU WHAT THAT LANGUAGE MEANT? [LB188]

SENATOR WATERMEIER: NO. [LB188]

SENATOR CHAMBERS: LET ME...LET ME...OKAY, WHO GAVE YOU THIS LANGUAGE? [LB188]

SENATOR WATERMEIER: THIS CAME FROM...FROM THE LOBBY, IT CAME FROM THE LOBBY IN THE DISCUSSION THAT I'VE HAD WITH THOSE ATTORNEYS. AND YOU HAD MENTIONED... [LB188]

SENATOR CHAMBERS: AND THAT'S WHAT I SAID. [LB188]

SENATOR WATERMEIER: YEAH. [LB188]

SENATOR CHAMBERS: THAT IS WHY YOU BROUGHT THIS BILL. NOW YOU SAID, AND I'M NOT GOING TO ASK IT AS A QUESTION, YOU SAID THAT IF A PERSON IS

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ON A MOTORCYCLE AND IS FLEEING AND THE PERSON SLOWS THE MOTORCYCLE DOWN TO TURN A CORNER, THE PASSENGER CAN JUMP OFF THE MOTORCYCLE. YOU SAID THAT, DIDN'T YOU, DURING YOUR DEBATE THE OTHER DAY? [LB188]

SENATOR WATERMEIER: I SAID THAT HAD HAPPENED, YES. [LB188]

SENATOR CHAMBERS: THANK YOU. THAT'S ALL. MEMBERS OF THE LEGISLATURE, YOU SEE HOW SILLY HE IS ASKING YOU TO BE? DO YOU KNOW HOW FAST A MOTORCYCLE CAN ACCELERATE AND HOW FAST IT MIGHT BE GOING WHEN A PERSON IS GOING TO TURN A CORNER? TO MERELY GO SLOWER THAN IT HAD BEEN GOING DOESN'T MEAN IT IS SAFE. AND IF THE MOTORCYCLE IS BEING PURSUED AND THE CAR IS BEHIND THE MOTORCYCLE AND YOU JUMP OFF THE MOTORCYCLE, YOU JUMP IN THE PATH OF THE PURSUING CAR. THAT IS HOW SILLY THIS IS AND YOU ALL REFUSE TO DEAL WITH IT. SO I'M GOING TO JUST KEEP DOING WHAT I'M DOING. AND I HOPE THE PUBLIC WATCHES. I HOPE THEY SEE HOW ABSOLUTELY SILLY AND ASININE THIS IS. THE PEOPLE WHO TOLD SENATOR WATERMEIER TO BRING THIS BILL DIDN'T TELL HIM WHAT THIS LANGUAGE MEANS THAT HE WANTS YOU TO VOTE FOR, AND HE DOESN'T KNOW WHAT IT MEANS. AND YOU ALL ARE VOTING WITH HIM. HOW MANY OF YOU, IF I POLLED YOU, P-O-L-L-E-D, NOT P-O-L-E-D, WHICH MEANS I TAKE A POLE TO YOU LIKE YOU DO WITH A MULE WHEN YOU'RE TRYING TO GET ITS ATTENTION, HOW MANY OF YOU WOULD SAY THAT IF A PERSON IS ON A MOTORCYCLE, AS A PASSENGER, AND IT'S BEING PURSUED BY AN OFFICER AND THE MOTORCYCLIST DECIDED TO TURN A CORNER AND SLOWED DOWN ENOUGH TO TURN THE CORNER, YOU'D JUMP OFF THE BACK OF THE MOTORCYCLE? WHAT WOULD THE PURSUING CAR DO? IT WOULD RUN OVER ANYTHING IN ITS PATH. NOBODY WITH TWO OUNCES OF SENSE WOULD EVEN SUGGEST SUCH A THING. THAT IS HOW FAR OUT HE HAS TO GO, BECAUSE THE LOBBYIST TOLD HIM, THOSE PEOPLE IN THE LEGISLATURE ARE STUPID ANYWAY; SAY ANYTHING, THEY BUY IT. IF I DIDN'T RAISE THESE QUESTIONS, NOBODY WOULD RAISE THEM. WHEN I WAS TRYING TO GET THE CITY OF OMAHA TO DO SOMETHING ABOUT THIS MANY YEARS AGO, SENATOR WATERMEIER, I DIDN'T DO LIKE YOU AND OTHER PEOPLE: NEED SOMEBODY TO TELL ME. I SAW WHAT WAS HAPPENING AND I SAW THE PEOPLE BEING HURT AND THEY HAPPENED TO HAVE BEEN PRIMARILY WHITE PEOPLE IN THOSE DAYS. BUT IT WAS WRONG WHAT THE POLICE WERE DOING. AND, YES, I WANTED A VERY BROAD REQUIREMENT BECAUSE I WANTED TO BAN HIGH-SPEED CHASES. I WANTED TO BAN THEM ALTOGETHER. SO THAT SHOWS YOU WHERE MY MIND IS ON THIS. BUT WHEN I HAD A HEARING, BECAUSE I WAS THE CHAIR AS A MEMBER OF THE JUDICIARY COMMITTEE, OF A COMMITTEE

