

February 12, 1991 LB 88, 262

PRESIDENT MOUL: Senator Ashford, I would ask you to make a statement on why you feel that it is not germane.

SENATOR ASHFORD: Thank you, Madam President. As I understand it, the Warner amendment talks about excluding political subdivisions and the State of Nebraska from our tort law and what, in effect, that would...well, first of all, number one, is the Political Subdivision Tort Claims Act and the law which impacts the State of Nebraska for tort actions is in a totally separate section from this law. What we're trying to do in LB 88 is to amend those sections of the law which deal with joint and several liability and contributory negligence only. Senator Warner is getting into an area of exemptions and exclusions of political subdivisions which is a totally separate area of the law, a separate section, and for that reason alone I think clearly on its face it's not germane. And even though, I might make one other point, and even though what Senator Warner is doing is excluding political subdivisions rather than trying to insert, the effect of what he is doing, the effect of his action would be to exclude those subdivisions from any tort action brought against the State of Nebraska using what, if 88 passes, what would be the standard of liability for all tort actions and even further, if you exclude them here, the effect of that would be, if we amend 88 and 88 passes, is that political subdivisions, including the State of Nebraska, would be exempt from any tort law. In effect, they would be totally excluded from any cause of action. So what you're doing is creating a total exemption. If Senator Warner is suggesting that possibly another bill, LB 262, would carry this change for municipalities and political subdivisions in the state, then that should properly be amended on LB 262 which deals with political subdivisions and not LB 88 which deals with the overall tort law in the State of Nebraska.

PRESIDENT MOUL: Thank you, Senator Ashford. Senator Warner, would you respond.

SENATOR WARNER: Yes, Madam President, you know the issue is fairly simple to me. I don't see how one can argue, since the state and political subdivisions are affected. If you accept the argument the other day that you couldn't amend LB 88 even though they were affected, it makes no sense that you can't take them out either because of a germaneness rule when they are affected. One...it's got to be one way or the other. Either you deal with it in LB 88 or you deal with them otherwise. Now