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**Capitol View
Commentary by J.L. Schmidt**

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**Legislative Committee Closes Executive Session to the Media**

 The Legislature’s Natural Resources Committee held a rare closed-door executive session that was, according to two members, unnecessary.

In an age of clamoring for accountability and transparency, the committee’s move to discuss behind closed doors the legal issues related to Gov. Pete Ricketts' proposal to build a canal and reservoir system to divert water from the South Platte River in Colorado was unwise.

For years, legislative committees have opened such sessions to the media, usually with the caveat that the committee chair or any member can ask that specific details, if sensitive, not be reported. I’ve been there and done that and the media has had few, if any, problems because of it.

The committee considered (LB1015) giving the state’s Department of Natural Resources the authority to build and maintain such a system, which is allowed under a nearly 100-year-old compact. The committee didn't vote on advancing the measure and it is unclear if the discussion needed to take place behind closed doors.

Committee Chairman Sen. Bruce Bostelman of Brainard moved to close the session citing “rare and extraordinary circumstances” to “discuss potential litigation issues.” The Attorney General’s office had asked for the privacy and even cancelled a similar session with the Appropriations Committee when it refused to close its executive session.

So, what’s the big deal? For starters, Ricketts’ proposed budget includes a $400 million transfer from the state’s Cash Reserve Fund, along with $100 million in COVID-19 relief funds from the American Recovery Plan Act, to pay for the project. That deserves transparency and a public right to know what’s behind such a big cash grab.

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Appropriations Committee Chairman Sen. John Stinner of Gering said the committee has decided not to include any funding for the canal project in the preliminary budget package it’s working on. He said he supports studying the idea, but not tying up $500 million in state money during a lengthy permitting process. He said he could support putting $2 million or $3 million toward costs such as a feasibility study and design.

The “rare and extraordinary circumstances” become clear when one studies the legal history of such statewide compacts. The compacts with Colorado and Wyoming are essential for Nebraska, which sits downstream on both the North and South Platte rivers. The 1949 compact on the North Platte has been in and out of court for years. Dumping this amount of money in the South Platte project, which may not be built for another decade, if ever, makes no sense.

“The idea of taking half a billion dollars off the table — that’s where I draw the line,” Stinner said. Good for him.

All six committee members present — Bostelman, Ray Aguilar of Grand Island, John Cavanaugh of Omaha, Dan Hughes of Venango, Mike Moser of Columbus and Justin Wayne of Omaha — voted in favor of closing the session. Sens. Tim Gragert of Creighton and Mike Groene of North Platte were absent.

After the session, Wayne told the Omaha World-Herald he’d never vote to close an executive session again, in Natural Resources or otherwise. Good for him.

Cavanaugh said he didn’t think closing the meeting was necessary. He didn’t think anything shared “required a lack of candor” in public or private. While there’s a broad recognition that protecting the state’s interests in water is important, “the question is whether taking this action would achieve the stated objective,” he said. “And I am still skeptical on that.”

Several days later Groene announced he was resigning from the Legislature after a complaint was lodged by a former staff member that he had taken photos of her without permission. The Legislature’s formal reporting process was followed and both Hughes and the

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Nebraska State Patrol have confirmed there is an on-going investigation to determine if any state laws were broken, such as the use of a state computer in the process.

Remember, that’s what got former Sen. William Kintner and Lieutenant Gov. Rick Sheehy (state phone) in trouble in unrelated incidents several years ago.

Here’s to transparency and the public right to know!

Groene, who would be term-limited at the end of the year, resigned effective February 21, just short of halfway through the 60-day session. Good.

Rickett’s will appoint the new senator from District 42 who will presumably gain a leg-up in the November race to fill the seat for the next four years.

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*J.L. Schmidt has been covering Nebraska government and politics since 1979. He has been a registered Independent for more than 20 years.*