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THAT HAD BEEN CREATED BY THE JUDICIARY COMMITTEE THAT HAD TO DO WITH DISTRIBUTING FEDERAL FUNDS UNDER SOME LAW THAT DEALT WITH SAFE STREETS...OR WHATEVER IT WAS. SO I HAD AUTHORITY TO CONVENE HEARINGS. AND I CALLED ONE FOR THE COURTHOUSE AND I WANTED THE SHERIFF WHOSE NAME WAS JANSEN TO COME TO THE HEARING AND HE REFUSED. AT THAT TIME, IT JUST HAPPENED THAT WALT RADCLIFFE WAS THE COUNSEL FOR THE JUDICIARY COMMITTEE AND MINE. [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: SO I TOLD HIM, DRAFT ME A SUBPOENA. AND HE DID AND I HAD THE DOUGLAS COUNTY SHERIFF'S OFFICE SERVE A SUBPOENA ON THE SHERIFF AND HE HAD TO COME TO THAT HEARING. THAT IS HOW OBDURATE THEY WERE. THEY DIDN'T WANT TO CONFRONT ME. AND IT'S THE ONLY TIME IN THE HISTORY OF THIS STATE ANY SHERIFF HAD EVER BEEN SUBPOENAED AND NONE HAS BEEN SUBPOENAED SINCE THEN TO MY KNOWLEDGE. THOSE ARE THE STEPS THAT I TOOK BECAUSE I SAW HOW IMPORTANT THIS WAS FOR THE PUBLIC, HOW DANGEROUS IT WAS. AND I WILL TELL YOU SOMETHING ELSE. THERE HAD BEEN A VERY BAD CHASE THROUGH SOUTH OMAHA AND IT WENT THROUGH YARDS. AND ONE YARD HAD A SLOPE TO THE BACKYARD. AND YOU CAN SEE WHERE THE UNDERCARRIAGE OF THE GUY BEING CHASED, HIS UNDERCARRIAGE SCRAPED SOME THE EARTH OFF AND THE POLICE CAR DID. AND YOU KNOW HOW THEY CAUGHT HIM? HE GOT AWAY. THEY HAD GOTTEN HIS LICENSE PLATE NUMBER AND THEY SUBSEQUENTLY WENT TO HIS HOUSE AND ARRESTED HIM. [LB188]

PRESIDENT FOLEY: TIME, SENATOR. [LB188]

SENATOR CHAMBERS: THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CHAMBERS. SENATOR CAMPBELL, YOU ARE RECOGNIZED. [LB188]

SENATOR CAMPBELL: THANK YOU, MR. PRESIDENT AND COLLEAGUES. I'M SORRY THAT SENATOR PANSING BROOKS WAS NOT CALLED ON AND I'M SURE SHE'S IN DISCUSSIONS. HER CONCERN HAS BEEN, IF YOU WILL TAKE A LOOK AT THE BILL UNDER SENATOR CHAMBERS' FLOOR AMENDMENT, FA86, HER CONCERN HAS BEEN (a) AND (b) ON BOTH SECTIONS. AND QUITE OFTEN, COLLEAGUES, WE TEND TO LOOK UP AT THE BOARD AND SEE ANOTHER FLOOR

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AMENDMENT THAT SENATOR CHAMBERS MIGHT HAVE PUT FORWARD. AND OFTENTIMES WE THINK, WELL, THIS IS A RECONSIDERATION OR THIS IS TO TAKE A LOOK AT. BUT SENATOR CHAMBERS HAS A VERY SERIOUS FLOOR AMENDMENT HERE ON LB86...OR FA86. I KNOW THAT A NUMBER OF PEOPLE IN THE BODY ARE SUPPORTING THE BILL, AND I UNDERSTAND THAT, AND MOST LIKELY I WILL TOO. BUT I THINK THAT SENATOR CHAMBERS HAS SOME VERY VALID POINTS UNDER THIS FLOOR AMENDMENT. AND I WENT OUT AND INDICATED SUCH TO THE COUNTY ASSOCIATION AND SAID, PLEASE, TAKE A LOOK AT THIS FLOOR AMENDMENT. SENATOR CHAMBERS IS WELL KNOWN FOR WANTING TO MAKE SURE THAT EVEN THOUGH HE DOES NOT SUPPORT A BILL, IF A BILL IS GOING TO BE PASSED, CAN IT BE IMPROVED? I WOULD HAVE TO SAY THAT FA86 DOES PUT FORWARD A REASONABLE QUESTION FOR US AND THAT: WOULD THIS IMPROVE THE BILL FOR THOSE OF US WHO UNDERSTAND WHY SENATOR WATERMEIER MIGHT HAVE BROUGHT THE BILL FORWARD? AND, MR. PRESIDENT, IF SENATOR CHAMBERS WOULD ENTERTAIN A QUESTION. [LB188]

PRESIDENT FOLEY: SENATOR CHAMBERS, WOULD YOU YIELD, PLEASE? [LB188]

SENATOR CHAMBERS: YES, I WILL. [LB188]

SENATOR CAMPBELL: SENATOR CHAMBERS, WOULD YOU...I'M GOING TO GIVE YOU THE REST OF MY TIME TO JUST BRIEFLY STATE ONCE AGAIN YOUR CONCERN ABOUT (a) AND (b) IN THESE TWO SECTIONS. THANK YOU. [LB188]

SENATOR CHAMBERS: VERY BRIEFLY, THEY SET IN PLACE SOME REQUIREMENTS THAT ARE NOT UNDER THE LAW AND THEY SET A STANDARD THAT CANNOT VERY WELL BE MET BY ANYBODY. AND IF YOU HAVE A MINOR, IT JUST HAS TO DO WITH THE PERSON IN THE CAR. THE MINOR CANNOT MAKE HIS DADDY OR SOME ADULT STOP DRIVING THE CAR AND THE MINOR MIGHT BE THE ONLY ONE HURT AND THE MINOR COULDN'T RECOVER. YOU HAVE TO LOOK NOT AT WHAT SOMEBODY SAYS THEY WANT TO DO, YOU HAVE TO LOOK AT WHAT CAN BE DONE UNDER THE LAW. YOU COULD HAVE SOMEBODY WHO IS...WELL, I'M NOT GOING TO GIVE ALL THE EXAMPLES BECAUSE IT WOULD REACH THE POINT OF BEING RIDICULOUS, EVEN THOUGH THOSE ARE THE KIND OF THINGS THAT COULD HAPPEN UNDER THIS NEW LANGUAGE. BUT YOU ASKED ME TO BRIEFLY STATE WHAT IT WAS AND THAT BRIEFLY IS WHAT IT IS. THANK YOU. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATORS CAMPBELL AND CHAMBERS. HAD YOU FINISHED, SENATOR? [LB188]

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SENATOR CAMPBELL: THANK YOU, MR. PRESIDENT. I HAD. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR. SENATOR CRAWFORD, YOU'RE RECOGNIZED. [LB188]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT. AND I DO WANT TO THANK SENATOR WATERMEIER FOR SAYING THAT HE WAS WILLING TO CONSIDER SOME CHANGES. I RISE IN SUPPORT OF FA86. I'M GENERALLY SKITTISH ABOUT FLOOR AMENDMENTS. BUT I DO THINK THIS IS A CRITICAL CHANGE IN THE BILL. I HAD SAID BEFORE I DON'T SUPPORT THE BILL, BUT I THINK, AS SENATOR CAMPBELL HAD NOTED, FOR THOSE WHO DO SUPPORT THE BILL, I REALLY THINK THAT THIS IS A CRITICAL CHANGE TO MAKE IN THE BILL. WHEN I...AND ONE OF THE REASONS I BECAME CONCERNED ABOUT LB188 WAS, ESPECIALLY (a), THESE PROVISIONS THAT WE'RE STRIKING IN FA86, WHICH IS PROVISIONS (a) AND (b). SO...AND MY CONCERN IS REALLY THE WAY IN WHICH THOSE PROVISIONS, (a) AND (b), COULD BE USED TO EXCLUDE SOMEONE WHO REALLY WAS IN THE WRONG PLACE AT THE WRONG TIME. SO, AGAIN, PROVISION (a) IS THAT SOMEONE ENTERS INTO THE VEHICLE WITHOUT COERCION, KNOWING, OR WITH A REASONABLE BELIEF THAT THE DRIVER OF THE VEHICLE IS UNDER THE INFLUENCE OF ALCOHOLIC LIQUOR OR DRUGS. SO, AGAIN, IF THE DRIVER HAPPENS TO BE UNDER THE INFLUENCE, HOW ARE YOU GOING TO PROVE THAT YOU DIDN'T KNOW THAT AT THE TIME? AND SO IT SEEMS TO ME THAT ANY TIME THAT THERE IS A DRIVER WHO MAY BE UNDER THE INFLUENCE, THE CONDITION (a) WOULD ALLOW FOR THAT INNOCENT PERSON IN THE CAR, INNOCENT IN THE SENSE OF THE CHASE, WOULD ALLOW THEM TO BE EXCLUDED BECAUSE THE DRIVER WAS UNDER THE INFLUENCE. NOW, CLEARLY, GETTING INTO THE CAR WITH SOMEONE WHO IS UNDER THE INFLUENCE IS A VERY UNWISE CHOICE. IT'S NOT SOMETHING WE WOULD RECOMMEND. HOWEVER, IF YOU ARE IN A SITUATION, IN THE WRONG PLACE AT THE WRONG TIME, EVEN IF YOU DID GET IN THE CAR AND HAD A GOOD IDEA THAT THE PERSON WAS UNDER THE INFLUENCE, I WOULD ARGUE THAT THAT STILL DOES NOT MEAN THAT YOU ARE NOT DESERVING OF HAVING YOUR INJURIES ADDRESSED IF THAT DRIVER THEN IS CHASED BY POLICE OFFICERS. SO I JUST HAVE SERIOUS CONCERNS ABOUT CONDITION (a). AGAIN, IF WE PASS LB188, IT THINK IT IS IMPORTANT TO ELIMINATE CONDITION (a). CONDITION (b) IS "FAILS TO TAKE REASONABLE STEPS TO PERSUADE THE DRIVER OF THE FLEEING VEHICLE TO STOP THE VEHICLE." AND AGAIN, HOW ARE YOU GOING TO PROVE THAT? SO I THINK PROVISION (a) AND PROVISION (b) ARE VERY CRITICAL IN TERMS OF MAKING SURE THAT WE REMOVE THOSE FROM LB188 IF WE ARE GOING TO PASS LB188. SO I REALLY ENCOURAGE MY COLLEAGUES WHO ARE SUPPORTIVE OF THE PRINCIPLE OF

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LB188 TO SERIOUSLY LOOK AT FA86 AND LOOK AT PROVISION (a) AND PROVISION (b) AND UNDERSTAND HOW SOMEONE WHO IS IN THE WRONG PLACE AT THE WRONG TIME COULD VERY WELL GET CAUGHT UP AND BE EXCLUDED FROM HAVING THEIR INJURIES ADDRESSED BECAUSE OF HOW PROVISION (a) AND PROVISION (b) COULD BE USED BY AN ARTFUL LAWYER. SO, AGAIN, WHEREVER YOU STAND ON LB188, I THINK IT IS VERY IMPORTANT THAT WE TAKE OUT THE PROVISION (a) AND (b). AND SO I URGE YOU TO PAY ATTENTION, LOOK AT THIS FLOOR AMENDMENT SERIOUSLY. OR IF YOU ARE ENGAGED IN DISCUSSIONS ABOUT ANOTHER AMENDMENT THAT YOU ARE BRINGING, I REALLY URGE YOU TO LOOK AT PROVISION (a) AND (b). AND IT'S I THINK CRITICAL THAT WE REMOVE THOSE TWO PROVISIONS IF WE ARE GOING TO MOVE FORWARD ON LB188. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CRAWFORD. SENATOR CHAMBERS, YOU'RE RECOGNIZED. [LB188]

SENATOR CHAMBERS: THANK YOU. MR. PRESIDENT, MEMBERS OF THE LEGISLATURE, ACTUALLY, WE HAVE SO FEW DAYS LEFT, RELATIVELY SPEAKING, THAT I MAY AS WELL SPEND AS MANY HOURS AS YOU ALL WANT TO SPEND ON THIS BAD LEGISLATION. AND BY YOU CARRYING IT TO CLOTURE, YOU ARE NOT GOING TO DETER ME. YOU ARE STRENGTHENING ME BECAUSE I REFUSE TO LET THIS LEGISLATURE MAKE A FOOL OF ITSELF. I'M GOING TO TAKE OWNERSHIP OF THIS LEGISLATURE. THIS IS MY LEGISLATURE. AND I'M GOING TO SEE THAT IT CONDUCTS ITSELF IN A WAY THAT MEETS MY STANDARD OF THE WAY A LEGISLATURE SHOULD FUNCTION. AND BEFORE YOU THINK I'M ARROGANT, THAT IS WHAT EACH ONE OF YOU IS DOING WHEN YOU BRING ONE OF THESE PIECES OF TRASH LEGISLATION. YOU ARE SAYING THIS IS THE WAY THE LEGISLATURE SHOULD BEHAVE BASED ON YOUR STANDARD. AND I SAY YOUR STANDARD IS NOT HIGH ENOUGH. YOU COULD TAKE THIS STUFF TO A DEBATE CLASS IN HIGH SCHOOL AND THEY'D MAKE MORE SENSE OUT OF IT THAN YOU ALL WOULD. BUT THAT IS NOT AN ARGUMENT FOR SAYING THAT PEOPLE WHO ARE 18 OUGHT TO BE ABLE TO HOLD THESE OFFICES. WE HAVE TO STUDY THESE OLDER PEOPLE AND LET THEM REVEAL THAT THEY ARE IMMATURE AND IGNORANT. YOU CAN PRESUME THAT MOST PEOPLE OF A CERTAIN AGE ARE GOING TO BE IMMATURE AND IGNORANT OF VERY IMPORTANT MATTERS BECAUSE THOSE THINGS DON'T PERTAIN TO WHAT INTERESTS PEOPLE WHEN THEY ARE OF THAT TENDER AGE. I AM NOT GOING TO BE SWAYED FROM WHAT I AM DOING. AND SINCE I KNOW THE COUNTIES ARE FOR THIS, THEY HAVEN'T BROUGHT ANY BILLS OF THEIR OWN YET, BUT I AM GOING TO SHOW THEM. THEY SAY, OH, IT'S A TERRIBLE THING TO FALL INTO THE HANDS OF AN ANGRY

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GOD. IT IS AN EVEN MORE TERRIBLE THING TO FALL INTO THE HANDS OF ONE WHO HAS BEEN CALLED A MINION OF SATAN. THAT IS EVEN WORSE. THERE'S A POEM AND THE LINE GOES SOMETHING LIKE: THERE IS...HEAVEN HATH NO HATRED LIKE...HEAVEN HATH NO ANGER LIKE LOVE TO HATRED TURNED, NOR HELL A FURY LIKE A WOMAN SCORNF. SO THERE ARE THINGS WORSE THAN HEAVEN'S WRATH OR HELL'S FURY. BUT I'M NOT ACTING OUT OF FURY, EVEN THOUGH THAT IS WHAT I FEEL ON THIS FLOOR. I AM ACTING ON THE BASIS OF INTELLIGENCE, MY TRAINING IN THE LAW, MY YEARS OF EXPERIENCE IN THIS LEGISLATURE, ALL OF WHICH COUNT FOR NOTHING. BUT I DON'T NEED YOUR APPROVAL TO DO WHAT I'M DOING. I DON'T NEED YOUR ENDORSEMENT, I DON'T NEED YOUR PERMISSION. SOMETIMES I QUOTE SONGS. HARRY BELAFONTE SANG A SONG WHERE HE WAS RUNNING FROM THE SHERIFF. BUT HE HAD TO SEE DARLIN' CORA ONE MORE TIME. SO HE TOLD HER: I AIN'T A MAN TO BE PLAYED WITH; I AIN'T NOBODY'S TOY; I HAVE BEEN WORKING FOR MY PAY FOR A LONG, LONG TIME, SO HOW COME HE STILL CALL ME BOY; I WHOPPED THAT MAN, DARLIN' CORA, AND HE FELL DOWN WHERE HE STOOD; IT MAY HAVE BEEN WRONG, DARLIN' CORA, BUT, LORD, IT SURE FELT GOOD. SO THEN HE TELLS HER: WAKE UP, WAKE UP, DARLIN' CORA, I WANT TO SEE YOU ONE MORE TIME... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CHAMBERS: ...OH, THE SHERIFF AND HIS HOUND DOGS ARE A-COMIN'; I GOT TO MOVE ON DOWN THE LINE. HE KNEW WHAT THE CONSEQUENCES MAY HAVE BEEN. BUT HE REACHED THE POINT WHERE HE WAS NOT GOING TO BE CALLED "BOY" ANY LONGER. AND I'VE REACHED THE POINT IN THIS...AT THIS STAGE OF THE LEGISLATURE WHERE I'M GOING TO TAKE OWNERSHIP AND YOU WILL BE ABLE TO DO WHAT YOU WANT TO DO, BUT IT IS GOING TO BE CLEAR THAT YOU ARE DOING IT CONTRARY TO YOUR OWN GOOD JUDGMENT IF YOU WOULD ALLOW IT TO TAKE EFFECT. BUT YOU MAKE DEALS AND AGREEMENTS WHEN YOU DON'T KNOW WHAT YOU ARE AGREEING TO. THEN YOU FEEL THAT YOU HAVE GOT TO STICK WITH IT, EVEN IF IT MAKES YOU LOOK LIKE A FOOL. SO I'M GOING TO TAKE TIME TO SHOW WHAT A FOOL THE LEGISLATURE CAN COLLECTIVELY LOOK LIKE. YOU ARE GOING TO VOTE FOR SOMETHING WHICH THE INTRODUCER DOESN'T KNOW THE MEANING OF AND YOU DON'T KNOW THE MEANING OF. BUT YOU WANT TO PUT IT INTO THE LAW. THAT IS FOOLISH. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANKS, SENATOR CHAMBERS. SENATOR SCHUMACHER, YOU ARE RECOGNIZED. [LB188]

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SENATOR SCHUMACHER: THANK YOU, MR. LIEUTENANT GOVERNOR, MEMBERS OF THIS LEGISLATURE. WOULD SENATOR WATERMEIER YIELD TO A COUPLE QUESTIONS? [LB188]

PRESIDENT FOLEY: SENATOR WATERMEIER, WOULD YOU YIELD, PLEASE? [LB188]

SENATOR WATERMEIER: YES. [LB188]

SENATOR SCHUMACHER: SENATOR WATERMEIER, THIS EXCEPTION THAT WE ARE DEBATING ABOUT TAKING OUT OF HERE SAYS THAT IF SOMEBODY...THEY ARE NOT AN INNOCENT PERSON, "SHALL NOT BE CONSIDERED AN INNOCENT" PERSON--"SHALL NOT BE CONSIDERED," THAT DOESN'T GIVE THEM THE OPTION TO APPARENTLY PROVE THEMSELVES TO BE INNOCENT--BUT SHALL NOT BE CONSIDERED IF THEY ENTER INTO A VEHICLE WITHOUT COERCION KNOWING, OR WITH A REASONABLE BELIEF, THAT THE DRIVER OF THE VEHICLE IS UNDER THE INFLUENCE OF DRUGS OR LIQUOR. WHOSE JOB IS IT TO PROVE THAT THEY KNEW? [LB188]

SENATOR WATERMEIER: WELL, IT'S NOT GOING TO BE A PROSECUTOR BECAUSE IT'S NOT A CRIMINAL CASE. IT'S GOING TO BE IN THAT CASE, IN THAT CIVIL CASE. [LB188]

SENATOR SCHUMACHER: IS IT THEIR JOB TO PROVE THAT THEY DID NOT KNOW, OR THE COUNTY OR CITY'S JOB TO PROVE THAT THEY DID KNOW? [LB188]

SENATOR WATERMEIER: I'M GOING TO...IN MY UNDERSTANDING OF IT, IT IS GOING TO BE THE COUNTY'S JOB THAT THEY DID KNOW. BUT THEY WON'T AUTOMATICALLY BE CONSIDERED INNOCENT, BECAUSE THEY WILL BE ABLE TO, AT LEAST, HAVE IT CONSIDERED. [LB188]

SENATOR SCHUMACHER: SO YOU'RE SAYING IT'S THE BURDEN OF PROOF THAT THE PERSON IS PRESUMED TO BE INNOCENT, AND IT IS THE COUNTY OR CITY'S OR GOVERNMENT'S JOB TO PROVE THEY KNEW, IS THAT CORRECT? [LB188]

SENATOR WATERMEIER: I'M GOING TO HAVE A HARD TIME SAYING YES TO THAT BECAUSE YOU CAN GET ME SPUN AROUND ON THOSE LEGAL TERMS. BUT I'LL JUST COME BACK TO THE BASICS YET. IT'S STILL GOING TO BE ON... [LB188]

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SENATOR SCHUMACHER: WHOSE JOB IS IT... [LB188]

SENATOR WATERMEIER: I'M STILL GOING TO SAY THE COUNTY OR THE CITY OR THE SUBDIVISION IS GOING TO BE... [LB188]

SENATOR SCHUMACHER: OKAY. AND HOW DOES THE COUNTY KNOW...PROVE THAT THEY...SOME...WHAT WAS IN SOMEBODY'S HEAD? HOW DO THEY PROVE WHETHER OR NOT THE PASSENGER KNEW OR HAD A REASONABLE BELIEF? [LB188]

SENATOR WATERMEIER: I CAN'T ANSWER THAT, BECAUSE IT'S THE SAME SITUATION IF THERE WOULD NOT BE A POLICE PURSUIT CASE, THEY WOULD STILL BE IN COURT DECIDING THAT. IF...JUST...ON THIS CASE, ONLY BECAUSE THERE IS A POLICE PURSUIT, THEY ARE AUTOMATICALLY CONSIDERED INNOCENT. THAT IS WHAT WE ARE TRYING TO CHANGE. [LB188]

SENATOR SCHUMACHER: THANK YOU. LET'S GO ON TO THE SECOND THING THAT SENATOR CHAMBERS IS TRYING TO REMOVE: FAILS TO TAKE REASONABLE STEPS TO PERSUADE THE DRIVER. WHOSE JOB IS IT TO PROVE THAT THEY FAILED TO TAKE REASONABLE STEPS, THE PERSON WHO IS INJURED AND MAY BE IN A COMA OR...AND WAS THE ONLY OTHER PERSON IN THE CAR? OR THE COUNTY OR GOVERNMENT OR INSURANCE COMPANY, IS IT THEIR JOB TO PROVE THAT THE PERSON FAILED TO TAKE REASONABLE STEPS? [LB188]

SENATOR WATERMEIER: I THINK IT IS THEIR JOB, MEANING THEY, THE CITY, COUNTY, OR THE STATE. [LB188]

SENATOR SCHUMACHER: SO WHAT ARE YOU ACCOMPLISHING BY THIS THEN? [LB188]

SENATOR WATERMEIER: BECAUSE WE ARE MOVING THE "AUTOMATIC INNOCENT" OUT OF THE EQUATION--THAT'S THE ONLY THING WE'RE DOING--THE AUTOMATIC PART OF IT, THAT THEY ARE NOT AUTOMATICALLY CONSIDERED INNOCENT, BECAUSE THE ONLY REASON THAT WE ARE DEBATING THIS IS IF THERE HAPPENS TO BE A POLICE PURSUIT THEN THEY ARE AUTOMATICALLY CONSIDERED INNOCENT IF THEY ARE IN THE CAR. [LB188]

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SENATOR SCHUMACHER: SENATOR, WHAT IF NEITHER (a) OR (b) CONTRIBUTED IN ANY WAY TO THE FACT THAT THE PERSON WAS GOING TO TRY TO OUTFRAN THE COPS? [LB188]

SENATOR WATERMEIER: SAY THAT AGAIN. IF EITHER (a)...NEITHER... [LB188]

SENATOR SCHUMACHER: YEAH, RIGHT. IF THE FACT THAT THE PERSON KNEW THE DRIVER WAS DRUNK OR THE FACT THAT THE PERSON DID NOT GRAB THE STEERING WHEEL OR WHATEVER, JUMP OUT OF THE CAR, DO WHATEVER, WHAT IF THAT HAD NOTHING TO DO WITH THE FACT THAT THE PERSON WAS GOING TO RUN? [LB188]

SENATOR WATERMEIER: THEN I... [LB188]

SENATOR SCHUMACHER: WHY ARE WE PUNISHING THIS INNOCENT...OR THIS NONPARTICIPANT FOR JUST BEING THERE? [LB188]

SENATOR WATERMEIER: I WOULD DISAGREE WITH YOUR DESCRIPTION OF PUNISHING THAT PERSON. THEY ARE NOT ANY DIFFERENT THAN IF WE WOULD NOT HAD THE POLICE PURSUIT. THEY ARE THE JUST SAME. THEY ARE ABSOLUTELY THE SAME. WE ARE JUST NOT AUTOMATICALLY SAYING THEY'RE GOING TO WIN. [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR WATERMEIER: I'M SORRY. MAYBE I KEEP COMING BACK TO THAT ARGUMENT. BUT IT IS SO CLEAR TO ME THAT YOU ARE NOT AUTOMATICALLY TELLING THAT PERSON IN THAT VEHICLE THAT THEY'RE GOING TO AUTOMATICALLY WIN. ALL THEY'RE GOING TO BE IS JUST... [LB188]

SENATOR SCHUMACHER: THANK YOU, THANK YOU, SENATOR WATERMEIER. I'M RUNNING OUT OF TIME HERE. BASICALLY, IF THE NAME OF THIS GAME AND THE OBJECT OF THE BILL IS TO DECREASE THE PROBABILITY OF THE...OR THE OBJECT OF THE LAW IS TO DECREASE THE PROBABILITY OF POLICE PURSUITS AND THE BEHAVIOR OF THE PERSON THAT IS DEEMED BY THIS BILL TO BE "UNINNOCENT" HAS NOTHING TO DO WITH WHETHER THERE IS A PURSUIT OR NOT, JUST A PASSIVE PARTICIPANT, I DON'T SEE THE NEED FOR THE BILL OR THE CONNECTION. THE ONLY LEGITIMATE THING IN THIS BILL IS WHAT THE COURT

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SAID AND THAT IS NUMBER (c)--IF THE PERSON EGGS ON THE DRIVER, CAUSES THE DRIVER TO DO SOMETHING. [LB188]

PRESIDENT FOLEY: TIME, SENATOR. THANK YOU, SENATOR SCHUMACHER. SENATOR WATERMEIER, YOU ARE RECOGNIZED. HE WAIVES THE OPPORTUNITY. SENATOR CRAWFORD, YOU ARE RECOGNIZED. [LB188]

SENATOR CRAWFORD: THANK YOU, MR. PRESIDENT. I WANTED TO COME BACK TO THIS DEBATE ABOUT, AGAIN, WHAT DOES IT MEAN TO HAVE A...PROVISIONS (a) AND (b) IN LB188? AND SENATOR WATERMEIER IS SAYING THAT ALL THE BILL DOES IS MAKE IT SO IT'S NOT AUTOMATIC. AND I WANT TO, AGAIN, REMIND THE BODY THAT WE DO HAVE CASE LAW--WERNER v. COUNTY OF PLATTE--AND THE CASE LAW DOES HAVE PROVISIONS WHEREBY IF THE PERSON THAT IS IN THE CAR HAS BEEN EGGING ON THE DRIVER, OR IS SOUGHT TO BE APPREHENDED, THEN THAT PERSON CAN BE EXCLUDED FROM THE STRICT LIABILITY CONDITION. SO, AGAIN, THOSE PROVISIONS ARE ALREADY IN CASE LAW; (a) AND (b) GO BEYOND CASE LAW AND ADD OTHER CONDITIONS THAT WOULD ALLOW SOMEONE TO BE EXCLUDED FROM STRICT LIABILITY. AND AGAIN, THE DEBATE IS NOT WHETHER OR NOT THIS PERSON MADE WISE CHOICES OR NOT, OR WHETHER THIS PERSON IS AN INNOCENT OR SYMPATHETIC PERSON, THE QUESTION IS, SHOULD THIS PERSON BE EXCLUDED FROM HAVING THEIR INJURIES ADDRESSED IF THEY ARE IN THE CAR AND THERE IS A CHASE AND THEY ARE INJURED? AND SO IT IS NOT THE SAME AS IF THERE IS NOT A CHASE BECAUSE THE REASON THAT WE ARE DECIDING WHETHER OR NOT TO EXCLUDE THEM OR NOT, IS BECAUSE THEY WERE IN A CHASE AND THEY WERE INJURED. AND THE QUESTION IS, IF YOU ARE IN THE VEHICLE AND YOU ARE INJURED, UNDER WHAT CONDITIONS SHOULD WE SAY THAT WE...THAT THE PUBLIC ENTITY THAT WAS CHASING YOU SHOULD NOT HAVE TO ADDRESS YOUR INJURIES? AND AGAIN, THE CASE LAW SAYS IF YOU WERE EGGING THEM ON OR IF YOU WERE SOUGHT TO BE APPREHENDED. THE PROVISIONS (a) AND (b) IN LB188, WHICH FA86 WOULD STRIKE, SAY THAT IF YOU GOT INTO THE VEHICLE WITHOUT COERCION KNOWING THAT THE DRIVER IS UNDER THE INFLUENCE, THEN YOU SHOULD NOT HAVE THIS PROTECTION. AGAIN, GETTING INTO THE CAR WITH SOMEONE WHO IS UNDER THE INFLUENCE IS A VERY UNWISE DECISION. HOWEVER, IF SOMEONE MADE THAT BAD DECISION AND THEN THERE WAS A POLICE CHASE, ARE WE SAYING THAT'S A CONDITION THAT SHOULD EXCLUDE THEM FROM HAVING US ADDRESS THEIR INJURIES? AND (b) IS FAILING TO TAKE REASONABLE STEPS TO PERSUADE THE DRIVER OF THE FLEEING VEHICLE TO STOP THE VEHICLE. IT'S JUST VERY HARD FOR ME TO SEE HOW SOMEONE WOULD PROVE THAT, AS SENATOR SCHUMACHER HAS POINTED OUT.

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SO PROVISIONS (a) AND (b) OF THE BILL DO GO BEYOND WHAT WE HAVE IN EXISTING CASE LAW, THEY ARE ADDING TWO ADDITIONAL REASONS THAT SOMEONE WHO IS INJURED IN A CHASE WOULD BE ABLE TO BE EXCLUDED AND NOT HAVE STRICT LIABILITY PROTECTIONS. AND I THINK THEY ARE SITUATIONS WHERE IT IS EASY TO SEE HOW SOMEONE WOULD EXCLUDE THEM. REMINDS ME OF PREEXISTING CONDITIONS WITH HEALTH INSURANCE THAT WE USED TO HAVE. A LAWYER WILL FIND A WAY TO MAKE THESE PROVISIONS STICK AND THERE WILL BE AMPLE OPPORTUNITIES TO DO SO. I KNOW THERE IS SOME DISCUSSION OF TIGHTENING THE LANGUAGE IN (a) AND (b). AND I THINK, EVEN TIGHTENING THE LANGUAGE, STILL THOSE PROVISION ARE PROVISIONS THAT ARE NOT APPROPRIATE REASONS TO EXCLUDE SOMEONE FROM PROTECTION OF INJURY--IF THEY GOT INTO THE CAR WITH SOMEONE WHO IS INTOXICATED... [LB188]

PRESIDENT FOLEY: ONE MINUTE. [LB188]

SENATOR CRAWFORD: THANK YOU...OR THEY CAN'T PROVE THEY DIDN'T TRY HARD ENOUGH TO GET THEM TO STOP. THOSE JUST DO NOT SEEM LIKE APPROPRIATE CONDITIONS THAT WE WOULD PUT INTO POLICY TO SAY THAT SOMEONE SHOULD NOT HAVE THE STRICT LIABILITY PROTECTIONS. SO I URGE YOU, AGAIN, WHEREVER YOU STAND ON LB188, I REALLY URGE YOU TO TAKE THIS PROVISION SERIOUSLY AND LOOK AT (a) AND (b) AND RECOGNIZE THE IMPORTANCE OF STRIKING THEM FROM THE BILL IF WE ARE GOING TO PASS THE BILL. THANK YOU, MR. PRESIDENT. [LB188]

PRESIDENT FOLEY: THANK YOU, SENATOR CRAWFORD. ARE THERE ITEMS FOR THE RECORD, MR. CLERK? [LB188]

CLERK: MR. PRESIDENT, JUST ONE ITEM, SENATOR McCOY WOULD LIKE TO ADD HIS NAME TO LR378CA AS COINTRODUCER. (LEGISLATIVE JOURNAL PAGE 535.) [LR378CA]

AND I HAVE A PRIORITY MOTION, SENATOR GLOOR WOULD MOVE TO ADJOURN THE BODY UNTIL TUESDAY MORNING, FEBRUARY 9, AT 8:30 A.M.

PRESIDENT FOLEY: MEMBERS, YOU'VE HEARD THE MOTION TO ADJOURN. ALL THOSE IN FAVOR SAY AYE. THOSE OPPOSED SAY NAY. THE AYES HAVE IT. WE ARE ADJOURNED.